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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

DATE: **MAY 07 2013** OFFICE: NEBRASKA SERVICE CENTER FILE: [REDACTED]

IN RE: Petitioner: [REDACTED]  
Beneficiary: [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 THE 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 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 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 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,

  
/ Ron Rosenberg

Acting Chief, Administrative Appeals Office

**DISCUSSION:** The preference visa petition was denied by the Director, Nebraska Service Center. The matter came before the Administrative Appeals Office (AAO) on appeal. This office provided the petitioner with notice of adverse information in the record and afforded the petitioner an opportunity to provide rebuttal evidence that might overcome this information.

The petitioner is a Texas limited liability company claimed to be engaged in food service that seeks to employ the beneficiary as its general manager. 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 that, according to publicly available records maintained by the State of Texas, the petitioner is currently inactive with a corporate status of "forfeited existence." The AAO provided the petitioner with copies of the adverse information. This office also notified the petitioner that if it is currently dissolved, inactive or forfeited its existence, this fact is material to its eligibility for the requested visa.

This office allowed the petitioner 30 days in which to provide evidence to rebut the finding that the petitioner is inactive. The AAO advised the petitioner that it could provide a certificate of good standing or other proof that the company has not suspended its business operations and is currently in active status and in operation as a viable business.

On March 5, 2013, the petitioner submitted a Motion to Accept Untimely Submission of Response to Notice of Derogatory Information. In response to the notice, the petitioner provided a letter from its accountant dated February 25, 2013. The accountant states that the petitioner "is an operating business until January 2013" but "the entity status was forfeited by the Texas Department of Revenue due to the non-filing of the franchise tax return of the company." The accountant further states that the petitioner is in the process of reinstating its corporate status.

The petitioner's untimely response to the AAO's notice did not include a certificate of good standing or other evidence to support the accountant's claims that the petitioner is an operating business. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm'r 1972)).

According to Texas state records provided with the petitioner's response, the petitioner's status has been recorded as "forfeited existence" since August 28, 2009 and therefore the petitioner in Texas is not in good standing. The petitioner's corporate status raises serious questions about whether it continues to exist as a U.S. 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). Therefore, the petitioner no

longer qualifies as a United States employer capable of making a valid job offer, and further pursuit of the instant petition is moot.<sup>1</sup>

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.

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<sup>1</sup> 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).