

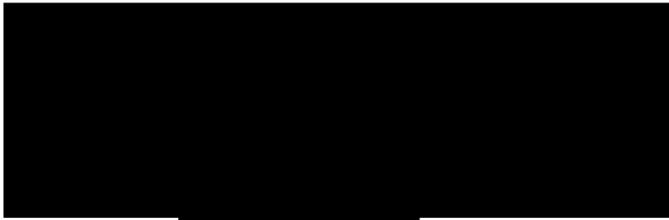
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**U.S. Department of Homeland Security**  
U. S. Citizenship and Immigration Services  
*Office of Administrative Appeals* MS 2090  
Washington, DC 20529-2090  
**U.S. Citizenship  
and Immigration  
Services**



B6



FILE: [REDACTED]  
LIN-07-245-55511

Office: TEXAS SERVICE CENTER

Date: **APR 07 2010**

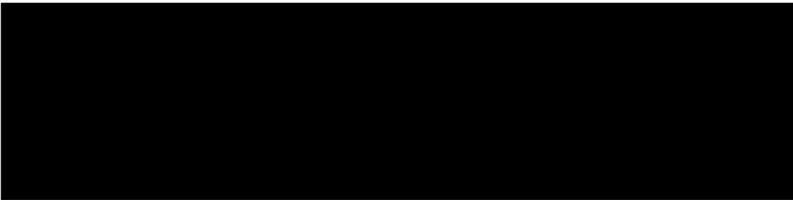
IN RE: Petitioner:



Beneficiary:

PETITION: Immigrant petition for Alien Worker as an Other, Unskilled Worker pursuant to section 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry concerning your case must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. 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 \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

Perry R. Hewitt  
Chief, Administrative Appeals Office

**DISCUSSION:** The preference visa petition was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a residential care facility. It seeks to employ the beneficiary permanently in the United States as a nursing aide, orderly & attendant. As required by statute, the petition is accompanied by a Form ETA 750, Application for Alien Employment Certification, approved by the Department of Labor. The director determined that the petitioner had not established the ability to pay the proffered wage as of the priority date and denied the petition accordingly.

The record shows that the appeal is properly and timely filed, and makes a specific allegation of error in law or fact. The procedural history in this case is documented by the record and incorporated into the decision. Further elaboration of the procedural history will be made only as necessary.

During the adjudication of the appeal, evidence came to light that the petitioner in this matter had been suspended. Therefore, on February 17, 2010, this office sent the petitioner a notice of derogatory information regarding this finding in which it informed the petitioner that if it was indeed no longer an active business, the petition and its appeal to the AAO would have become moot.<sup>1</sup> In which case, the AAO would dismiss the instant appeal as moot. The notice afforded the petitioner 30 days to respond and to overcome the ground of eligibility.

However, as of this date, more than 40 days after this office issued the notice of derogatory information, the AAO has not received any response. As such, this office finds, in keeping with the attached record from the California Business Portal official website, that the petitioner's status has been suspended, and thus, the petitioner no longer qualifies as a United States employer capable of making a valid job offer. Therefore, further pursuit of the instant petition is moot.

**ORDER:** The appeal is dismissed as moot based on the finding that the petitioner has been suspended.

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<sup>1</sup> Where there is no active business, no legitimate job offer exists, and the request that a foreign worker be allowed to fill the position listed in the petition has become moot.