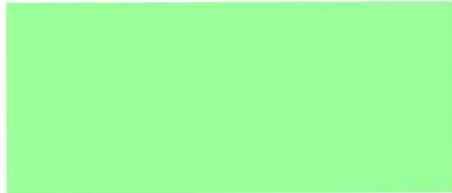


(b)(6)

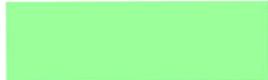
U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090

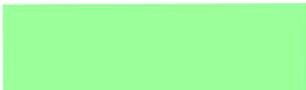
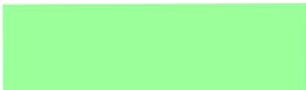


U.S. Citizenship  
and Immigration  
Services



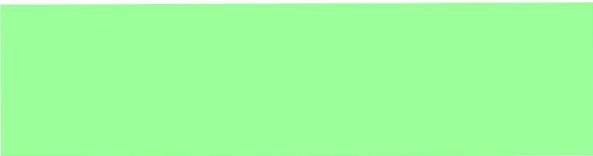
DATE: **AUG 28 2012** OFFICE: TEXAS SERVICE CENTER

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to 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 then came before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as abandoned.

The petitioner is a restaurant. It seeks to employ the beneficiary permanently in the United States as a cook 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 record shows that the appeal is properly filed and makes a specific allegation of error in law or fact. The procedural history in this case is documented by the record and incorporated into the decision. Further elaboration of the procedural history will be made only as necessary. The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

On June 12, 2012, this office notified the petitioner that according to the records at the Virginia State Corporation Commission website maintained by the State of Virginia, the petitioner is currently dissolved. *See* <http://cisiweb.scc.virginia.gov> (accessed July 27, 2012).

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 State of Virginia 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. More than 30 days have passed and the petitioner has failed to respond to the notice. Thus, the appeal will be dismissed as abandoned.<sup>1</sup>

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<sup>1</sup> 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.

(b)(6)

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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 abandoned.