

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

UNITED STATES OF AMERICA,)	
Complainant)	
)	
v.)	8 U.S.C. 1324a Proceeding
)	Case No. 89100162
NU LOOK CLEANERS OF)	
PEMBROKE PINES, INC.)	
Respondent)	
_____)	

DENIAL OF RESPONDENT'S MOTION
FOR RECONSIDERATION

On March 25, 1991, the Office of the Chief Administrative Hearing Officer (OCAHO) denied the respondent's request for administrative review because the request was untimely. On March 29, 1991, respondent filed with the Chief Administrative Hearing Officer, a request for reconsideration of the denial of the request for administrative review. The respondent based the request for reconsideration, in part, on the argument that a party receives an extra five days for the OCAHO to receive the request for review under 28 C.F.R. §68.7(c) [apparently respondent when citing to Section 68.7(a) was referring to Section 68.7(c)], thereby giving a party a total of fifteen days. This argument is erroneous. The benefits of the 5 day rule for mailing under Section 68.7(c)(2) do not apply to the OCAHO. Section 68.7(c)(2) clearly applies to parties. The OCAHO is not a party. Furthermore, the 5 day mailing rule is unnecessary and does not apply to the OCAHO because pleadings are not deemed filed until they are received by the OCAHO or the ALJ. See 28 C.F.R. §68.7(b). Therefore, because a party has only 5 days to request an administrative review [under Section 68.51(a)], plus an additional 5 days for mailing [under Section

68.7(c)(2)], the respondent's initial request for review was untimely, as discussed in my March 25, 1991, Denial of Respondent's Request for Administrative Review. Accordingly, the respondent's request for reconsideration is denied.

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SO ORDERED this 2nd day of April, 1991.

JACK E. PERKINS
Chief Administrative Hearing Officer