



U.S. Citizenship  
and Immigration  
Services

(b)(6)

DATE: **MAY 25 2012**

OFFICE: NEBRASKA SERVICE CENTER FILE:

IN RE:

Petitioner:  
Beneficiary:

PETITION: Immigrant petition for Alien Worker as a Skilled Worker or Professional 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 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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen with the field office or service center that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to 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 preference visa petition was denied by the Director, Nebraska Service Center. It then came before the Administrative Appeals Office (AAO) on appeal. On February 29, 2012 this office provided the petitioner with notice of adverse information in the record and afforded the petitioner an opportunity to provide evidence that might overcome this information.

The petitioner describes itself as a “digital networking solutions for the broadcast services industry.” It seeks to employ the beneficiary permanently in the United States as a Senior Quality Assurance Engineer pursuant to section 203(b)(3) of the Immigration and Nationality Act (the Act), 8 U.S.C. §1153(b)(3). As required by statute, a labor certification approved by the Department of Labor accompanied the petition. The director determined that beneficiary did not meet the minimum educational requirements laid out on the labor certification. Therefore, the director denied the petition.

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

On February 29, 2012,<sup>1</sup> this office notified the petitioner that according to the records at the California Secretary of State website, the petitioner is currently dissolved. *See* <http://kepler.ss.ca.gov/cbs.aspx> (accessed January 17, 2012).

This office also notified the petitioner that if it is currently dissolved, this is material to whether the job offer, as outlined on the immigrant petition filed by this organization, is a *bona fide* job offer. Moreover, any such concealment of the true status of the organization by the petitioner seriously compromises the credibility of the remaining evidence in the record. *See Matter of Ho*, 19 I&N Dec. 582, 586 (BIA 1988)(stating that doubt cast on any aspect of the petitioner’s proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition.) It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *See Id.*

This office allowed the petitioner 30 days in which to provide evidence that the records maintained by the California Secretary of State were not accurate and that the petitioner remains in operation as a viable business or was in operation during the pendency of the petition and appeal. More than 30 days have passed and the petitioner has failed to respond to this office's request for a certificate of good standing or other proof that the petitioner remains in operation as a viable business or was in operation from the priority date onwards. Thus, the appeal will be dismissed as abandoned.<sup>2</sup>

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<sup>1</sup> Notice to the petitioner and counsel was initially sent on February 22, 2012. Both notices were returned to the AAO as undeliverable. Notice was resent on February 29, 2012 to counsel’s new address and was not returned as undeliverable. The petitioner has not provided the AAO with any change of address.

<sup>2</sup> Additionally, as noted in the notice of derogatory information, even if the appeal could be otherwise sustained, the petition’s approval would be subject to automatic revocation pursuant to 8

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

**ORDER:** The appeal is dismissed as moot.

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C.F.R. § 205.1(a)(iii)(D) which sets forth that an approval is subject to automatic revocation without notice upon termination of the employer's business in an employment-based preference case.