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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



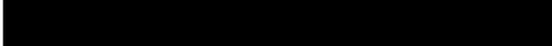
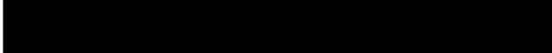
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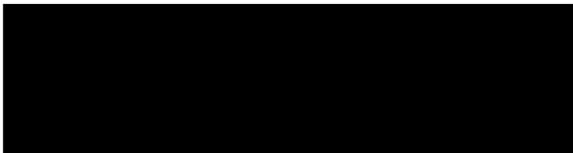


FILE:  Office: TEXAS SERVICE CENTER Date: **JAN 31 2011**

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 on June 2, 2009. The petitioner appealed the decision to the Administrative Appeals Office (AAO) on July 6, 2009. On April 27, 2010, the AAO dismissed the appeal as being late. The petitioner filed a motion to reopen/reconsider on May 27, 2010. The AAO sua sponte reopened the prior appeal finding it to be timely. The AAO then issued a notice of adverse information in the record to the petitioner on October 19, 2010 and afforded the petitioner an opportunity to provide evidence that might overcome this information.

The petitioner is a travel agency. It seeks to employ the beneficiary permanently in the United States as a travel agency customer service supervisor 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. The director also determined that the petitioner had incorrectly classified the position as being for a skilled worker on the petition when instead the petitioner should have classified the position as being for an unskilled worker. 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).

On October 19, 2010, this office notified the petitioner that a review of the status of Fantasy Around the World, Corp. at the Division of Corporations' website maintained by the Florida Department of State indicates that this corporation has been administratively dissolved in Florida. See

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 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 evidence that the records maintained by the Florida Secretary of State were not accurate and that the petitioner remains in operation as a viable business or was in operation during the pendency of the petition and appeal.

The petitioner responded to the AAO on November 19, 2010, stating that it has in fact been inactive since September 26, 2008. The petitioner further stated that [REDACTED] Vacations is a successor business to the petitioner's business. The AAO notes that successor-in-interest scenarios are applicable in the Form I-140 context where a prior business has filed a labor certification and a successor business, which has acquired the essential rights and obligations of the predecessor, instead files the petition on behalf of the beneficiary.

The petitioning business is no longer in operation and was not in operation during the pendency of the petition and appeal. Thus, 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 as moot.

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.