

**United States Small Business Administration
Office of Hearings and Appeals**

IN THE MATTER OF:

Monbo Group International, Ltd,

Petitioner

SBA No. BDPE-606

Decided: May 1, 2023

ORDER DISMISSING APPEAL¹

On March 3, 2023, the Associate Administrator of the Office of Business Development (AA/BD) of the U.S. Small Business Administration (SBA) suspended Monbo Group International, Ltd (Petitioner) from SBA's 8(a) Business Development (BD) program for engaging in conduct that indicated a lack of business integrity.

On April 17, 2023, Petitioner filed a Notice of Appeal with the SBA Office of Hearings and Appeals (OHA) and included a copy of the AA/BD determination.

On April 18, 2023, OHA issued an Order to Show Cause directing Appellant to show cause why the appeal should not be dismissed for failing to include the statements required in an appeal petition, and for untimeliness. (OHA's Order to Show Cause, at 1.) In the Order, OHA stated Appellant's Notice to Appeal is not an appeal petition under applicable regulations because it does not include a clear and concise statement of the factual basis of the case and applicable legal arguments. 13 C.F.R. § 134.203(a). OHA further stated SBA regulations do not provide Petitioner with the option to reserve the right to file an appeal, nor provide an OHA judge the right to extend or modify the time to commence an appeal. *See* 13 C.F.R. § 134.202(d)(2)(i)(A). Here, AA/BD issued her determination on March 3, 2023, thus any appeal filed after April 17, 2023, in this matter would be untimely.

On April 25, 2023, Petitioner responded to OHA's Order and provided a Supplemental Appeal. In Petitioner's Response, Dee Monbo, President of Petitioner, contends that Petitioner will "suffer irreparable harm absent the acceptance of the supplement to the appeal." (Response, at 1.) Specifically, Ms. Monbo asserts that Petitioner will be left without a meaningful remedy and will lose the opportunity to compete for contracts under the 8(a) program. (*Id.*) Ms. Monbo further asserts that AA/BD's suspension of Petitioner from the 8(a) program is a violation of due process. and cites to public interest and inexperience with OHA as good cause to accept the supplemental appeal. (*Id.*)

¹ This appeal is decided under the Small Business Act of 1958, 15 U.S.C. § 631 et seq., and 13 C.F.R. parts 124 and 134.

An appeal petition challenging an 8(a) suspension must be filed within 45 calendar days after the concern receives the Notice of Suspension. 13 C.F.R. § 124.305(c); *see also*, 13 C.F.R. § 134.404. An appeal petition must contain, among other things, “[a] clear and concise statement of the factual basis of the case and applicable legal arguments.” 13 C.F.R. § 134.203(a)(3). An OHA Judge may dismiss, with or without prejudice, any petition which does not contain all information required. 13 C.F.R. § 134.203(c). Further, an OHA Judge may modify any time period or deadline “except . . . [t]he time period governing commencement of a case (i.e. when the appeal petition may be filed). . . .” 13 C.F.R. § 134.202(d)(2)(i)(A).

In the present case, Petitioner filed a Notice to Appeal on April 17, 2023, the deadline to file a timely appeal petition; and filed a Supplemental Appeal on April 25, 2023. However, Petitioner's Notice to Appeal is not an appeal petition because it does not include a clear and concise statement of the factual basis of the case and applicable legal arguments. 13 C.F.R. § 134.203(a). Also, Petitioner's Supplemental Appeal is untimely because it was not filed within 45 calendar days of the Notice of Suspension. 13 C.F.R. § 124.305(c). Although Petitioner cites to, among other things, inexperience with OHA as good cause to accept the Supplemental Appeal, I cannot modify the deadline upon which petitioner must file its appeal pursuant to 13 C.F.R. § 134.202(d)(2)(i)(A). Therefore, I must find the Supplemental Appeal untimely. *See* 13 C.F.R. § 134.405(a)(2), *see also In the Matter of Fantom Corporation*, SBA No. BDPE-575, at 2 (2019); *In the Matter of Secure Trendz, Inc.*, SBA No. BDP-371 (2010) (dismissing an 8(a) appeal due to lack of timeliness.)

For the above reasons, I DISMISS the instant appeal for failing to provide a timely appeal petition. This is the final decision of the U.S. Small Business Administration. *See* 13 C.F.R. § 134.316(d).

CHRISTOPHER HOLLEMAN
Administrative Judge