

**U.S. Department of Labor**

Office of Administrative Law Judges  
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**Issue Date: 20 March 2017**

Case No.: 2017-LCA-00007

*In the Matter of:*

ADMINISTRATOR, WAGE AND HOUR DIVISION,  
UNITED STATES DEPARTMENT OF LABOR,

Prosecuting Party,

v.

TERMINUS SECURITIES, LLC,

Respondent.

**ORDER OF DISMISSAL**

This case arises under the H-1B visa program of the Immigration and Nationality Act of 1952 (INA), 8 U.S.C.A. § 1101 *et seq.*, as amended, and its implementing regulations found at 20 C.F.R. Part 655, Subparts H and I. It was docketed with OALJ on February 22, 2017, and was assigned to me on March 1, 2017.

The Administrator's determination is dated January 25, 2017. The determination advised Respondent that it could appeal the determination, and that its request for appeal "must be made to **and received by** the Chief Administrative Law Judge (OALJ) at the following address no later than 15 calendar days after the date of this determination." (Emphasis added.) Similarly, the Regulation at 20 C.F.R. § 655.820 provides:

(a) Any interested party desiring review of a determination issued under §§655.805 and 655.815, including judicial review, shall make a request for such an administrative hearing in writing to the Chief Administrative Law Judge at the address stated in the notice of determination....

(d) **The request for such hearing shall be received by the Chief Administrative Law Judge**, at the address stated in the Administrator's notice of determination, **no later than 15 calendar days after the date of the determination.**

20 C.F.R. § 655.820(a)-(d) (emphasis added).

Respondent's request for appeal was received by the Chief Administrative Law Judge on February 22, 2017, well after the 15-day period expired on February 9, 2017. Although the letter

requesting an appeal is dated February 8, 2017, the postage meter on the envelope shows that postage was paid on February 17, 2017, and the tracking number for the package shows that it was accepted for mailing in Atlanta, Georgia, on February 17, 2017. Because the request for appeal was not mailed until February 17, 2017, and was not received by OALJ until February 22, 2017, it is untimely.

The Regulation at 20 C.F.R. § 655.815(c)(3) provides: “[I]n the absence of a timely request for a hearing, received by the Chief Administrative Law Judge within 15 calendar days of the date of the determination, the determination of the Administrator shall become final and not appealable.”

On March 3, 2017, I issued a *Notice of Assignment and Order to Show Cause Why the Case Should Not Be Dismissed*. The order directed Respondent to show cause why its appeal should not be dismissed as untimely. Respondent was ordered to file its written response as to why this case should not be dismissed no later than 4:00 p.m. on Monday, March 13, 2017, and was advised that failure to file a response by the due date would result in this case being dismissed.

Respondent did not file a Response to the *Order to Show Cause*.

In light of the untimely filing of the request for appeal, and Respondent’s failure to show cause why this case should not be dismissed, **IT IS HEREBY ORDERED** that this case is **DISMISSED** as untimely and therefore not appealable, pursuant to the regulations cited above.

**SO ORDERED.**

MONICA MARKLEY  
Administrative Law Judge

Newport News, VA