



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: **APR 03 2014** OFFICE: TEXAS SERVICE CENTER

IN RE: Petitioner:
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,


Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Texas Service Center. The petitioner filed an appeal with the Administrative Appeals Office (AAO). Subsequently, the Department of Labor (DOL), Employment and Training Administration, advised the AAO that it had issued a Notice of Revocation to the petitioner, revoking approval of the ETA Form 9089, Application for Permanent Employment Certification ([REDACTED]) filed by the petitioner on behalf of the beneficiary. The AAO issued a Notice of Intent to Dismiss based upon this advisement. This appeal will be dismissed.

The petitioner sought the beneficiary's classification as an employment-based immigrant pursuant to section 203(b)(2) of the Immigration and Nationality Act, (the Act), 8 U.S.C. § 1153(b)(2) as a member of the professions holding an advanced degree. The petition was accompanied by an approved Application for Permanent Employment Certification, ETA Form 9089 from the Department of Labor (DOL).

On April 7, 2010, the director invalidated the underlying labor certification and denied the petition because the petitioner had not disclosed in Item C.9 of the ETA Form 9089 that the beneficiary is one of the petitioner's partners with an ownership interest in the business.

On June 19, 2013, DOL issued a notice of revocation of certification of case number [REDACTED] filed by the petitioner in the instant matter. On August 2, 2013, the AAO advised the petitioner that it intended to deny the petition and dismiss the appeal as moot because the Form I-140, Petition for Alien worker, was no longer supported by a certified ETA Form 9089.

In pertinent part, section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), provides immigrant classification to members of the professions holding advanced degrees or their equivalent and whose services are sought by an employer in the United States. However, the petition must be accompanied by an individual labor certification approved by the Department of Labor. *See* 8 C.F.R. § 204.5(a)(2). Because the certification of this labor certification has been revoked, the petition is not supported by a valid labor certification, and further pursuit of the matter at hand is moot.

ORDER: The appeal is dismissed, based on DOL's revocation of certification of the ETA Form 9089, as the petition is no longer supported by a valid labor certification.