

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER

August 31, 2022

ZAJI OBATALA ZAJRADHARA,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324b Proceeding
)	OCAHO Case No. 2022B00020
)	
RANNI’S CORPORATION,)	
Respondent.)	
_____)	

Appearances: Zaji Obatala Zajradhara, pro se, for Complainant
Colin Thompson, Esq., for Respondent

ORDER ON COMPLAINANT’S
“NOTICE OF FRAUD ON THE COURT AND MOTION TO DISCOVERY 28 CFR 68.23”

I. BACKGROUND

This case arises out of the antidiscrimination provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b. On January 25, 2022, Complainant, Zaji Obatala Zajradhara, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO). Complainant alleges Respondent, Ranni’s Corporation, discriminated against him on account of his citizenship status and national origin, and retaliated against him, in violation of §§ 1324b(a)(1),(a)(5). On April 25, 2022, Respondent filed an answer.

On May 5, 2022, the Court issued an Order Setting Case Schedule and Requiring Respondent’s Registered Agent File a Notice of Appearance. On June 2, 2022, Respondent’s counsel, Colin Thompson, Esq., filed a Notice of Appearance.

On July 5, 2022, the Court rejected Complainant’s submission “Laymans’ Notice of Fraud on the Court and Motion for Discovery 28 CFR 68.23.” Respondent nonetheless provided a response filing in which it indicated it would treat Complainant’s submission as a discovery request and respond accordingly. Because the Complainant’s filing was rejected, the Court denied the respondent’s motion/response as moot to ensure a clear record.

On August 9, 2022, the Court accepted Complainant’s re-filed “Laymans’ Notice of Fraud on the Court and Motion for Discovery 28 CFR 68.23” (hereinafter Complainant’s Motion on Fraud and Discovery).¹

II. COMPLAINANT’S MOTION ON FRAUD AND DISCOVERY

Through his motion, Complainant requests sanctions (based on allegations of fraud) and discovery. *See C’s Mot.* at 1–2.²

Complainant moves the Court to sanction Respondent for “knowingly providing the court with false documentation in Violation of 18 USC 1001 [sic],” *id.* at 1, and to strike Respondent’s answer, *id.* at 2. Complainant asserts that Respondent manipulates the CNMI Department of Labor Job Vacancy Announcements (JVA) system to exclude U.S. citizens such as Complainant. *See id.* at 2–20. According to Complainant, Respondent “utilized bogus or nonexistent email addresses, phone numbers that did not work, and or simply ignored the attempt at application . . . [and] denied to hire me, so they could keep a non-U.S. citizen employed[.]” *Id.* at 28. Complainant also identifies ‘discrepancies’ in Respondent’s Answer that he characterizes as falsities. *See id.* at 18–20 (challenging “that there were no ‘self-referrals’ to [JVA Number 21-04-89228], the reason behind Respondent not receiving resumes, and that no applications were received in response to the JVA); *supra* Part III.A.1 (Motion for Sanctions).

Further, Complainant describes discoverable documents and information, including potential subpoenas and a list of discovery requests. *See id.* at 2, 19, 28–32. Finally, Complainant argues that he was qualified for the position and that Respondent had no “good faith intentions” in hiring a U.S. citizen.³ *See id.* at 18–19.

III. DISCUSSION

A. Motion for Sanctions (Strike Respondent’s Answer)

¹ This Order will cite Complainant’s August 9, 2022 motion as “C’s Mot. at #.”

² The Court’s May 5, 2022 Scheduling Order instructed that “[a]ll non-dispositive motions shall be limited to twenty-five pages, exclusive of table of contents, table of authorities, and exhibits.” Complainant’s motion slightly exceeds the page limit. However, the Court notes that the filing incorporates exhibits into the text of the motion, and will consider the filing in its entirety.

³ Complainant’s motion did not seek a summary decision or similar relief. Thus, the Court will not opine on the merits of Complainant’s qualifications arguments in this Order. Such discussion is better served after the parties file their dispositive motions, should they choose to do so.

