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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



B6

DATE **SEP 06 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.

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner seeks to employ the beneficiary permanently in the United States as a baker. The director determined the petitioner had not established it had the continuing ability to pay the beneficiary the proffered wage and denied the petition accordingly.

The AAO issued a Notice of Intent to Dismiss (NOID) on [REDACTED] 2012, because during the adjudication of the appeal, it had come to light that the petitioning business in this matter had closed. The petitioner was given an opportunity to respond with proof that the petitioning business had not been closed and was currently in good standing and active status.

In the NOID, the AAO alerted the petitioner that failure to respond within thirty days would result in dismissal since the AAO could not substantively adjudicate the appeal without the information requested. The failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. *See* 8 C.F.R. § 103.2(b)(14). The job no longer appears to exist due to the closure of the petitioning business. *See* 8 C.F.R. § 205.1(a)(iii)(D).

Because the petitioner failed to respond to the NOID, the AAO is dismissing the appeal.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Immigration and Nationality Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

ORDER: The appeal is dismissed.