

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

May 29, 2024

US TECH WORKERS, ET AL.,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324b Proceeding
)	OCAHO Case No. 2024B00072
)	
MESIROW,)	
Respondent.)	
_____)	

Appearances: John M. Miano, Esq., for Complainant
Stephen H. Smalley, Esq., and Vanessa N. Garrido, Esq., for Respondent

ORDER TO SHOW CAUSE

This case arises under the antidiscrimination provisions of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1324b. Complainant, US Tech Workers, et al., filed a Complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) on March 19, 2024, against Respondent, Mesirow.¹ Complainant alleges that Respondent engaged in discrimination based on citizenship status in hiring, in violation of 8 U.S.C. § 1324b(a)(1).

On April 8, 2024, the Chief Administrative Hearing Officer (CAHO) sent a Notice of Case Assignment for Complaint Alleging Unfair Immigration-Related Employment Practices (NOCA) and a copy of the Complaint to the address for Respondent listed on the Complaint by United States Postal Service (USPS) certified mail. The USPS website’s tracking service indicates that the copy of the NOCA and Complaint mailed to Respondent were “delivered, individual picked up at postal facility” on April 13, 2024. Therefore, Respondent’s answer to the Complaint was due no later than May 13, 2024. *See* 28 C.F.R. § 68.9(a).²

¹ In its Answer, Respondent indicates that the name of the company is Mesirow Financial Administrative Corp. Respondent may seek to amend the caption in its response to this Order to Show Cause.

² OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2022).

On May 23, 2024, Respondent filed an Answer and Affirmative Defenses. Given that the regulatory deadline was May 13, 2024, Respondent's Answer was ten days untimely.

Under the OCAHO Rules of Practice and Procedure, to contest a material fact alleged in the complaint, a respondent must file an answer. 28 C.F.R. § 68.9(c). Failure 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 Administrative Law Judge may enter a judgment by default." *Id.* § 68.9(b); *see also Nickman v. Mesa Air Grp.*, 9 OCAHO no. 1106, 1 (2004) (holding that if default judgment is entered, judgment may be entered for the complainant without a hearing).³

"A party that fails to answer a complaint within the time specified is already in default, whether or not that fact is officially noted." *United States v. Quickstuff, LLC*, 11 OCAHO no. 1265, 4 (2015) (citations omitted). "This means that the default must be excused before the party is permitted to answer." *Id.* The party must make a showing of good cause before the answer may be accepted. *Id.* (citing *United States v. Medina*, 3 OCAHO no. 485, 882, 889 (1993)). Respondent does not address why its filing is untimely. The Court therefore ORDERS Respondent, Mesirov, to file a submission that demonstrates good cause for its failure to timely file an answer, within twenty-one days of the day of this Order.

Should Respondent fail to respond as ordered or cannot show good cause, the Court may enter a default judgment against Respondent pursuant to 28 C.F.R. § 68.9(b).

SO ORDERED.

Dated and entered on May 29, 2024.

Honorable Jean C. King
Chief Administrative Law Judge

³ Citations to OCAHO precedents in bound volumes one through eight include the volume and case number of the particular decision followed by the specific page in the bound volume where the decision begins; the pinpoint citations which follow are to the pages, seriatim, of the specific entire volume. Pinpoint citations to OCAHO precedents after volume eight, where the decision has not 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," and on the United States Department of Justice's website: <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.