The Administrative Law Judge (ALJ) can impose sanctions for a number of circumstances that arise in OCAHO proceedings. *See* 28 C.F.R. §§ 68.23 (discovery), 68.28 (disobeying or resisting a lawful order), 68.35 (standards of conduct); *Ogunrinu v. Law Res.*, 13 OCAHO no. 1332c, 2 (2020).⁴

The undersigned construes Complainant’s motion as seeking sanction based on a violation of standards of conduct.⁵

1. Standards of Conduct Sanctions

“All persons appearing in proceedings before an [ALJ] are expected to act with integrity, and in an ethical manner.” § 68.35(a).⁶ Accordingly, standards of conduct sanctions “are reserved for particularly egregious litigation misconduct.” *E-Supply Enters.*, 16 OCAHO no. 1438a, at 4. Misconduct rising to this level may include “refusal to comply with [Court] directions, continued use of dilatory tactics, refusal to adhere to reasonable standards of orderly and ethical conduct, failure to act in good faith, or violation of the prohibition against *ex parte* communications.” § 68.35(b); *see, e.g., Griffin III v. All Desert Appliances*, 14 OCAHO no. 1370b, 8–9 (2021) (admonishing the complainant for service of unauthorized subpoenas and attempting to conceal that improper service, and precluding evidence obtained from the subpoenas as a sanction).

⁴ Citations to OCAHO precedents reprinted in bound Volumes 1 through 8 reflect the volume number and the case number of the particular decision, followed by the specific page in that volume where the decision begins; the pinpoint citations which follow are thus to the pages, seriatim, of the specific entire volume. Pinpoint citations to OCAHO precedents subsequent to Volume 8, where the decision has not yet reprinted in a bound volume, are to pages within the original issuances; the beginning page number of an unbound case will always be 1, and is accordingly omitted from the citation. Published decisions may be accessed in the Westlaw database “FIM-OCAHO,” or in the LexisNexis database “OCAHO,” or on the website at <http://www.justice.gov/eoir/OcahoMain/ocahosibpage.htm#PubDecOrders>.

⁵ Discovery sanctions “are normally only imposed after the ALJ has issued an order compelling discovery”—a circumstance inapplicable here. *Zajradhara v. E-Supply Enters., Inc.*, 16 OCAHO no. 1438a, 3 (2022) (citing § 68.23(c), and then citing *R&O v. Crossmark, Inc.*, 11 OCAHO no. 1236, 17 (2014) (internal citations omitted)); *supra* Part III.B (Motion for Discovery).

⁶ OCAHO Rule 68.28 buttresses the ALJ’s general power to impose standards of conduct sanctions pursuant to § 68.35. *See* § 68.28 (empowering the ALJ to take necessary measures to regulate conduct in proceedings, including the option to request “appropriate remedies” from a federal district court).

A party seeking sanctions under a violation of standards of conduct theory must identify the alleged misconduct with specificity. *E-Supply Enters.*, 16 OCAHO no. 1438a, at 4; *see, e.g., Izquierdo v. Victoria Nursing & Rehab. Ctr.*, 10 OCAHO no. 1131, 2–4 (2009) (citations omitted) (holding that the respondent failed to demonstrate degradation of § 68.35, as the claim was not based on allegations of past misconduct and failed to provide legal support).

The Court construes Complainant’s motion as arguing that Respondent misrepresented matters before the Court in its Answer. *See* C’s Mot. at 18–20; *see also* Answer 1–2.

Complainant asserts that the Answer falsely represents that there were no “self-referrals” for the JVA at issue (JVA 21-04-89928), when Complainant maintains he “self-referred” for the position.⁷ C’s Mot. at 18; *see also* Answer 1.

Next, Complainant states that “no resume was received by [Respondent] because [Respondent] did not include any email address” in its JVA.” C’s Mot. at 19. Complainant then challenges Respondent’s statements that “[n]o one applied [from] CNMI DOL JVA listing system,” and “[n]o one was hired because no one applied for the position.” *Id.*; *see also* Answer 2.

Finally, Complainant avers that the Answer has “overtly false statements” related to visa fraud. *See* C’s Mot. at 19–20 (referencing CW-1 worker “rollover,” “the JVA was in violation of 20 CFR 655,” and Respondent having “a documented history of committing visa fraud”).

