

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

September 23, 2023

UNITED STATES OF AMERICA,	)	
Complainant,	)	
	)	
v.	)	8 U.S.C. § 1324a Proceeding
	)	OCAHO Case No. 2022A00052
	)	
MSNF FOODS 4 LLC	)	
D/B/A DOMINO’S PIZZA,	)	
Respondent.	)	
_____	)	

Appearances: Janelle Cleary, Esq., for Complainant  
Spencer Robbins, Esq., for Respondent

ORDER OF DISMISSAL

This case arises under the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324a. Complainant, 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 August 18, 2022. Complainant alleges that Respondent, MSNF Foods 4 LLC d/b/a Domino’s Pizza, failed to prepare or present Forms I-9 for forty-three individuals, and failed to ensure proper completion of Form I-9 for one individual, all in violation of 8 U.S.C. § 1324a(a)(1)(B). Compl. 5–8; *see also id.*, Ex. A (Notice of Intent to Fine (NIF)).

On October 20, 2022, the Court issued an Order to Show Cause for Respondent’s answer, which was discharged at the January 12, 2023 prehearing conference. PHC Order 1–2 (citing *United States v. MSNF Foods 4 LLC*, 17 OCAHO no. 1459, 1 (2022)).<sup>1</sup>

<sup>1</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 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>.

On January 24, 2023, the parties filed a Joint Motion to Refer Matter to OCAHO Settlement Officer Program. Following the Settlement Officer Program referral, the Court issued an April 5, 2022, Order Resetting Case Schedule.

On July 5, 2023, the Court issued an Order Granting (Complainant's) Motion to Compel.<sup>2</sup> *United States v. MSNF Foods 4 LLC*, 17 OCAHO no. 1459b, 1 (2023). Respondent did not respond to the Court's July 5, 2023, Order.

On August 1, 2023, Complainant filed the unopposed "Motions to Dismiss Respondent's Request for a Hearing and Enter Default Judgment on Both Liability and Penalty Amount." Through this filing, Complainant moved the Court to dismiss Respondent's request for a hearing as abandoned. C's Mot. 2 (citing 28 C.F.R. § 68.37(b)(1)).

On August 8, 2023, the Court issued a Notice That Court May Impose Discovery Sanctions, Or Deem Request For Hearing As Abandoned And Resetting Case Schedule. *United States v. MSNF Foods 4 LLC*, 17 OCAHO no. 1459c, 1 (2023). Respondent did not respond to the Court's August 8, 2023, Notice.

On August 30, 2023, the Court issued a Notice That Court May Deem Request For Hearing As Abandoned And Resetting Dispositive Motions Deadlines. *United States v. MSNF Foods 4 LLC*, 17 OCAHO no. 1459d, 1 (2023). The Court stated that the case raised "the spectre of abandonment" under 28 C.F.R. § 68.37(b)(1). *Id.* at 2 (citations omitted). The Court then warned:

It appears that Respondent stopped participating in these proceedings. Respondent is given a final notice that the Court may deem its request for hearing as abandoned pursuant to 28 C.F.R. § 68.37(b)(1). The Court provides Respondent until September 14, 2023 to explain why this case should not be dismissed based on abandonment. If the Court deems Respondent's request for hearing as abandoned, "the [Notice of Intent to Fine (NIF)] becomes the final order, and the NIF service date would be the date of assessment."

*Id.* (quoting *United States v. Edgemont Grp., LLC*, 17 OCAHO no. 1470b, 6 n.9 (2023)).

Respondent did not respond to the Court's August 30, 2023, Order.

"OCAHO Rules provide that a request for hearing may be dismissed upon its abandonment by the party who filed it, and that a party shall be deemed to have abandoned such a request where the party or its representative fails to respond to [ALJ orders]." *United States v. Triple Crown Rest. Grp. LLC*, 16 OCAHO no. 1444b, 2 (2022) (internal quotations and citation omitted); *accord United States v. Patmo Concrete LLC*, 17 OCAHO no. 1448b, 2 (2022). *See also Caltzoncin v. GSM Insurors-Glass, Sorenson & McDavid*, 12 OCAHO no. 1287a, 3 (2016).

---

<sup>2</sup> On May 24, 2023, the Court issued an Order Denying (Complainant's) Motion to Compel. *United States v. MSNF Foods 4 LLC*, 17 OCAHO no. 1459a, 1 (2023).

The Court finds that Respondent has abandoned its request for hearing because it did not respond to the Court's August 8, 2023, and August 30, 2023, Orders. 28 C.F.R. § 68.37(b)(1).

Hence, the Court GRANTS Complainant's August 1, 2023 motion to dismiss based on a finding of abandonment. Complainant's August 1, 2023, motion for entry of default judgment on liability and penalty is therefore MOOT.

The complaint is hereby DISMISSED WITH PREJUDICE, and the NIF becomes the final agency order in this matter.

SO ORDERED.

Dated and entered on September 27, 2023.

---

Honorable Jean C. King  
Chief Administrative Law Judge

### Appeal Information

This order shall become the final agency order unless modified, vacated, or remanded by the Chief Administrative Hearing Officer (CAHO) or the Attorney General.

Provisions governing administrative reviews by the CAHO are set forth at 8 U.S.C. § 1324a(e)(7) and 28 C.F.R. pt. 68. Note in particular that a request for administrative review must be filed with the CAHO within ten (10) days of the date of this order, pursuant to 28 C.F.R. § 68.54(a)(1) (2012).

Provisions governing the Attorney General's review of this order, or any CAHO order modifying or vacating this order, are set forth at 8 U.S.C. § 1324a(e)(7) and 28 C.F.R. pt. 68. Within thirty (30) days of the entry of a final order by the CAHO, or within sixty (60) days of the entry of an Administrative Law Judge's final order if the CAHO does not modify or vacate such order, the Attorney General may direct the CAHO to refer any final order to the Attorney General for review, pursuant to 28 C.F.R. § 68.55.

A petition to review the final agency order may be filed in the United States Court of Appeals for the appropriate circuit within forty-five (45) days after the date of the final agency order pursuant to 8 U.S.C. § 1324a(e)(8) and 28 C.F.R. § 68.56.