

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

UNITED STATES OF AMERICA,)	
)	
Complainant,)	
)	8 U.S.C. § 1324a Proceeding
v.)	
)	OCAHO Case No. 2024A00030
RITALKA, INC.,)	
)	
Respondent.)	
_____)	

Appearances: Kenneth Knapp, Esq., for Complainant
Kayla Ruikkie, Esq., for Respondent

ORDER GRANTING JOINT MOTION TO REFER MATTER TO A SETTLEMENT
OFFICER, REFERRING CASE TO THE SETTLEMENT OFFICER PROGRAM,
AND DESIGNATING SETTLEMENT OFFICER

I. PROCEDURAL HISTORY

On January 3, 2024, Complainant, the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) alleging that Respondent, RITALKA, Inc., violated the employer sanctions provisions of the Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324a. On February 15, 2024, Respondent filed Respondent’s Answer to Complainant’s Complaint.

On February 21, 2024, Complainant filed an Opposition to the Respondent’s Request to Dismiss. On March 7, 2024, the Court enrolled this case in OCAHO’s Electronic Filing Pilot Program through its Order on Electronic Filing. On July 24, 2024, the parties submitted a Joint Motion to Refer Matter to a Settlement Officer.

On November 6, 2024, Complainant filed Complainant’s Motion to Withdraw as Counsel for DHS and Complainant’s Motion to Substitute as Counsel. DHS

Assistant Chief Counsel (ACC) Kenneth Knapp attached to the motion to substitute a completed Attorney Registration Form and Certification for OCAHO's Electronic Filing Pilot Program. On November 12, 2024, he filed a Notice of Appearance.

On January 16, 2025, the Court issued an Order on Complainant's Motion to Withdraw, Motion for Substitution, Notice of Appearance, and Electronic Filing. *United States v. RITALKA, Inc.*, 21 OCAHO no. 1638 (2025).¹ The Court granted Complainant's Motion to Withdraw and ACC Knapp's Motion to Substitute as Counsel. *Id.* at 4. The Court also extended electronic filing privileges to ACC Knapp. *Id.*

On March 7, 2025, the Court issued an Order for Prehearing Statements and Scheduling Initial Prehearing Conference, directing the parties to make their initial disclosures and file their prehearing statements by March 28, 2025, and scheduling an initial prehearing conference pursuant to 28 C.F.R. § 68.13² for April 22, 2025. On the same day, the Court also issued an Order on Complainant's Opposition to the Respondent's Request to Dismiss, finding that because Respondent had not filed a motion to dismiss that comported with 28 C.F.R. § 68.10(a), the Court need not consider Complainant's Opposition. *United States v. RITALKA, Inc.*, 21 OCAHO no. 1638a, 4 (2025).

¹ Citations to OCAHO precedents reprinted in bound Volumes 1 through 8 reflect the volume number and the case number of the particular decision, followed by the specific page in that volume where the decision begins; the pinpoint citations which follow are thus to the pages, seriatim, of the specific entire volume. Pinpoint citations to OCAHO precedents after Volume 8, 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 in the Westlaw database "FIM-OCAHO," the LexisNexis database "OCAHO," or on OCAHO's homepage on the United States Department of Justice's website at <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

² OCAHO's Rules of Practice and Procedure for Administrative Hearings, being the provisions contained in 28 C.F.R. part 68 (2024), generally govern these proceedings and are available on the United States Department of Justice's website at <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-regulations>.

On March 11, 2025, Respondent filed an Uncontested Motion for Extension of Time for Filing Prehearing Statement of Position and Initial Disclosures. Also on March 11, 2025, Respondent filed an Uncontested Motion to Reschedule Initial Telephonic Prehearing Conference. On March 26, 2025, the Court granted both motions. *United States v. RITALKA, Inc.*, 21 OCAHO no. 1638b (2025).

On April 9, 2025, Complainant filed Complainant's Prehearing Statement. On April 10, 2025, Respondent filed Respondent's Prehearing Statement.

On April 23, 2025, pursuant to 28 C.F.R. § 68.13, the Court held the initial telephonic prehearing conference with counsel for both parties and found that this case was appropriate for a referral to the OCAHO Settlement Officer Program. On April 24, 2025, the Court issued an Order Memorializing Initial Prehearing Conference, pursuant to 28 C.F.R. § 68.13(c). *United States v. RITALKA, Inc.*, 21 OCAHO no. 1638c (2025).