The Court takes seriously credible allegations of knowing misrepresentation. *See Lardy v. United Airlines, Inc.*, 3 OCAHO no. 493, 945, 954 (1992). These allegations “should not be made unless there is strong evidence in support thereof, as such allegations are not viewed lightly.” *Kamal-Griffin v. Cahill Gordon & Reindel*, 3 OCAHO no. 460, 647, 648 n.4 (1992) (citations omitted).

As a preliminary matter, the Court notes for Complainant that it lacks jurisdiction over the following statutes: 18 U.S.C. §§ 1001, 1028, 1541–44, 1546; “INA 212(a),(6),(c).(I)”; 20 C.F.R. pt. 655; 8 U.S.C. § 1324a; INA § 274C. *See* C’s Mot. at 1, 18; *see also E-Supply Enters.*, 16 OCAHO no. 1438a, at 4, n.5 (citation omitted); *Zajradhara v. CL Corp.*, 16 OCAHO no. 1429, 3 (2022) (citation omitted).

Moreover, the Court cannot not impose sanctions based on general allegations of visa fraud by a § 1324b complainant (i.e. a private citizen). *See* C’s Mot. at 19–20. “While OCAHO has subject-matter jurisdiction to hear a claim of visa fraud, such a claim must be brought by the Government.” *Montalvo v. Kering Americas, Inc.*, 14 OCAHO no. 1350, 3 (2020). OCAHO precedent also holds that document fraud cases under 8 U.S.C. § 1324c are to be brought by the Government. *Id.* at 4.

⁷ Neither party has fully explained the meaning or mechanism of a “self-referral,” or its relevance to these proceedings.

The Court therefore determines Complainant articulated three specific allegations that merit further discussion. Complainant alleges Respondent misrepresented the following: (1) “self-referral” to the position; (2) the reason why it did not receive Complainant’s resume (related to Respondent’s email); and (3) that no candidates applied for Respondent’s position (and were thus not hired) through the JVA system. *See* C’s Mot. at 18–20. Ultimately, the Court finds that Complainant did not present the “strong evidence” required to substantiate any of these claims.

a. Self-referral Allegation

To support the self-referral misrepresentation allegation, Complainant refers the Court to a screenshot and emails. *See id.* at 2–3, 18. The “Mon Apr 26” screenshot is of the “marianaslabor.net” website “Employer’s Email Contact – Ranni’s Corporation,” showing Complainant’s information populated in form data fields. *Id.* at 2. Complainant also directs the Court to emails from CNMI DOL supervisor James Ulloa, as well as Shao Fu Zhang and Shielyna Sanarez.⁸ *See id.* at 3 (“[Complainant] has requested the CNMI DOL assistant to be referred to the [JVA][.]”).

The Court reviewed the screenshot and emails in conjunction with the Answer and this allegation. The screenshot appears to show a website through which candidates may contact Respondent, or perhaps “self-refer.” However, the screenshot does not capture whether or when Complainant submitted the requested information. The record also suggests that self-referral may require a series of steps. *See* Answer 1 (noting that CNMI DOL requires employers to consider candidates “as long as their names were endorsed on the said Job Vacancy Announcement also known as Self-referral hires”). Respondent’s dated printout of the employer screen for the JVA (employer JVA printout) also shows “[t]here are no self-referral hires for this JVA.”⁹ Answer 20–23. Separately, the language in Ulloa’s in April 29 (2021) email seems to indicate the CNMI DOL forwarded Complainant’s information and resume to Respondent. *See* C’s Mot. at 3–4.

Because the evidence submitted does not unequivocally show the Respondent knowingly misrepresented that Complainant did or did not “self-refer” for the JVA, an imposition of sanctions, for this reason, is not warranted.

b. Misrepresentations Pertaining to Contact Information Allegation

⁸ The Court understands Shao Fu Zhang and Shielyna Sanarez as associated with Respondent, since their names appear connected to a corporate email address. *E.g.*, C’s Mot. at 3; Answer 7.

⁹ The Court observes that Complainant’s motion contains text of a “Job Vacancy Announcement Detail” for JVA 21-04-89928, as well as other JVAs. C’s Mot. at 5–17, 20–28. However, the “Job Vacancy Announcement Details” text does not speak to provenance (*e.g.*, information on where the text originated from, information identifying the date of capture).

