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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**



B E

DATE: **JUN 11 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 with the field office or service center that originally decided your case by filing a 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.

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was initially approved by the Director, Texas Service Center (Director). The approval was subsequently revoked by the Director. The matter is now on appeal before the Chief, Administrative Appeals Office (AAO). The appeal will be dismissed.

The petitioner seeks to permanently employ the beneficiary in the United States as a production manager pursuant to section 203(b)(3)(A)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A)(i). This section of the Act provides for the granting of preference classification to qualified immigrants who are capable of performing skilled labor (requiring at least two years of training or experience). After initially approving the petition, the Director revoked the approval on the ground of evidentiary discrepancies concerning the beneficiary's employment history. The petitioner filed an appeal, which was initially rejected by the AAO as untimely. The AAO subsequently determined that the appeal had been timely filed, and reopened this proceeding on its own motion.

On April 9, 2012, the AAO sent the petitioner a Notice of *Sua Sponte* Reopening and Notice of Intent to Dismiss, with a copy to counsel. The AAO noted that evidence had come to light that the petitioner's business was no longer in operation, and advised the petitioner to submit a certificate of good standing or other proof that the business was not dissolved and is currently in active status. The petitioner was given 30 days to submit such proof, as well as additional evidence addressing the substantive ground for the revocation decision – the beneficiary's employment history. The petitioner was advised that if no response was received, the appeal would be dismissed without further discussion.

On May 8, 2012, the AAO received a letter from counsel stating that he had lost contact with the principals of the petitioning business, as well as the beneficiary. Counsel indicated that to the best of his knowledge the principals of the petitioning business and the beneficiary emigrated to Canada and have set up a similar business. The AAO received no response from the petitioner within the 30-day time period prescribed in its notice, nor at any time since then.

If a petitioner fails to respond to a notice by the required date, the petition may be summarily denied as abandoned, denied based on the record, or denied for both reasons. *See* 8 C.F.R. § 103.2(b)(13)(i). As provided in 8 C.F.R. § 103.2(b)(14), the failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition.

In this case, notwithstanding counsel's letter, the petitioner has not substantively responded to the Notice of Intent to Dismiss dated April 9, 2012, despite the AAO's warning to the petitioner that failure to respond would result in dismissal of the appeal without further discussion. Accordingly, the appeal will be summarily dismissed.

ORDER: The appeal is dismissed.