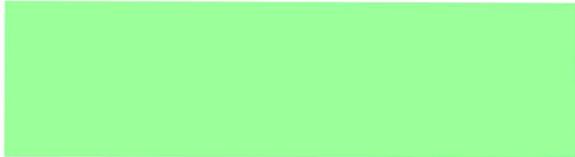




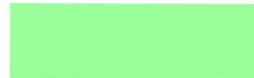
U.S. Citizenship
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(b)(6)

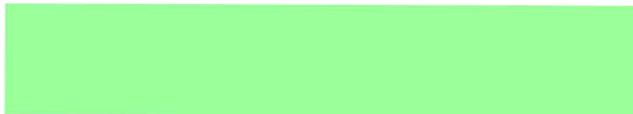


DATE: JUN 13 2013 OFFICE: TEXAS SERVICE CENTER

FILE:



PETITIONER:
BENEFICIARY:



PETITION: Immigrant Petition for Alien Worker as a 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,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition, which is now before the Administrative Appeals Office (AAO) on appeal. On April 11, 2013, this office provided the petitioner with a notice of adverse information in the record and afforded the petitioner an opportunity to provide evidence that might overcome this information. The petitioner has not responded. The appeal will be dismissed.

The petitioner is a computer sales and consulting company. It seeks to employ the beneficiary permanently in the United States as a translator pursuant to section 203(b)(3)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A). As required by statute, a Form ETA 750, Application for Alien Employment Certification approved by the Department of Labor (DOL), accompanied the petition. Upon reviewing the petition, the director determined that the petitioner failed to establish that it has the continuing financial ability to pay the proffered wage, and denied the petition accordingly.

The petitioner, through counsel, filed an appeal on July 17, 2008, contending that the director's decision was erroneous and that the petitioner had established its continuing ability to pay the proffered wage.

The AAO conducts appellate review on a *de novo* basis. The AAO's *de novo* authority is well recognized by the federal courts. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).¹

On April 11, 2013, this office issued a Notice of Intent to Dismiss and Derogatory Information (NOID/NODI), notifying the petitioner that according to the records at the website maintained by the state of Mississippi, the petitioner's business status is currently dissolved. A copy of the online state of Mississippi website report was sent to the petitioner with the AAO's NOID/NODI. <https://business.sos.state.ms.us/corp/soskb/agent.asp?2677704> (last accessed on April 9, 2013).

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, remains a *bona fide* job offer. In addition to informing the petitioner of the effect that its status may have on the appeal, the AAO requested additional information demonstrating that the business was still an active entity.

It is noted that any 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

¹ The procedural history of this case is documented in the record and is incorporated herein. Further references to the procedural history will only be made as necessary.

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 Mississippi 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 notice with the requested information. Thus, the appeal will be dismissed as abandoned.²

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. The petition remains denied.

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. § 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.