



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

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF C-Z, INC.

DATE: JAN. 21, 2016

APPEAL OF TEXAS SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a wholesale clothing distributor, seeks to permanently employ the Beneficiary as a director of operations under the immigrant classification of member of the professions holding an advanced degree. *See* Immigration and Nationality Act (the Act) § 203(b)(2)(A), 8 U.S.C. § 1153(b)(2)(A). The Director, Texas Service Center, denied the petition. The matter is now before us on appeal. The appeal will be summarily dismissed as abandoned.

The Director concluded that the record did not establish the Beneficiary's educational qualifications for the requested classification. Accordingly, the Director denied the petition on April 22, 2015.

The record shows that the appeal is properly filed and alleges specific errors of law and fact. The record documents the case's procedural history, which is incorporated into the decision. We will elaborate on the procedural history only as necessary.

We conduct appellate review on a *de novo* basis. *See, e.g., Soltane v. Dep't of Justice*, 381 F.3d 143, 145 (3d Cir. 2004). We consider all pertinent evidence of record, including new evidence properly submitted on appeal.¹

On November 27, 2015, we mailed the Petitioner a notice of intent to dismiss the appeal (NOID) at the Petitioner's last address of record. We also mailed a copy of the NOID to counsel of record. *See* 8 C.F.R. § 292.5(a) (stating that notice to a petitioner is effected by service upon its representative).

The NOID stated deficiencies of record regarding: the Beneficiary's claimed educational qualifications for the requested classification and the offered position; his claimed qualifying experience; the Petitioner's ability to pay the proffered wage; and the *bona fides* of its job offer. The NOID afforded the Petitioner 33 days in which to submit a response. We informed the Petitioner that we may dismiss its appeal if we did not receive a timely response.

As of the date of this decision, the Petitioner has not responded to the NOID.

¹ The instructions to Form I-1290B, Notice of Appeal or Motion, which are incorporated into the regulations by 8 C.F.R. § 103.2(a)(1), allow submission of additional evidence on appeal.

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We may summarily deny a petition as abandoned if a petitioner does not timely respond to a notice of intent to dismiss. 8 C.F.R. § 103.2(b)(13)(i); *see also* 8 C.F.R. § 103.2(b)(14) (requiring us to deny a petition if a petitioner does not submit requested evidence that precludes a material line of inquiry). The instant Petitioner did not respond to the NOID that we mailed to its last address of record and served on counsel. Therefore, pursuant to 8 C.F.R. § 103.2(b)(13)(i), we will summarily dismiss the appeal as abandoned.

In visa petition proceedings, a petitioner bears the burden of establishing eligibility for the immigration benefit sought. INA § 291, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, the Petitioner did not meet that burden.

ORDER: The appeal is summarily dismissed as abandoned pursuant to 8 C.F.R. § 103.2(b)(13).

Cite as *Matter of C-Z, Inc.*, ID# 14922 (AAO Jan. 21, 2016)