

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

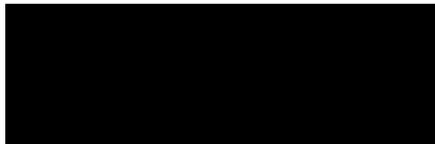
**PUBLIC COPY**

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:

WAC 03 110 52523

Office: CALIFORNIA SERVICE CENTER

Date: FEB 02 2010

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:



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, California Service Center, denied the employment-based immigrant visa petition, which is now before the Administrative Appeals Office (AAO) as a motion. The motion will be dismissed.

The petitioner claims to be a computer sales business. It seeks to permanently employ the beneficiary in the United States as a "full charge bookkeeper." 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).<sup>1</sup> 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 November 16, 2005. The decision states that the petitioner did not establish that it intended to employ the beneficiary in the job offered on the petition. The petitioner appealed the decision to the AAO. The appeal was rejected by the AAO on June 21, 2007. On June 29, 2007, the petitioner filed a motion to reopen and reconsider the decision. The motion is currently pending with the AAO.

During the adjudication of the motion, the AAO discovered information that raised questions concerning the petitioner's ability to sponsor the beneficiary for lawful permanent residence. Pursuant to 8 C.F.R. § 103.2(b)(16)(i), the AAO notified the petitioner of the derogatory information on November 20, 2009, and provided the petitioner an opportunity to respond to the notice prior to the issuance of a decision.

According to the evidence in the record, the petitioner, [REDACTED] is the fictitious name of [REDACTED]. This company was established on May 28, 1999, and was dissolved on February 18, 2003.<sup>2</sup> The instant petition was filed two days after the Articles of Dissolution for [REDACTED] [REDACTED] were filed with the State of California. If [REDACTED] no longer exists, it cannot sponsor the beneficiary for lawful permanent residence, and the motion must be dismissed.

On December 23, 2004, [REDACTED] was established. The record contains evidence that [REDACTED] uses the fictitious name [REDACTED]. It appears that [REDACTED] is attempting to continue the sponsorship of the

<sup>1</sup>Section 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.

<sup>2</sup>In addition to the record of proceeding, this information is also available online at the California Secretary of State's Business Search website, <http://kepler.sos.ca.gov> (accessed November 2, 2009).

beneficiary. In order for [REDACTED] to continue the sponsorship of the beneficiary for lawful permanent residence, it must establish that it is a successor-in-interest to [REDACTED]. Such evidence might include an executed merger or asset purchase agreement.

The notice of derogatory information instructed the petitioner to provide evidence that [REDACTED] is a successor-in-interest to [REDACTED]. The AAO provided the petitioner with 30 days to respond to the notice.

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 motion. Furthermore, it is noted that, if 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 motion will also be dismissed as abandoned.<sup>3</sup>

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 motion is dismissed.

---

<sup>3</sup>Additionally, even if the motion could otherwise be granted and the appeal 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.