

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

July 31, 2024

US TECH WORKERS ET. AL.,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324b Proceeding
)	OCAHO Case No. 2024B00103
)	
SHARMA STRATEGY GROUP,)	
Respondent.)	
_____)	

Appearances: John M Miano, Esq. for Complainant
Jeffrey J. Ansley, Esq. and Jessica A. Patrick, Esq. for Respondent

ORDER DISCHARGING ORDER TO SHOW CAUSE

I. PROCEDURAL HISTORY

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 April 23, 2024, against Respondent, Sharma Strategy Group. Complainant alleges that Respondent engaged in discrimination based on citizenship status in hiring, in violation of 8 U.S.C. § 1324b(a)(1).

On May 6, 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 May 14, 2024. Therefore, Respondent’s answer to the Complaint was due no later than June 13, 2024. *See* 28 C.F.R. § 68.9(a).¹

On June 25, 2024, the Court issued an Order to Show Cause, ordering Respondent to submit an Answer and a filing demonstrating good cause for failure to timely file an answer by July 16, 2024. Respondent filed its Answer on June 28, 2024 and its Response to Order to Show Cause on July

¹ OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2023).

17, 2024. In its Response, Respondent states that its failure to timely file an answer “was not willful or intentional, but instead inadvertent.” Resp. Show Cause 1. Respondent also argues that there is no prejudice to Complainant because its Answer was filed approximately two weeks after its regulatory deadline, and did not hamper the course of the case. *Id.* at 1-2. Respondent also points out that it has now filed an Answer and raised affirmative defenses. *Id.* at 2.

II. ORDER TO SHOW CAUSE DISCHARGED

A. Timeliness of Response to Order to Show Cause

The Court first notes that Respondent’s Response was filed one day after the deadline set in the Order to Show Cause, as the Court received the filing on July 17, 2024, and Respondent’s deadline to submit a good cause filing was July 16, 2024.

However, “the Court has discretion to accept late filings.” *Zajradhara v. Guam Advance Enters., Inc.*, 18 OCAHO no. 1522a, 2 (2024); *see also United States v. Chilitto Pikin LLC*, 18 OCAHO no. 1486a, 5 (2024) (accepting a late filed good cause filing and answer where the filings were mail filed and received two days after the deadline).²

Here, the Court exercises its discretion and accepts Respondent’s untimely good cause showing. The delay was short—only one day—and the filing was submitted by mail, with the certificate of service showing the Response was mailed before the deadline. Resp. Show Cause 4. Additionally, Respondent already submitted a responsive answer

B. Discharge of Order to Show Cause

OCAHO's Rules of Practice and Procedure for Administrative Hearings provide that a respondent's failure to file an answer “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.” 28 C.F.R. § 68.9(b). Such judgments are generally disfavored, and doubts regarding entry of default should be resolved in favor of a decision on the merits of the case. *See United States v. Vilarado Vineyards*, 11 OCAHO no. 1248, 5 (2015) (CAHO Order); *United States v. Jabil Circuit*, 10 OCAHO no. 1146, 3 (2012) (CAHO Order). In determining whether good cause to set aside an entry of default exists, OCAHO Administrative Law Judges (ALJs) have considered: (1) whether there was culpable or willful conduct; (2) whether setting the default aside would prejudice the adversary; and (3) whether the defaulting party presents a meritorious defense to the

² Citations to OCAHO precedents in precedents after volume eight, where the decision has not yet been reprinted in a bound volume, include the volume and case number of the particular decision followed by the 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>.

action. *Nickman v. Mesa Air Grp.*, 9 OCAHO no. 1106, 2-3 (2004) (citing *Kanti v. Patel*, 8 OCAHO no. 1007, 166, 168 (1998)).

Here, the Court finds that Respondent has demonstrated good cause for its failure to file a timely answer. Respondent has now filed its Answer, demonstrating that it intends to pursue the case, and states that its late filing was not willful.³ As Respondent notes, the answer was received fifteen days after the regulatory deadline. There is no indication Complainant was prejudiced by that short delay.

The Order to Show Cause is discharged, and the Answer is accepted.

SO ORDERED.

Dated and entered on July 31, 2024.

Honorable Jean C. King
Chief Administrative Law Judge

³ While Respondent states that it was unclear whether the Complaint required an answer and what the relevant deadline would be, *see* Resp. Show Cause 2, the Notice of Case Assignment (NOCA) clearly stated that an “answer . . . must be filed within thirty (30) days after receipt of the attached complaint by either Respondent or its attorney (or representative of record.” NOCA 3. The NOCA also warned that if Respondent “fail[ed] to file an answer within the time provided, the Respondent [might] be deemed to have waived its right to appear and contests the allegations of the complaint.” *Id.*