

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

October 20, 1995

UNITED STATES OF AMERICA,)
Complainant,)
)
v.) 8 U.S.C. 1324a Proceeding
) OCAHO Case No. 95A00081
GIAMBLIS ENTERPRISES, INC.,)
T/A CAMP HILL DINER,)
Respondent.)
_____)

ORDER GRANTING COMPLAINANT'S MOTION FOR
SANCTIONS

On September 27, 1995, complainant filed a Motion for Sanctions, in which it requested that sanctions be imposed against respondent for not having filed previously-ordered discovery replies.

On August 25, 1995, an Order Granting Complainant's Motion to Compel Discovery was issued, specifically directing respondent to respond fully to complainant's discovery requests, which consist of complainant's First Set of Interrogatories, First Request for Production of Documents, and First Request for Admissions.

In addition, that Order directed respondent to furnish those complete discovery replies to complainant within 10 days of its acknowledged receipt of that Order, or risk the imposition of sanctions from those enumerated at 28 C.F.R. § 68.23(c).

A copy of that Order was sent to respondent by certified mail, return receipt requested. The U.S. Postal Service's Domestic Return Receipt, PS Form 3811, discloses that respondent's copy of that Order was delivered to and acknowledged by an agent of respondent's counsel of record on August 30, 1995.

5 OCAHO 807

To date, however, respondent has failed to file the required discovery responses.

Accordingly, complainant's Motion for Sanctions is granted and the following sanctions, as provided for in the pertinent procedural regulation, 28 C.F.R. § 68.23(c), are hereby ordered:

- (1) That it is inferred and concluded that the information sought in the interrogatories, requests for admissions, and the copies of the documents requested from respondent, would have contained evidence adverse to the respondent;
- (2) That for the purposes of this proceeding, the matters concerning which the August 25, 1995 Order was issued, are to be taken as having been established adversely as to the respondent;
- (3) That the respondent may not introduce into evidence or other-wise rely upon testimony relating to information contained in the copies of any and all documents it has failed to produce, in support of or in opposition to any claim by complainant or any defense available to respondent; and
- (4) That the respondent may not be heard to object to the introduction and use of secondary evidence by complainant in its case-in-chief in order to show what the withheld admissions and document copies or other evidence would have shown in the event that respondent had supplied those discovery replies and/or document copies as ordered.

JOSEPH E. MCGUIRE
Administrative Law Judge