II. RULES GOVERNING THE OCAHO SETTLEMENT OFFICER PROGRAM

OCAHO announced its Settlement Officer Program in August 2020 through the Executive Office for Immigration Review (EOIR) Policy Memorandum (PM) 20-16.³ It is a voluntary program through which the parties use a Settlement Officer to mediate settlement negotiations as a means of alternative dispute resolution. The Settlement Officer convenes and oversees settlement conferences and negotiations, confers with the parties jointly and/or individually, and seeks voluntary resolution of issues. The proceedings before the Settlement Officer are subject to the confidentiality provisions of 5 U.S.C. § 574. The presiding Administrative Law Judge (ALJ) may refer a case for up to sixty days for settlement negotiations before the Settlement Officer. However, with the consent of the parties, the Settlement Officer may seek the approval of the presiding ALJ to extend the period for negotiations for a reasonable period of time, not to exceed an additional thirty days. If the parties reach a settlement, the provisions of 28 C.F.R. § 68.14 apply. If the parties'

³ EOIR Policy Memorandum 20-16 is available at <https://www.justice.gov/eoir/page/file/1300746/dl>. Chapter 4.7 of the OCAHO Practice Manual also discusses the OCAHO Settlement Officer Program and is available at <https://www.justice.gov/eoir-policy-manual/iv/4/7>.

settlement negotiations are unsuccessful, the case is returned to the presiding ALJ to set appropriate procedural deadlines.

The presiding ALJ may refer a case to a Settlement Officer upon: (1) receipt of written confirmation of consent to a referral from each party in the case and (2) subject to 5 U.S.C. § 572(b) and the eligibility provisions of the program, a determination by the presiding ALJ that the case is appropriate for referral. PM 20-16, Section II.A. The eligibility provisions include, as relevant, that an ALJ shall not refer a case if (a) either party objects to the referral, (b) one or more parties are proceeding pro se unless the pro se parties are fully informed regarding program's procedures and consent to their use, or (c) a case is not appropriate for referral. *Id.* Section I.C.

III. DISCUSSION AND ANALYSIS

Pending before the Court is the parties' Joint Motion to Refer Matter to a Settlement Officer. The parties move the Court to refer this case to the OCAHO Settlement Officer Program and "jointly consent to such a referral to a settlement officer." Joint Mot. Refer 4.⁴ Counsel for both parties signed the motion.⁵ *Id.* at 5. The Court finds that, through their Joint Motion to Refer Matter to a Settlement Officer, the parties have satisfied the OCAHO Settlement Officer Program's requirement that no referral may be made without "receipt of written confirmation of consent to referral from each party in the case." PM 20-16, Section II.A.1. During the initial prehearing conference on April 23, 2025, counsel for both parties reiterated their consent to the use of the OCAHO Settlement Officer Program's policies and procedures, their understanding of the program, and their commitment to mediate in good faith. *See RITALKA, Inc.*, 21 OCAHO no. 1638c, at 4.

⁴ Pinpoint citations to the parties' Joint Motion to Refer Matter to a Settlement Officer are to the page numbers of the PDF version of the motion on file with the Court.

⁵ Although the motion was signed by Complainant's former counsel, Complainant's current counsel confirmed to the Court during the April 23, 2025, initial prehearing conference that Complainant is still seeking a referral to the OCAHO Settlement Officer Program. *See RITALKA, Inc.*, 21 OCAHO no. 1638c, at 3.

Based on the Court's discussions with the parties' counsel during the initial prehearing conference and its review of the filings in this case, including the complaint, Respondent's answer, the parties' prehearing statements, and their Joint Motion to Refer Matter to a Settlement Officer, the Court finds that this matter meets the eligibility requirements for the OCAHO Settlement Officer Program, as set out in Section I.C.1–2 of PM 20-16 and Chapter 4.7(a)(3)(A)–(B) of the OCAHO Practice Manual, and is appropriate for a referral. Moreover, the Court does not find that any of the factors in 5 U.S.C. § 572(b), Section I.C.3. of PM 20-16, and Chapter 4.7(a)(3)(C) of the OCAHO Practice Manual counsel against a referral of this case to the program.

