

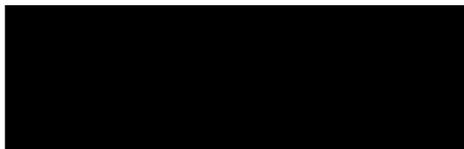
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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
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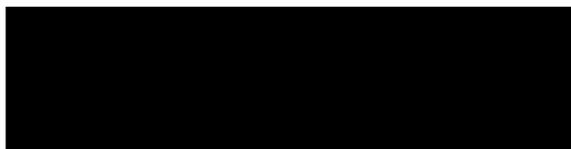
Date: **JUL 01 2011** Office: TEXAS SERVICE CENTER

FILE:

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, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a cleaning company. It seeks to employ the beneficiary permanently in the United States as a cleaning supervisor. As required by statute, the petition is accompanied by a Form ETA 750, Application for Alien Employment Certification, approved by the United States Department of Labor (DOL). The director determined that the petitioner had not established that a valid job offer existed because the evidence in the record did not demonstrate that the petitioner is a valid successor-in-interest to the employer listed on the labor certification. The director denied the petition accordingly.

The AAO issued a Notice of Derogatory Information (NDI) to counsel and the petitioner on April 27, 2011, informing the parties that a review of the website at <http://www.sunbiz.org/search/> revealed that the petitioner, [REDACTED] was administratively dissolved on September 26, 2008 for failure to file an annual report and that the petitioner's status is listed as "inactive." In addition, this website reflects that the petitioner's purported predecessor-in-interest, [REDACTED] [REDACTED], was voluntarily dissolved on January 3, 2005 and that this entity's status is also listed as "inactive."

The AAO informed the parties that if the petitioner was no longer an active business, the petition and its appeal to this office have become moot.<sup>1</sup> In which case, the appeal shall be dismissed as moot. Therefore, the AAO requested that the petitioner provide evidence such as invoices, recent bank statement, recent federal or Florida quarterly wage reports, etc., demonstrating that the petitioning business is not inactive and had current business activity for 2010. Furthermore, the AAO requested that the petitioner submit copies of any licenses or permits issued to the petitioner to operate by the state of Florida or municipal subdivision thereof, as applicable.

In the NDI, the AAO specifically alerted the parties that failure to respond to the NDI would result in dismissal since the AAO could not substantively adjudicate the appeal without the information requested. The 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 counsel and the petitioner failed to respond to the NDI, the AAO is dismissing the appeal.

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<sup>1</sup> Where there is no active business, no legitimate job offer exists, and the request that a foreign worker be allowed to fill the position listed in the petition has become moot. Additionally, 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.

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.