

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

UNITED STATES OF AMERICA,	)	
	)	
Complainant,	)	
	)	8 U.S.C. § 1324a Proceeding
v.	)	
	)	OCAHO Case No. 2023A00038
CHILITTO PIKIN LLC,	)	
	)	
Respondent.	)	
_____	)	

Appearances:      Ariel Chino, Esq., for Complainant  
                             Jodi Goodwin, Esq., for Respondent

ORDER TO SHOW CAUSE

I.      PROCEDURAL HISTORY

This case arises under the Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324a. The United States Department of Homeland Security, Immigration and Customs Enforcement (ICE) filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) on January 18, 2023. Complainant alleges that Respondent, Chilitto Pikin LLC, failed to ensure that employees properly completed Section 1 and/or failed to properly complete Section 2 or 3 of the Employment Eligibility Verification Form (Form I-9) for one individual, and failed to prepare and/or present Forms I-9 for twelve individuals, all in violation of 8 U.S.C. § 1324a(a)(1)(B). Complainant attached to the complaint its Notice of Intent to Fine Respondent and the August 17, 2021, request for a hearing before this Court signed by Respondent’s counsel, Ms. Jodi Goodwin.<sup>1</sup>

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<sup>1</sup> The Court considers this signed request for a hearing to be a notice of appearance by counsel on behalf of Respondent. *See* 28 C.F.R. § 68.33(f).

On January 23, 2023, the Chief Administrative Hearing Officer (CAHO) individually mailed Respondent and Respondent's counsel via United States certified mail the following documents: (a) the complaint, (b) a Notice of Case Assignment for Complaint Alleging Unfair Immigration-Related Employment Practices (NOCA), (c) ICE's Notice of Intent to Fine Respondent, and (d) Respondent's request for a hearing (the Complaint package). The CAHO informed Respondent and Respondent's counsel that these proceedings would be governed by OCAHO's Rules of Practice and Procedure for Administrative Hearings located at 28 C.F.R. part 68 (2023)<sup>2</sup> and applicable case law. Links to OCAHO's rules and its Practice Manual<sup>3</sup> were provided to Respondent and counsel, along with contact information for OCAHO. The CAHO directed Respondent to answer the complaint within thirty days in accord with 28 C.F.R. § 68.9(a). The CAHO cautioned that failure to file an answer could lead the Court to enter a judgment by default and any and all appropriate relief pursuant to 28 C.F.R. § 68.9(b).

The United States Postal Service website indicated that it delivered the Complaint package addressed to Respondent on January 30, 2023. The Court received a certified mail return receipt for the delivery, although it was not signed or dated. In contrast, the Complaint package addressed to Respondent's counsel was returned to the Court as undeliverable. In response, OCAHO staff contacted Respondent's counsel and confirmed that her mailing address was correct. The CAHO then sent Respondent's counsel via United States certified mail another copy of the Complaint package on March 7, 2023. At counsel's request, OCAHO staff notified her of the date of mailing and provided her with the certified mail tracking number to ensure proper service.

The United States Postal Service website indicated that service of the Complaint package on Respondent's counsel was completed on March 13, 2023. The Court also received a signed certified mail return receipt. As such, Respondent's answer was due by April 12, 2023. To date, Respondent has not filed an answer.

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<sup>2</sup> OCAHO's Rules of Practice and Procedure for Administrative Hearings are available on OCAHO's homepage on the United States Department of Justice's website. *See* <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-regulations>.

<sup>3</sup> The OCAHO Practice Manual, which is part of the Executive Office for Immigration Review's Policy Manual, provides an outline of the procedures and rules applicable to OCAHO cases. *See* <https://www.justice.gov/eoir/eoir-policy-manual/part-iv-ocaho-practice-manual>.

## II. LEGAL STANDARDS AND DISCUSSION

OCAHO's Rules of Practice and Procedure for Administrative Hearings permit a respondent thirty days to file an answer after being served with a complaint. *See* 28 C.F.R. § 68.9(a). Service of a complaint may be effectuated by "mailing [the complaint] to the last known address of such individual, partner, officer, or attorney or representative of record." *Id.* § 68.3(a)(3). Given that the United States Postal Service certified mail return receipt for Respondent was returned to OCAHO unsigned and undated, the Court calculates the thirty-day time period in this case using the date when OCAHO perfected service of the complaint on Respondent's attorney. *See id.* § 68.3(b) ("Service of complaint . . . is complete upon receipt by addressee."). As its counsel received the complaint on March 13, 2023, Respondent's answer was due no later than April 12, 2023. *See id.* § 68.9(a).

