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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

DATE: **SEP 27 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 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,

Kerrin Roberts for

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, Texas Service Center (director). It then came before the Administrative Appeals Office (AAO) on appeal. On July 2, 2012, this office provided the petitioner with Notice of Intent to Dismiss and Notice of Derogatory Information (NOID) and afforded the petitioner an opportunity to provide evidence that might overcome this information. The petitioner has failed to respond to the NOID. Thus, the appeal will be dismissed.

The petitioner is a software development and consulting service. It seeks to employ the beneficiary permanently in the United States as a programmer analyst pursuant to section 203(b)(3) of the Immigration and Nationality Act (the Act), 8 U.S.C. §1153(b)(3). The petition was filed with a labor certification approved by the U.S. Department of Labor (DOL) on behalf of another beneficiary. The director determined that the petitioner failed to file its petition with a valid labor certification pursuant to 8 C.F.R. § 204.5(1)(3)(i). 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 2, 2012, this office notified the petitioner that according to the records at the Wyoming Secretary of State official website (<https://wyobiz.wy.gov/Business>) and information from the New Jersey Secretary of State official website (<https://www.njportal.com/DOR/businessrecords>)(both accessed August 29, 2012), the petitioner is currently dissolved.¹

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 records maintained by the States of Wyoming and New Jersey 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. 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.²

¹ The petitioner had previously been registered as a domestic corporation in New Jersey and a foreign corporation in Wyoming.

² Additionally, as noted in the NOID, even if the appeal could be otherwise sustained, the petition's

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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.

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.