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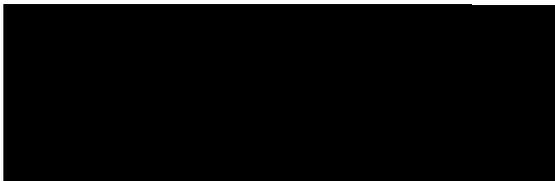
U.S. Department of Homeland Security  
U. S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

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FILE:

SRC 05 140 50635

Office: TEXAS SERVICE CENTER

Date: APR 03 2009

IN RE:

Petitioner:

Beneficiary:



PETITION: Immigrant Petition for Alien Worker as an Other, Unskilled Worker Pursuant to § 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. 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 \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom

Acting Chief, Administrative Appeals Office

**DISCUSSION:** The preference visa petition was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner is an acoustical ceiling construction company.<sup>1</sup> It seeks to employ the beneficiary permanently in the United States as a carpenter. The director denied the petition as abandoned because the petitioner had failed to respond to a Notice of Intent to Deny issued on October 15, 2005. The regulation at 8 C.F.R. § 103.2(b)(13)(i) states, in pertinent part:

*Failure to submit evidence or respond to a notice of intent to deny.* If the petitioner or applicant fails to respond to a request for evidence or to a notice of intent to deny by the required date, the application or petition may be summarily dismissed as abandoned, denied based on the record, or denied for both reasons.

A petition that is denied due to abandonment may not be appealed. 8 C.F.R. § 103.2(b)(15)(A denial due to abandonment may not be appealed, but an applicant or petitioner may file a motion to reopen under § 103.5.)

As noted above, the petitioner failed to respond to the notice of intent to deny issued by the director and the director denied the petition due to abandonment. Therefore, the present appeal must be rejected.<sup>2</sup>

**ORDER:** The appeal is rejected.

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<sup>1</sup> According to Texas state corporate records, the petitioner's corporate status in Texas is not in good standing. Therefore, as the State of Texas has forfeited the petitioner's corporate privileges, the company can no longer be considered a legal entity in the United States. If this appeal were not being rejected, this would also call into question the petitioner's continued eligibility for the benefit sought.

<sup>2</sup> It is also noted that the Form I-290B appellate form was signed by the beneficiary. U.S. Citizenship and Immigration Services' (USCIS) regulations specifically prohibit a beneficiary of a visa petition, or a representative acting on a beneficiary's behalf, from filing an appeal. 8 C.F.R. § 103.3(a)(1)(iii)(B). This is an additional basis for rejecting the instant appeal. 8 C.F.R. § 103.3(a)(2)(v)(A)(1).