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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:



Office: NEBRASKA SERVICE CENTER

Date:

SEP 28 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:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, Nebraska Service Center. It then came before the Administrative Appeals Office (AAO) on appeal. On June 29, 2010, this office provided the petitioner with a Notice of Derogatory Information (NDI) in the record and afforded the petitioner an opportunity to provide evidence that might overcome this information.¹ The petitioner failed to respond to the NDI. The appeal will be dismissed.

The petitioner is a residential and commercial construction company. It seeks to employ the beneficiary permanently in the United States as a construction manager 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, a labor certification approved by the Department of Labor accompanied the petition. The director determined that the petitioner had not established that it had the continuing ability to pay the beneficiary the proffered wage beginning on the priority date of the visa petition. Therefore, the director denied the petition.

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

In the NDI, this office notified the petitioner that according to the records at the website maintained by the Oregon Secretary of State, the petitioner is currently dissolved. *See*

(accessed June 7, 2010). We also noted that the petitioner's Oregon Construction Contractors Board (CCB) license expired on March 8, 2009, and is not currently active. *See* (accessed June 7, 2010).²

This office also notified the petitioner that if it 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. Moreover, 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

¹ The petitioner's former counsel received a copy of the NDI and notified the AAO by letter dated July 30, 2010, that he no longer represented the petitioner in this matter. Therefore, the petitioner is considered to be self-represented.

² Oregon law requires anyone who works for compensation in any construction activity involving improvements to real property to be licensed with the Oregon CCB. This includes roofing, siding, painting, carpentry, concrete, on-site appliance repair, heating and air conditioning, home inspections, tree service, plumbing, electrical, floor covering, manufactured dwelling installations, land development and most other construction and repair services. A CCB license is also required for those who purchase homes, fix them up themselves and resell them, and material suppliers that receive compensation for installing or arranging the installation of the materials. *See* http://www.oregon.gov/CCB/Licensing_I.shtml (accessed June 7, 2010).

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.*

This office allowed the petitioner 30 days in which to provide proof that the petitioning business has not been dissolved and is currently in active status. More than 30 days have passed and the petitioner has failed to respond to this office's NDI. Thus, the appeal will 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.

³ Additionally, as noted in the NDI, even if the appeal could be otherwise 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.