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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
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FILE: [REDACTED]
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Office: NEBRASKA SERVICE CENTER

Date: FEB 02 2010

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

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:

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, as required by 8 C.F.R. § 103.5(a)(1)(i).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the employment-based immigrant visa petition, which is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner claims to be an IT services business. It seeks to permanently employ the beneficiary in the United States as a software engineer. The petitioner requests classification of the beneficiary as a skilled worker or professional pursuant to section 203(b)(3)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A).¹ The petition is accompanied by a Form ETA 750, Application for Alien Employment Certification (labor certification), certified by the U.S. Department of Labor (DOL).

The director denied the petition on June 16, 2008. The decision states that the petitioner did not establish its ability to pay the proffered wage as of the priority date and continuing until the beneficiary obtains lawful permanent residence. On July 16, 2008, the petitioner appealed the decision to the AAO.

During the adjudication of the appeal, the AAO discovered information that raised questions concerning the petitioner's ability to sponsor the beneficiary for lawful permanent residence. According to the State of California Secretary of State, the petitioner has been dissolved.² If the petitioner no longer exists, it cannot sponsor the beneficiary for lawful permanent residence, and the appeal must be dismissed. Pursuant to 8 C.F.R. § 103.2(b)(16)(i), the AAO notified the petitioner of the derogatory information on November 19, 2009, and provided the petitioner an opportunity to respond to the notice prior to the issuance of a final decision.

Therefore, the AAO instructed the petitioner to provide a current standing certificate from the State of California. In addition, the notice instructed the petitioner to provide current evidence of its ability to pay the proffered wage.

The AAO provided the petitioner with 30 days to respond to the notice of derogatory information.

The AAO has not received a response to the notice. Failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. *See* 8 C.F.R. § 103.2(b)(14). Because the petitioner failed to respond to the notice, the AAO is dismissing the

¹Section 203(b)(3)(A)(i) of the Act, 8 U.S.C. § 1153(b)(3)(A)(i), provides for the granting of preference classification to qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing skilled labor (requiring at least two years training or experience), not of a temporary nature, for which qualified workers are not available in the United States. Section 203(b)(3)(A)(ii) of the Act, 8 U.S.C. § 1153(b)(3)(A)(ii), provides for the granting of preference classification to qualified immigrants who hold baccalaureate degrees and are members of the professions.

²*See* California Secretary of State Business Search website at <http://kepler.sos.ca.gov> (accessed November 2, 2009).

appeal. Furthermore, it is noted that, as the petitioner is currently dissolved, this is material to whether the job offer, as outlined on the immigrant petition filed by this organization, is a *bona fide* job offer. Any such concealment of the true status of the organization by the petitioner seriously compromises the credibility of the remaining evidence in the record. *See Matter of Ho*, 19 I&N Dec. 582, 586 (BIA 1988) (stating that doubt cast on any aspect of the petitioner's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition). It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *See Id.* As the petitioner failed to respond to the notice with evidence pertaining to the viability of the business, the appeal will also be dismissed as abandoned.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.

³Additionally, even if the appeal could otherwise be sustained, the petition's approval would be subject to automatic revocation pursuant to 8 C.F.R. § 205.1(a)(iii)(D) which sets forth that an approval is subject to automatic revocation without notice upon termination of the employer's business in an employment-based preference case.