Given the Court's finding during the initial prehearing conference that this case is appropriate for a referral to the OCAHO Settlement Officer Program, *see RITALKA, Inc.*, 21 OCAHO no. 1638c, at 5, and having found that none of the eligibility factors counsel against a referral, the Court now grants the parties' Joint Motion to Refer Matter to a Settlement Officer and refers this case to the program for settlement negotiations for a total of sixty days, pursuant to 28 C.F.R. § 68.28(a) and Sections II.C and II.D.2 of PM 20-16. Given the unavailability of Respondent's counsel from May 26, 2025, through June 13, 2025, *see RITALKA, Inc.*, 21 OCAHO no. 1638c, at 4, and to allow the parties to take full advantage of the OCAHO Settlement Officer Program, the sixty-day referral of this matter to the program shall be divided into two distinct periods, namely, from April 30, 2025, through May 23, 2025, and then June 16, 2025, through July 21, 2025.⁶ The Court designates Administrative Law Judge John A. Henderson as the Settlement Officer for this case.

The Court finds that no procedural deadlines need to be stayed during this case's referral to the OCAHO Settlement Officer Program. *See* PM 20-16, Section II.C. At the parties' request, the Court deferred setting further case deadlines in this matter, including dates for the completion of discovery, the filing of dispositive motions, and a hearing date. *See RITALKA, Inc.*, 21 OCAHO no. 1638c, at 6. As the Court explained during the initial prehearing conference, the parties may engage in discovery during mediation or seek a stay if discovery requests become burdensome. *Id.* at 5.

During the referral period, the parties shall comply with the OCAHO Settlement Officer Program's confidentiality requirements, *see* PM 20-16, Section IV, and, as specified in the program, the statutory provisions of 5 U.S.C. § 574 "which

⁶ Should counsel's availability change, the Settlement Officer, with the consent of both parties, may ask the Court to revise the designated referral periods.

generally prohibit disclosure of dispute resolution communications by parties and a settlement officer unless a specific enumerated exception applies.” *Id.* Section IV.B.

As the Court explained during the initial prehearing conference, if the parties reach a settlement agreement through the OCAHO Settlement Officer Program, the Court may issue an order setting deadlines for the filing of any settlement materials. *See RITALKA, Inc.*, 21 OCAHO no. 1638c, at 5. The parties may consult 28 C.F.R. § 68.14, which sets forth the two avenues for leaving this forum upon settlement. If the parties enter into a settlement agreement, 28 C.F.R. § 68.14(a)(2) provides that the parties may file a notice of settlement and a joint motion to dismiss signed by counsel for both parties. If the parties pursue this avenue, the Court may require the filing of the parties’ settlement agreement. The parties should state in their joint motion whether they are seeking dismissal with or without prejudice.

If the parties do not reach a settlement during the referral to the OCAHO Settlement Officer Program, they may seek an extension of the referral period for up to an additional thirty days. PM 20-16, Section II.D.2. When the referral period ends, the Settlement Officer will terminate negotiations and return the case to the presiding ALJ. *Id.* Section V.B. Settlement negotiations before the Settlement Officer also will be terminated and the case will be returned to the presiding ALJ if a party unambiguously indicates that it does not wish to participate or if the Settlement Officer determines that further negotiations would be unproductive or inappropriate. *Id.* Section V.C.

IV. ORDERS

IT IS SO ORDERED that the Joint Motion to Refer Matter to a Settlement Officer filed by Complainant, the United States Department of Homeland Security, Immigration and Customs Enforcement, and Respondent, RITALKA, Inc., is GRANTED;

IT IS FURTHER ORDERED that, pursuant to 28 C.F.R. § 68.28(a) and EOIR Policy Memorandum 20-16, Sections II.C and II.D.2., this case is referred to the OCAHO Settlement Officer Program for settlement negotiations for a total of sixty days divided into two distinct periods, namely, from April 30, 2025, through May 23, 2025, and then June 16, 2025, through July 21, 2025;

IT IS FURTHER ORDERED that OCAHO Administrative Law Judge John A. Henderson is designated as the Settlement Officer for this case; and

IT IS FURTHER ORDERED that, should the parties reach a settlement agreement, they shall proceed in accordance with 28 C.F.R. § 68.14.

SO ORDERED.

Dated and entered on April 28, 2025.

Honorable Carol A. Bell
Administrative Law Judge