

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

April 30, 1996

ALEXSANDR YAKUBSON,)	
Complainant,)	
)	
v.)	8 U.S.C. §1324b Proceeding
)	Case No. 96B00020
EFFECTIVE SECURITY,)	
Respondent.)	
_____)	

ORDER

The complaint in this case filed February 21, 1996 was served on Respondent on March 7, 1996. On April 26, 1996, Complainant filed a handwritten Notice of Intent to Cancel Charge. By that Notice, Complainant recites that with assistance of the Office of Special Counsel (OSC) he has effected a full settlement of the dispute, in support of which he has filed a copy of an agreement signed on behalf of each party and OSC, and a copy each of a check and computation of the agreed monetary settlement.

Until Complainant's Notice was filed, the participation by OSC was unknown to the presiding administrative law judge. So far as I am aware, this is the first 8 U.S.C. §1324b private action before me in which the parties and OSC maintained a continuing dialogue outside the record and unknown to the judge. While I commend OSC for its continued assistance to the parties, I am less sanguine concerning its failure to keep the forum informed of its participation *pendente lite*. Once a private action (*sans OSC*) is filed, at a minimum the better practice is for OSC to inform the judge of its contacts with the parties. Adherence to the fundamental concept of separation of functions demands no less. *See, Romo v. Todd*, 1 OCAHO 25, 142 at 145 (1988) (Third Post-Hearing Order) (citing specifically, 5 U.S.C. §554(d)). As to deference generally in context of §1324b, *see also*,

6 OCAHO 858

Cruz v. Able Service Contractors, Inc., 6 OCAHO 837 (1966); *Romo v. Todd*, 1 OCAHO 25, 115 at 133 (1988), *aff'd*, 900 F.2d 164 (9th Cir. 1990).

Because Complainant neglected to serve his Notice on Respondent and because OSC is otherwise a stranger to the proceeding before me, this Order transmits copies of the Notice (but not the enclosures) to Respondent and to OSC. Upon written or oral confirmation of settlement from OSC, I intend to dismiss this case, settled, unless not later than May 9, 1996, either Respondent or OSC advises in writing of a reason to the contrary.

SO ORDERED.

Dated and entered this 30th day of April, 1996.

MARVIN H. MORSE
Administrative Law Judge