

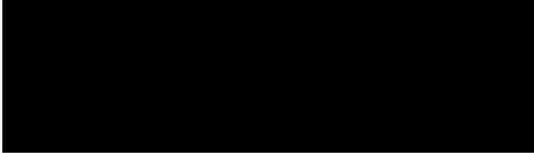
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

PUBLIC COPY

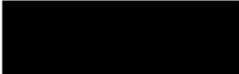


U.S. Citizenship
and Immigration
Services



B6

Date: Office: TEXAS SERVICE CENTER

FILE: 

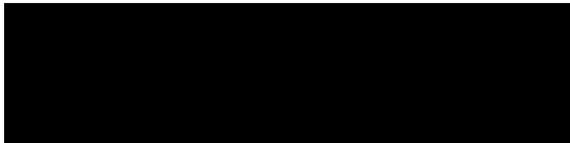
DEC 05 2011

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:

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 \$630. 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, Texas Service Center. It is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner describes itself as a commercial real estate management company. It seeks to employ the beneficiary permanently in the United States as a senior programmer analyst 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 U.S. 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 petition and that the beneficiary does not meet the education requirements of the certified labor certification. Therefore, the director denied the petition.

The petitioner appealed the director's decision to the AAO. The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

On October 4, 2011, the AAO notified the petitioner that, according to the business records of the State of Texas, its corporate status has been forfeited. The AAO also notified the petitioner that its dissolution is material to the petition. 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 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.*

The AAO also requested the following information from the petitioner:

- Evidence establishing that the business is in active status with the State of Texas.
- Complete copies of the company's federal income tax returns for 2006, 2007, 2008, 2009, and 2010.
- Copies of any Forms W-2, Wage and Tax Statement, or Forms 1099-MISC, Miscellaneous Income, issued to the beneficiary for the years 2006 through 2010.
- Most recent Forms 941, Employer's Quarterly Federal Tax Return, for the petitioner.
- Names and titles of all employees of the company.
- Information relating to any other Form I-140 beneficiaries sponsored by the petitioner.

This office allowed the petitioner 45 days in which to provide evidence that the petitioner remains in operation as a viable business or was in operation during the pendency of the petition and appeal along with the additional evidence requested. More than 45 days have passed, and as the petitioner has failed to respond to this office's request for a certificate of good standing or other proof that the petitioner

remains in operation as a viable business or was in operation from the priority date onward along with the additional requested evidence, the appeal will be dismissed as abandoned.¹

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.

¹ Additionally, as noted in the notice of derogatory information, 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.