

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

VSBC Appeal of:

Great Lakes NeuroTechnologies Inc.,

Appellant

SBA No. VSBC-304-A

Decided: September 7, 2023

ORDER DISMISSING APPEAL¹

On August 28, 2023, Great Lakes NeuroTechnologies Inc. (Appellant) filed the above-captioned appeal with the U.S. Small Business Administration (SBA) Office of Hearings and Appeals (OHA). The appeal purported to challenge an SBA decision dated August 3, 2023, denying Appellant's application for certification as a Service-Disabled Veteran-Owned Small Business (SDVOSB).

Because the appeal appeared to be untimely, OHA ordered Appellant to show cause, no later than September 5, 2023, why the appeal should not be dismissed. OHA noted that, in an e-mail chain accompanying the appeal petition, Appellant stated that it had served copies of its appeal to other interested parties on August 7, 2023, but neglected to file the appeal with OHA until some three weeks later. (Order at 1.) Under applicable regulations, however, an SDVOSB status appeal must be filed at OHA within 10 business days after receipt of the denial or decertification decision. (*Id.*, citing 13 C.F.R. § 134.1104(a).) An untimely appeal must be dismissed, and OHA has no discretion to extend, or modify, the deadline for filing an appeal. (*Id.*, citing 13 C.F.R. §§ 134.202(d)(2)(i)(A) and 134.1104(c).) Furthermore, “filing” is a term of art defined as “the receipt of pleadings and other submissions at OHA.” (*Id.*, citing 13 C.F.R. § 134.204(b).) Appellant did not respond to OHA's Order.

By failing to respond to OHA's Order to Show Cause, Appellant essentially concedes that its appeal is untimely. As discussed above, Appellant received the denial decision on August 3, 2023, so any appeal would have been due at OHA within 10 business days, or by August 17, 2023. Appellant did not actually file its appeal with OHA until August 28, 2023. Although Appellant apparently served copies of its appeal to other interested parties prior to the filing deadline, 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 Taylor Made Solutions, LLC*, SBA No. CVE-172-A, at 1 (2020) (quoting *CVE Appeal of Starblast, Inc.*, SBA No. CVE-164-A, at 1 (2020)).

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 128 and 134 subpart K.

For these reasons, the appeal is DISMISSED as UNTIMELY. This is the final decision of the U.S. Small Business Administration. 13 C.F.R. § 134.1112(d).

KENNETH M. HYDE
Administrative Judge