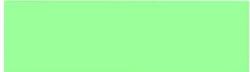


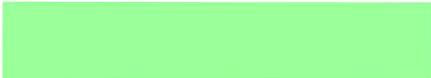
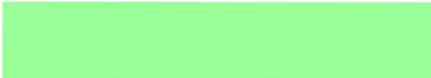


U.S. Citizenship  
and Immigration  
Services

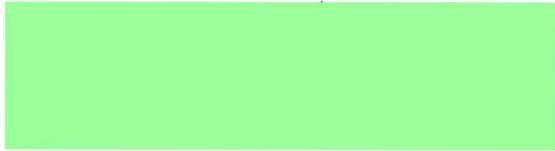
(b)(6)



DATE: **NOV 05 2012** OFFICE: NEBRASKA 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)

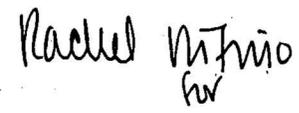
ON BEHALF OF PETITIONER:  


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, Nebraska Service Center (the director). It then came before the Administrative Appeals Office (AAO) on appeal. On July 19, 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 [REDACTED] franchise. It seeks to employ the beneficiary permanently in the United States as a head baker, 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 failed to demonstrate that the beneficiary possessed the experiential requirements stipulated on Form ETA 750, two years of experience as a head baker or as a baker as of the priority date. Therefore, the director denied the petition.

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

On July 19, 2012, this office notified the petitioner that, according to the web site maintained by the Michigan Department of Licensing and Regulatory Affairs, the petitioner's business was dissolved on July 15, 2008. See [REDACTED] (accessed July 2, 2012). In our notice, this office also notified the petitioner that another entity, [REDACTED] which had no demonstrable affiliation with the petitioner, filed the actual appeal of the director's decision. According to the Michigan Department of Licensing and Regulatory Affairs, [REDACTED] was dissolved on July 15, 2010. See [REDACTED]

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 public records reflected by the Michigan Department of Licensing and Regulatory Affairs 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. In our notice, this office indicated that the AAO would be unable to adjudicate the appeal substantively without a meaningful response to the issue set forth in the notice. We further indicated that if the petitioner chose not to respond to the notice, the AAO would dismiss the appeal without further discussion. See 8 C.F.R. § 103.2(b)(13)(i). Now, more than 30 days have

passed and the petitioner has failed to respond to this office's request for 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.<sup>1</sup>

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.

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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.