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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
Services

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Date: **JAN 12 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 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 employment-based immigrant visa petition was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is an individual. It seeks to employ the beneficiary permanently in the United States as a private household cook pursuant to section 203(b)(3) of the Immigration and Nationality Act (the Act), 8 U.S.C. §1153(b)(3). The petition is accompanied by a labor certification approved by the U.S. Department of Labor. The director's decision denying the petition concluded that the petitioner had failed to establish its continuing ability to pay the beneficiary the proffered wage.

The petitioner timely appealed the 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 November 22, 2011, the AAO issued a Notice of Derogatory Information. The notice informed the petitioner that, according to public records of the State of Florida, the entity that filed the labor certification, [REDACTED], was dissolved. *See* <http://www.sunbiz.org> (accessed November 21, 2011).

The notice also notified the petitioner that its dissolution 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.*

The notice also requested the following additional information:

- Complete copies of the petitioner's federal income tax returns for 2006 through 2010.
- Copies of any Forms W-2, Wage and Tax Statements, or Forms 1099-MISC, Miscellaneous Income, issued to the beneficiary by the petitioner for the years 2006 through 2010.
- Most recent four Forms 941, Employer's Quarterly Federal Tax Return, for the petitioner.
- Names and titles of all employees of the company.
- Evidence of the relationship between [REDACTED], and [REDACTED], if any.
- A copy of the beneficiary's high school diploma with translation as evidence that she met the educational requirements of the labor certification.

This notice allowed the petitioner 30 days to establish that it is in good standing and to provide the requested information. More than 30 days have passed and the petitioner has failed to respond to the

notice. 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). Thus, the appeal will be dismissed.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, 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.