



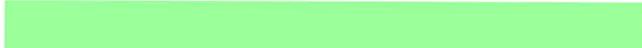
U.S. Citizenship  
and Immigration  
Services

(b)(6)

Date: **APR 26 2012**

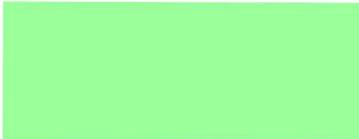
Office: NEBRASKA SERVICE CENTER

FILE: 

IN RE: Petitioner:   
Beneficiary: 

PETITION: Immigrant Petition for Alien Worker as an Other, Unskilled Worker pursuant to section 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

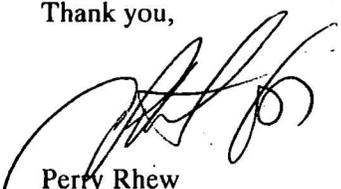
ON BEHALF OF PETITIONER:



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.

Thank you,

  
Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner seeks to classify the beneficiary pursuant to section 203(b)(3) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3), in the other, unskilled worker classification. The director determined that the petitioner failed to demonstrate a continuing ability to pay the proffered wage beginning on the priority date as it submitted only one tax return for an entity other than the petitioner named on the Form I-140.

On appeal, counsel merely stated the following:

The Service Center erred in its decision that the Petitioner does not have the ability to pay the proffered wage from the time the Labor Certification petition was filed and continuing to the present. A brief and/or additional documentation will be submitted to the AAO within a timely manner.

See Form I-290B, Part 3. Counsel dated the appeal May 18, 2009. As of this date, more than 34 months later, the AAO has received nothing further, and the regulation requires that any brief shall be submitted directly to the AAO. 8 C.F.R. §§ 103.3(a)(2)(vii) and (viii).

As stated in 8 C.F.R. § 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

Counsel here has not specifically addressed the reasons stated for denial and has not provided any brief or any evidence on appeal. The appeal must therefore be summarily dismissed.<sup>1</sup>

**ORDER:** The appeal is dismissed.

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<sup>1</sup> Where there is no active business, no bona fide job offer exists, and the request that a foreign worker be allowed to fill the offered position on 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)(the approval of an employment-based immigrant petition is subject to automatic revocation without notice upon the termination of the employer's business). According to the records at the Kansas Business Center website maintained by the Kansas Secretary of State, the petitioner is listed as "forfeited – failed to timely file A/R." See <http://www.accesskansas.org/srv-corporations/keyword.do> (accessed April 10, 2012). In any further filing, the petitioner would need to establish that it is a bona fide entity in good standing in the state of the job offer and that it continues to do business.