



U.S. Citizenship
and Immigration
Services

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FILE:

[REDACTED]
EAC 04 204 51111

Office: VERMONT SERVICE CENTER

Date: AUG 05 2009

IN RE:

Petitioner:

Beneficiary:

PETITION: Immigrant petition for Alien Worker as a Skilled Worker or Professional pursuant to section 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, Vermont Service Center, and now the matter is before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a law firm and seeks to employ the beneficiary permanently in the United States as a paralegal. The director denied the petition finding that the petitioner had not established that it was offering a *bona fide* job offer.

The appeal was filed by [REDACTED], the president of the petitioning law firm. He asserts that despite his conviction of immigration fraud and his law firm's conviction of conspiracy to submit false labor certifications, his job offer to the beneficiary is *bona fide* and that the petition should be approved.

The regulation at 20 C.F.R. § 656.3 states:

Employer means a person, association, firm, or a corporation which currently has a location within the United States to which U.S. workers may be referred for employment, and which proposes to employ a full-time worker at a place within the United States or the authorized representative of such a person, association, firm, or corporation.

In this matter, [REDACTED] an attorney practicing immigration law in Maryland, was sentenced on September 22, 2005, to 78 months in prison followed by 3 years of supervised release in connection with his April 14, 2005 conviction in federal court of immigration fraud related to the filing of false immigration documents that allowed illegal aliens to enter and/or remain in the United States. His law firm, [REDACTED], the petitioner herein, was also convicted of conspiracy to submit false labor certifications.

The online roster list maintained by the Department of Justice/Executive Office of Immigration Review reflects that [REDACTED] was expelled from their practice on September 16, 2005. The current Maryland online corporation registration reflects that the status of Mir Law Associates is that it has been forfeited. This means that its existence was ended by the state.¹

¹ See http://sdatcert3.resiusa.org/UCC-Charter/temp_defs.aspx. Where there is no active business, no legitimate job offer exists, and the request that a foreign worker be allowed to fill the position listed in the petition has become moot. A labor certification must be for full-time employment. See 20 C.F.R. § 656.3. A labor certification for a specific job offer is valid only for the particular job opportunity, the alien for whom the certification was granted, and for the area of intended employment stated on the Form ETA 750. 20 C.F.R. § 656.30(C)(2). Therefore, alternatively, or in addition to the foregoing, as the business is no longer in existence, the appeal could be dismissed as moot.

An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the

In view of the foregoing, Mir Law Associates, LLC can no longer be considered to be an existing U.S. employer pursuant to 20 C.F.R. 656.3. It may not be considered to be maintaining a *bona fide* job offer because it may not be considered as a petitioner pursuant to section 203(b)(3) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3).

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.

initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003); *see also Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989)(noting that the AAO reviews appeals on a *de novo* basis). The AAO takes a *de novo* look at issues raised in the denial of this petition. *See Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989) (noting that the AAO reviews appeals on a *de novo* basis). The AAO considers all pertinent evidence in the record, including new evidence properly submitted upon appeal