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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**

B6



FILE:



Office: NEBRASKA SERVICE CENTER Date:

APR 22 2010

LIN-07-147-50780

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:

Enclosed please find 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 concerning your case 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).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The preference visa petition filed by the petitioner in this case was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner was a restaurant. It sought to employ the beneficiary permanently in the United States as a restaurant cook (Mexican/American style cook) pursuant to section 203(b)(3) of the Immigration and Nationality Act (the Act), 8 U.S.C. §1153(b)(3). As required by statute, the petition was accompanied by a Form ETA 750, Application for Alien Employment Certification, approved by the Department of Labor (DOL). The director determined that the petitioner failed to establish its ability to pay the proffered wage as of the priority date and continues such ability to the present. The director denied the petition on January 7, 2008 accordingly.

The instant appeal was filed on February 8, 2008 with a Form G-28 signed by the beneficiary and [REDACTED]. On February 26, 2010, this office issued a notice requesting that the petitioner provide a new Form G-28 properly executed by the representative of the petitioner and the new counsel. However, as of this date, no further correspondence has been received. Therefore, the AAO considers the instant appeal as self-represented.

During the adjudication of the appeal, evidence came to light that the petitioning business, [REDACTED], and its alleged parent company, [REDACTED] in this matter have been forfeited.¹ Therefore, on February 26, 2010, this office sent the petitioner a notice of derogatory information regarding this finding in which it informed the petitioner that if it was indeed no longer an active business, the petition and its appeal to the AAO would have become moot.² In which case, the AAO would dismiss the instant appeal as moot. The notice afforded the petitioner an opportunity to respond and to overcome the evidence in the attached print-outs.

However, as of this date, this office has not received any correspondence from the petitioner. The petitioner failed to rebut the grounds of ineligibility indicated in the AAO's notice of derogatory information dated February 26, 2010. As such, this office finds, in keeping with the attached record from California Secretary of State Database, that the petitioner's status has been forfeited, and thus, the petitioner no longer qualifies as a United States employer capable of making a valid job offer. Therefore, further pursuit of the instant petition is moot.

ORDER: The appeal is dismissed as moot based on the finding that the petitioner has been forfeited.

¹ See California Secretary of State's Database official website at <http://kepler.sos.ca.gov/cbs.aspx> (accessed on February 8, 2010).

² 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.