

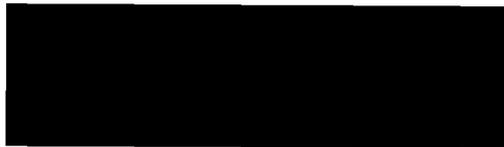
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



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



D7

Date: **APR 27 2012** Office: VERMONT SERVICE CENTER FILE:

IN RE: Petitioner:
Beneficiary:

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

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 nonimmigrant visa petition was denied by the Director, Vermont Service Center. It then came before the Administrative Appeals Office (AAO) on appeal. On January 12, 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 claims to be a corporation organized under the laws of the State of Maryland. It seeks to employ the beneficiary as its vice president. Accordingly, the petitioner endeavors to classify the beneficiary as a nonimmigrant alien pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The director denied the petition based on a determination that the petitioner failed to establish that the beneficiary had at least one continuous year of full-time employment abroad with a qualifying organization within the three years preceding the filing of the petition.

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). Pursuant to 8 C.F.R. § 103.2(b)(16)(i), this office notified the petitioner on January 12, 2012 that, according to the AAO's search of State of Maryland corporate records and business registrations, the petitioner's corporate status has been forfeited. *See Website of Maryland Department of Assessments and Taxation Business Services*, available at <http://sdatcert3.resiusa.org/UCC-Charter/CharterSearch_f.aspx> (accessed on January 12, 2012).

This office also notified the petitioner that if its corporate status is currently dissolved or forfeited, this fact is material to its eligibility for the requested visa. Specifically, the petitioner's forfeiture raises serious questions about whether it continues to exist as an importing employer, whether the petitioner maintains a qualifying relationship, and whether it is authorized to conduct business in a regular and systematic manner. *See* section 214(c)(1) of the Act; *see also* 8 C.F.R. §§ 214.2(l)(1)(ii)(G) and (l)(3).

The AAO properly mailed the notice of derogatory information to the petitioner's address of record and allowed the petitioner 30 days in which to provide evidence to rebut the finding that the petitioner's corporate status has been forfeited. The regulation at 8 C.F.R. § 103.8(a)(1)(i) provides that "[r]outine service consists of mailing the notice by ordinary mail addressed to the affected party and his or her attorney or representative of record at his or her last known address." The United States Postal Service returned the notice to the AAO as undeliverable mail on January 30, 2012, and provided no forwarding address for the petitioning company.

In order to seek employment of the beneficiary as an intracompany transferee, the petitioner must be a United States legal entity that is the same employer as the firm, corporation, or other legal entity that employed the beneficiary abroad or the U.S. petitioner must be a subsidiary or affiliate of that foreign entity, and it must be doing business as defined at 8 C.F.R. § 214.2(l)(1)(ii)(H). Given that the petitioner's corporate status is shown as forfeited, the AAO finds that the petitioner is no longer a legal entity that is qualified to file a nonimmigrant petition in the beneficiary's behalf.¹

¹ Even if the appeal could be otherwise sustained, the petition's approval would be subject to revocation

The forfeiture of its corporate status effectively terminates the employer's business. Where there is no active and legal U.S. entity, no legitimate job offer exists, and the request that a foreign worker be allowed to fill the position offered in the petition has become moot.

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. While the petitioner has not withdrawn the appeal in this proceeding, its forfeited corporate status renders the issues in this proceeding moot. Therefore, the appeal will be dismissed.

ORDER: The appeal is dismissed as moot.