

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

[REDACTED]

By

DATE: DEC 10 2012 OFFICE: TEXAS SERVICE CENTER

[REDACTED]

IN RE:

[REDACTED]

PETITION: Immigrant Petition for Alien Worker as a Multinational Executive or Manager Pursuant to Section 203(b)(1)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(C)

ON BEHALF OF PETITIONER:

[REDACTED]

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 in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a request 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 that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,


Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The immigrant visa petition was denied by the Director, Texas Service Center. It then came before the Administrative Appeals Office (AAO) on appeal. On September 28, 2012, this office provided the petitioner and counsel 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 New York. It seeks to employ the beneficiary as a manager within its organization. Accordingly, the petitioner endeavors to classify the beneficiary as an employment-based immigrant pursuant to section 203(b)(1)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(C), as a multinational executive or manager.

Pursuant to 8 C.F.R. § 103.2(b)(16)(i), this office notified the petitioner on September 28, 2012 that, the petitioning business in this matter was dissolved on May 8, 2008 and was therefore not active when the director issued two separate requests for additional evidence (RFE) on May 16, 2008 and December 4, 2008, respectively. See Website of New York State Department of State, Division of Corporations <http://appext9.dos.ny.gov/corp_public/CORPSEACH.ENTITY_INFORMATION> (accessed on September 24, 2012).

This office further informed the petitioner of additional anomalies. Specifically, the petitioner was informed that while the Form I-140 on record names Lancomtech, Inc. as the petitioning entity in this proceeding, numerous other documents, including the Form I-290B, the Notice of Entry of Appearance as Attorney or Accredited Representative (Form G-28), and the stock certificates that were submitted in response to the director's December 4, 2008 request for evidence pertain to a company by the name of Lancomtech Group, Inc. The AAO found that record did not include evidence establishing that the entity named in the Form I-140 and the entity named in these other documents are one and the same. The AAO noted, however, that Lancomtech Group, Inc., a separate New York corporation, had also been dissolved.

Finally, this office notified the petitioner that if it is currently dissolved, this fact is material to its eligibility for the requested visa. Specifically, the petitioner's dissolution 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 203(b)(1)(C) of the Act; see also 8 C.F.R. §§ 204.5(j)(2) and (3)(i)(C).

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). 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. *Id.*

This office accorded the petitioner 30 days in which to provide evidence to rebut the finding that the petitioner has been dissolved. 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. Thus, the appeal will be dismissed as moot.¹

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

¹ Even if the appeal could be sustained, the petition's approval would be subject to revocation pursuant to 8 C.F.R. § 214.2(l)(9)(iii) upon dissolution of the corporate entity. Accordingly, the AAO finds that the dissolution of the petitioner deprives this appeal of any practical significance. Considerations of prudence warrant the dismissal of the appeal as moot. *See Matter of Luis*, 22 I&N Dec. 747, 753 (BIA 1999).