**U.S. Citizenship
and Immigration
Services**

DATE: **APR 2 3 2012**   OFFICE: NEBRASKA SERVICE CENTER   FILE

IN RE: Petitioner:
              Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability pursuant to section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you.

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center (Director). It is now on appeal before the Chief, Administrative Appeals Office (AAO). The appeal will be dismissed.

The petitioner is a software development business. It seeks to permanently employ the beneficiary in the United States as a software engineer and to classify him as an advanced degree professional pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2). The Director denied the petition on the ground that the petitioner failed to establish its continuing ability to pay the proffered wage of the subject position from the priority date up to the present, as well as the proffered wages of all other aliens for whom employment-based immigrant visa petitions had been filed. A timely appeal was filed, along with additional documentation.

On February 23, 2012, the AAO sent a Notice of Intent to Dismiss and Request for Evidence (NOID/RFE) to the petitioner. The AAO advised that it intended to dismiss the appeal because it appeared the petitioner no longer conducted business at the address identified on both the labor certification (ETA Form 9089) and on the immigrant visa petition (Form I-140) as the beneficiary's worksite location for the proffered position. The AAO requested that documentary evidence be submitted of the beneficiary's ongoing operations at the pertinent address. The AAO also requested updated documentation of the petitioner's continuing ability to pay the proffered wage of the beneficiary and all other aliens for whom employment-based immigrant visa petitions had been filed, as well as the current immigration status of all the other beneficiaries. The petitioner was afforded 30 days to respond to the NOID and submit additional evidence.

The petitioner did not respond within the 30-day period specified in the NOID/RFE, or any time since then. If a petitioner fails to respond to a notice of intent to dismiss or request for evidence by the required date, the petition may be summarily denied as abandoned, denied based on the record, or denied for both reasons. *See* 8 C.F.R. § 103.2(b)(13)(i). As further provided in 8 C.F.R. § 103.2(b)(14), the failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition.

Since the petitioner has not responded to the NOID/RFE of February 23, 2012, the petition is deniable under the regulatory provisions cited above. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.