The Court engages in a similar analysis for the contact information (resume/email address) misrepresentation allegation. The text for JVA 21-04-89928, included in Complainant’s motion, shows the hyperlink “Contact Ranni’s Corporation via email.” *Id.* at 5. The motion does not include what screen appears next after following the hyperlink. However, the employer JVA printout lists an email address for Respondent, and Complainant both and sent and received correspondence from this email address around the time of the JVA. Answer 6–7, 15, 20; C’s Mot. at 3. It appears that Respondent had a functional email connected to the JVA, through which candidates could contact Respondent about the JVA.

Because the evidence submitted does not unequivocally show the Respondent knowingly misrepresented the existence of contact information, an imposition of sanctions, for this reason, is not warranted.

c. Misrepresentation Pertaining to Existence of Job Candidates Allegation

The record presented by Complainant does not support the allegation that Respondent presented overtly false statements about applicants and hires through the JVA system. The Court interprets the Answer averments as discussing recruitment for the position *arising from* the JVA system. *See* Answer 2. The JVA employer printout supports that Respondent did not receive applications through the JVA system, *see id.* at 22–23, *even if* it did otherwise recruit candidates. In fact, the Court notes that the Answer includes a May 16, 2021 email from Complainant thanking Respondent for an interview. *Id.* at 15.

Because the evidence submitted does not unequivocally show the Respondent knowingly misrepresented information pertaining to the existence of job candidates, an imposition of sanctions, for this reason, is not warranted.

2. Propriety of Striking an Answer

Complainant also has not demonstrated why Respondent’s answer should be struck for any of the reasons that would warrant such an order, such that it is redundant, immaterial, impertinent, or scandalous materials, or that the answer raises insufficient affirmative defenses. *See Toussaint v. Tekwood Assocs., Inc.*, 6 OCAHO no. 892, 784, 787–88 (1996).

For the reasons provided above, Complainant’s Motion for Sanctions is therefore DENIED.

B. Motion for Discovery

The Court’s May 5, 2022 Scheduling Order identified that “any motions to compel or other discovery motions must be filed by **July 29, 2022.**” To the extent that Complainant’s August 9,

2022 motion requests discovery-related relief, the motion is untimely. Moreover, Complainant did not file a written motion for an extension with good cause for the request articulated.

Further, parties need not obtain ALJ approval to directly serve depositions, interrogatories, requests for production, or requests for admission during the discovery window.¹⁰ *E-Supply Enters., Inc.*, 16 OCAHO no. 1438a, at 2 (citing §§ 68.18–68.25, and then citing *CL Corp.*, 16 OCAHO no. 1429, at 2). “In fact, the OCAHO Rules mandate that discovery shall not be filed with the Court except for in a motion to compel or pursuant to an ALJ order.” *Id.* (citing §§ 68.6(b), 68.23(b)). Complainant did not need to seek the Court’s permission to serve the specific discovery requests listed on pages 29–32 of his motion.

Having no discovery matters to adjudicate, Complainant’s Motion for Discovery is MOOT.¹¹

IV. CONCLUSION

For the foregoing reasons, Complainant’s “Laymans’ Notice of Fraud on the Court and Motion for Discovery 28 CFR 68.23” (Motion on Fraud and Discovery) is DENIED. The Court reminds the parties that dispositive motions are due August 29, 2022, and that responses to dispositive motions are due thirty days after service of the motion.

SO ORDERED.

Dated and entered on August 31, 2022.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge

¹⁰ The Notice of Case Assignment Alleging Unlawful Employment (NOCA), issued on January 25, 2022, provided that “[e]ither party may initiate discovery at any time after the answer has been filed.” NOCA 3 (citing §§ 68.6(b), 68.18–68.23)). Respondent filed an answer on April 25, 2022.

¹¹ Complainant referenced potential subpoena requests in his motion. *See* C’s Mot. at 2. Unlike other discovery tools, subpoenas require a party to seek leave of the Court. *See* § 68.25(a). The OCAHO subpoena form is the sole mechanism for a party to request that an ALJ to issue a subpoena. *See Zajradhara v. GIG Partners*, 14 OCAHO no. 1363, 4 (2020). The completed subpoena form must adhere to procedural requirements and state with particularity the persons or things to be subpoenaed. *See id.*; *Zajradhara v. HDH Co.*, 16 OCAHO no. 1417b, 2–4 (2022).