

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

CVE Appeal of:

Taylor Made Solutions, LLC

Appellant,

SBA No. CVE-172-A

Decided: November 20, 2020

ORDER DISMISSING APPEAL AS UNTIMELY¹

I. Background

On October 14, 2020, the U.S. Department of Veterans Affairs (VA) Center for Verification and Evaluation (CVE) cancelled the Service-Disabled Veteran-Owned Small Business (SDVOSB) verified status of Taylor Made Solutions, LLC (Appellant). The cancellation letter stated that any appeal of the decision must be filed with the U.S. Small Business Administration (SBA) Office of Hearings and Appeals (OHA) within 10 business days, and cited applicable provisions in OHA's rules of procedure. (Cancellation Notice at 4.)

On November 12, 2020, Appellant filed the instant appeal. Because the appeal appeared to have been filed at OHA more than 10 business days after the cancellation was issued, OHA ordered Appellant to show cause why the appeal should not be dismissed as untimely.

On November 17, 2020, Appellant responded to OHA's order. Appellant states that, on October 20, 2020, a CVE representative informed Appellant that any appeal of the cancellation should be directed to OHA. Appellant attempted to contact OHA by telephone for guidance about the appeal process, but OHA did not respond. On October 27, 2020, at 10:18 p.m., Appellant transmitted its appeal to CVE at CVEAppealsService@va.gov. CVE acknowledged receipt of Appellant's e-mail, but cautioned that any appeal must first be filed at OHA. On November 6, 2020, Appellant again e-mailed CVE, asserting that Appellant was "aware that [[it] had to appeal within 10 days but [] will explain what happened." (E-mail from K. Taylor to CVEAppealsService@va.gov (Nov. 6, 2020).) When no further instructions were forthcoming

¹ OHA adjudicates CVE appeals pursuant to 38 U.S.C. § 8127(f)(8)(A), 38 C.F.R. part 74, and 13 C.F.R. part 134.

from CVE, Appellant e-mailed its appeal to OHA on November 11, 2020.² Given these circumstances, Appellant maintains, OHA should consider the appeal to be timely.

II. Discussion

Under applicable regulations, an appeal of a CVE status cancellation must be filed “within 10 business days of receipt of the . . . cancellation.” 13 C.F.R. § 134.1104(a). An appeal is considered “filed” when it is received by OHA. *Id.* § 134.204(b). An untimely appeal must be dismissed. *Id.* § 134.1104(c). Further, OHA has no authority to extend, or waive, the deadline for filing an appeal. *Id.* § 134.202(d)(2)(i)(a). Applying these rules, OHA has repeatedly held that “[a]n appeal that is properly served [to other parties] but not timely filed [at OHA] must be dismissed as an untimely filed appeal.” *CVE Appeal of Starblast, Inc.*, SBA No. CVE-164-A, at 1 (2020); *CVE Appeal of KOIOS Sys. & Tech., LLC*, SBA No. CVE-124-A, at 1 (2019).

Here, although Appellant served the appeal to CVE within 10 business days after issuance of the cancellation decision, Appellant did not file the appeal at OHA until 20 business days after issuance of the decision. Section I, *supra*. As a result, the appeal is untimely and must be dismissed.

In response to OHA's order to show cause, Appellant does not dispute that it failed to file its appeal at OHA within 10 business days. Section I, *supra*. Appellant argues, however, that its appeal should be considered timely because Appellant was unable to reach OHA by telephone to discuss the appeals process. *Id.* While this is unfortunate, OHA has no discretion to extend, or waive, the deadline for filing an appeal. 13 C.F.R. § 134.202(d)(2)(i)(a). Moreover, information about the appeals process is readily accessible via the internet and through applicable regulations. Indeed, the cancellation notice itself referenced such regulations and made clear that an appeal of the cancellation could be filed only at OHA. 38 C.F.R. § 74.22(e); 13 C.F.R. § 134.1102. It therefore is immaterial that Appellant was unable to reach OHA by telephone for further guidance on the appeals process.

III. Conclusion

For the above reasons, the appeal is DISMISSED as UNTIMELY. This is the final agency action of the U.S. Small Business Administration. 38 U.S.C. § 8127(f)(8)(A); 13 C.F.R. § 134.1112(d).

KENNETH M. HYDE
Administrative Judge

² Appellant transmitted the appeal to OHA via e-mail on November 11, 2020, a federal holiday, so the appeal is deemed to have been filed the next business day, November 12, 2020. *See* 13 C.F.R. § 134.202(d).