

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

March 7, 2024

UNITED STATES OF AMERICA,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324a Proceeding
)	OCAHO Case No. 2024A00004
)	
CABELLO RECOVERY AND AUCTION)	
SERVICES, INC.,)	
Respondent.)	
_____)	

Appearances: Nain Martinez, Jr., Esq., for Complainant
Cristina Alva, Esq., for Respondent

ORDER OF DISMISSAL

This case arises under the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324a. Complainant, the U.S. Department of Homeland Security, Immigration and Customs Enforcement (ICE), filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) on October 3, 2023. Complainant alleges that Respondent, Cabello Recovery and Auctions Services, Inc., failed to prepare and/or present the Employment Eligibility Verification Form (Form I-9) for twenty-two individuals, and failed to ensure the employees properly completed Section 1 and/or failed to properly complete Section 2 or 3 of Form I-9 for three individuals, in violation of 8 U.S.C. § 1324a(a)(1)(B).

On January 18, 2024, the parties submitted a Joint Motion to Dismiss Complaint with Prejudice, with a copy of the executed settlement agreement attached. In the motion, the parties indicate they have “come to a full agreement” and request dismissal with prejudice pursuant to 28 C.F.R. 68.14(a)(2). Joint Mot. Dismiss 1.

Per 28 C.F.R. § 68.14(a)(2), when the parties have entered into a settlement agreement, they shall “[n]otify the Administrative Law Judge that the parties have reached a full settlement agreement and agreed to dismissal of the action. Dismissal of the action shall be subject to the approval of the Administrative Law Judge, who may require the filing of the settlement agreement.”

After reviewing the parties' Joint Motion to Dismiss Complaint with Prejudice and the parties' attached settlement agreement,¹ the Court finds that the parties have complied with 28 C.F.R. § 68.14(a)(2). Specifically, the parties move for dismissal of this action pursuant to 28 C.F.R. § 68.14(a)(2) and represent they have come to a full agreement and wish for the matter to be dismissed with prejudice.

The case is hereby DISMISSED with prejudice.

SO ORDERED.

Dated and entered on March 7, 2024.

Honorable Jean C. King
Chief Administrative Law Judge

¹ On March 7, 2024, the Court held a status conference with the parties at which the Court noted that the parties' settlement agreement refers to an incorrect proposed penalty amount in the Notice of Intent to Fine, using the final settlement amount instead. The parties confirmed that this was a clerical error and would not affect their agreement. The Court therefore declined to require amendment or re-filing of the settlement agreement. The Court also pointed Complainant toward Court precedent regarding provisions that assert the Department of Homeland Security will issue a "final order" upon the execution of the settlement agreement. *See United States v. Grove Hotel, LLC*, 18 OCAHO no. 1497a, 2 n. 1 (concluding that the use of the term "final order" in the settlement agreement "to be reflective of the Agency's ministerial act of administratively closing its own records, rather than supplanting the ALJ's adjudicative function") (citing *United States v. Koy Chinese & Sushi Rest.*, 16 OCAHO no. 1416d, 8 (2023) (CAHO Order)).

Appeal Information

This order shall become the final agency order unless modified, vacated, or remanded by the Chief Administrative Hearing Officer (CAHO) or the Attorney General.

Provisions governing administrative reviews by the CAHO are set forth at 8 U.S.C. § 1324a(e)(7) and 28 C.F.R. pt. 68. Note in particular that a request for administrative review must be filed with the CAHO within ten (10) days of the date of this order, pursuant to 28 C.F.R. § 68.54(a)(1).

Provisions governing the Attorney General's review of this order, or any CAHO order modifying or vacating this order, are set forth at 8 U.S.C. § 1324a(e)(7) and 28 C.F.R. pt. 68. Within thirty (30) days of the entry of a final order by the CAHO, or within sixty (60) days of the entry of an Administrative Law Judge's final order if the CAHO does not modify or vacate such order, the Attorney General may direct the CAHO to refer any final order to the Attorney General for review, pursuant to 28 C.F.R. § 68.55.

A petition to review the final agency order may be filed in the United States Court of Appeals for the appropriate circuit within forty-five (45) days after the date of the final agency order pursuant to 8 U.S.C. § 1324a(e)(8) and 28 C.F.R. § 68.56.