OCAHO's CAHO communicated the thirty-day deadline to Respondent and its counsel through the Complaint package's NOCA. *See* NOCA at 3. As noted above, the CAHO warned Respondent that its failure to file an answer could lead the Court to enter a judgment by default. *Id.* (citing 28 C.F.R. § 68.9(b)). To assist Respondent, the CAHO provided it with contact information for OCAHO as well as links to OCAHO's rules and its Practice Manual. *Id.* at 1-2. OCAHO court staff likewise communicated with Respondent's counsel regarding service of the Complaint package. Staff verified her mailing address and shared United States Postal Service tracking information for the Complaint package with her. Yet Respondent, who requested a hearing before this Court, has failed to file an answer to the complaint.

Section 68.9(b) of OCAHO's rules provides that "[f]ailure of the respondent to file an answer within the time provided may be deemed to constitute a waiver of his or her right to appear and contest the allegations of the complaint. The [Court] may enter a judgment by default." Should the Court enter a default judgement, "the [respondent's] request for hearing is dismissed, AND judgment is entered for the complainant without a hearing." *Nickman v. Mesa Air Grp.*, 9 OCAHO no. 1106, 1 (2004).<sup>4</sup>

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<sup>4</sup> 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

It has long been OCAHO's practice to issue an order to show cause before entering a default. See *United States v. Shine Auto Serv.*, 1 OCAHO no. 70, 444 (1989) (Vacation by the Chief Administrative Hearing Officer of the Administrative Law Judge's Order Denying Default Judgment). In *Shine Auto Service*, the acting CAHO explained:

Respondent must justify [in its response to the order to show cause] its failure to respond in a timely manner. Based on the Respondent's reply, the Administrative Law Judge shall determine whether the respondent has met the threshold for good cause. If the Administrative Law Judge determines that the Respondent possessed the requisite good cause for failing to file a timely answer, then the Administrative Law Judge may allow the Respondent to file a late answer.

*Id.* at 445-46. This Court will follow that practice here.

The Court now orders Respondent to file a response to this Order in which it provides facts sufficient to show good cause for its failure to file an answer to the complaint in this case. The Court further orders Respondent to file an answer to the complaint simultaneously with the filing of its response showing good cause. Respondent's answer must comport with 28 C.F.R. § 68.9. Upon receipt of Respondent's filings, the Court will determine if Respondent has demonstrated the requisite good cause for failing to file its answer to the complaint and will decide whether to allow its untimely answer.

The Court puts Respondent on notice that, if it fails to respond to the Court's orders, the Court may conclude that it has abandoned its request for a hearing. See 28 C.F.R. § 68.37(b)(1); see also *United States v. Hosung Cleaning Corp.*, 4 OCAHO no. 681, 776, 777-78 (1994). Dismissal of Respondent's request for a hearing may follow. See 28 C.F.R. § 68.37(b).

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yet been 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 through the Westlaw database "FIM OCAHO," the LexisNexis database "OCAHO," or on the United States Department of Justice's website at <http://www.justice.gov/eoir/OcahoMain/ocahosibpage.htm#PubDecOrders>.

### III. ORDERS

IT IS SO ORDERED that, within twenty days of the date of this Order, Respondent, Chilitto Pikin LLC, shall file a response with the Court in which it must provide facts sufficient to show good cause for its failure to file an answer to the Complaint in this case.

IT IS FURTHER ORDERED that, within twenty days of the date of this Order, Respondent shall file with the Court an answer to the complaint that comports with 28 C.F.R. § 68.9.

If Respondent fails to respond as ordered or cannot show good cause for its failure to file a timely answer to the complaint, the Court may enter a default against it pursuant to 28 C.F.R. § 68.9(b). Failure to respond to the Court's orders may lead the Court to conclude that Respondent has abandoned its request for a hearing and result in the dismissal of its request for a hearing. 28 C.F.R. § 68.37(b).

SO ORDERED.

Dated and entered on July 6, 2023.

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Honorable Carol A. Bell  
Administrative Law Judge