



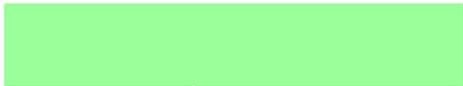
U.S. Citizenship
and Immigration
Services

(b)(6)



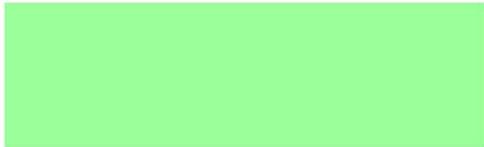
DATE: **SEP 26 2012** OFFICE: NEBRASKA SERVICE CENTER

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,

Kenna Polos for

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. On July 6, 2012, this office provided the petitioner with a Notice of Intent to Dismiss and Derogatory Information (Notice) and afforded the petitioner an opportunity to provide evidence to overcome the derogatory information. The petitioner's counsel responded to the Notice on August 3, 2012.

The petitioner is a builder. It seeks to employ the beneficiary permanently in the United States as a painter 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 proffered wage. 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 6, 2012, this office notified the petitioner that according to Westlaw records, the petitioner was no longer in good standing in the State of Texas. 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 the petitioner, 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.*

In response, counsel asserts that the petitioner entered into a payment plan for outstanding tax liability with the State of Texas, that the payment plan is being adhered to, and that petitioner should be in good standing soon. As evidence, counsel submitted a copy of a letter dated January 24, 2012 from the State of Texas, Comptroller of Public Accounts. This letter was addressed to [REDACTED] and [REDACTED] and references "[REDACTED]." The letter outlines a payment plan, with the final payment being due on July 15, 2012, but the letter never references the petitioner. Counsel neither submitted evidence that the payment plan was being adhered to, nor a current Certificate of Good Standing for the petitioner.

This office conducted further research and based on the records kept by the State of Texas Franchise Tax Office, <https://ourcpa.cpa.state.tx.us/coa/Index.html> (accessed August 28, 2012), the petitioner's status remains as "not in good standing." Furthermore, the petitioner's taxpayer number listed by the State of Texas is [REDACTED], whereas the payment plan referenced in the materials submitted by counsel in response to the AAO's Notice is for taxpayer number [REDACTED]. It is also noted that the payment plan is addressed to individuals and not the petitioner, and the petitioner's name

never appears on the payment plan. Therefore, the petitioner has not submitted evidence to overcome its dissolved status.

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.

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.