

Administrative Appeals Office
U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

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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

[Redacted]

B6

DATE: JUN 21 2012

OFFICE: TEXAS SERVICE CENTER FILE: [Redacted]

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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:

[Redacted]

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.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The preference visa petition was initially approved by the Director, Texas Service Center. Upon further review, the director revoked the petition's approval. It then came before the Administrative Appeals Office (AAO) on appeal. On April 23, 2012, this office provided the petitioner with notice of adverse information in the record and afforded the petitioner an opportunity to provide evidence that might overcome this information.

The petitioner is a construction company. It seeks to employ the beneficiary permanently in the United States as a carpenter 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. Upon further review following the initial approval of the petition, the director determined that the petitioner had not established that the beneficiary possessed the required employment experience and had not demonstrated 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 revoked the petition's approval.

The AAO conducts appellate review on a *de novo* basis. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

On April 23, 2012, this office notified the petitioner that according to the records at the website maintained by the state of Maryland, the petitioner's status was forfeited.¹

This office also notified the petitioner that if its status is forfeited, 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 Maryland were not accurate and that the petitioner is a company in good standing. This office also advised the petitioner that even if the petitioner is in good standing, this appeal may be dismissed for other reasons. More than 30 days have passed and the petitioner has failed to respond to this office's request for evidence, including a certificate of good standing or other proof that the petitioner remains in operation as a viable business or was in operation from the priority date onwards. Thus, the appeal will be dismissed as abandoned.²

¹ See http://sdatcert3.resiusa.org/UCC-Charter/DisplayEntity_b.aspx?EntityID=F06866669&Ent... (accessed April 16, 2012).

² 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.

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.

§ 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.