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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Service  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

DATE: JUN 19 2013 OFFICE: NEBRASKA SERVICE CENTER FILE: [REDACTED]

IN RE: Petitioner: [REDACTED]  
Beneficiary: [REDACTED]

PETITION: Immigrant Petition for Alien Worker as a Skilled Worker Pursuant to Section 203(b)(3)(A)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)(A)(i)

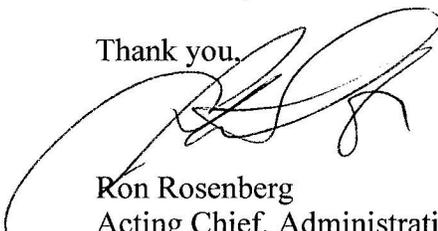
ON BEHALF OF PETITIONER:  
[REDACTED]

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 employment-based immigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner<sup>1</sup> seeks to classify the beneficiary pursuant to section 203(b)(3) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3) as a skilled worker. The director determined that the petitioner failed to demonstrate a continuing ability to pay the proffered wage beginning on the priority date.

On appeal, counsel merely stated that the petitioner had sufficient earnings and assets from 2003 through 2009 to demonstrate its ability to pay the beneficiary the proffered wage, and indicated that a brief and/or additional evidence would be forthcoming.<sup>2</sup>

Counsel checked box B on Part B of the Form I-290B, Notice of Appeal or Motion, dated October 6, 2012, indicating that a brief and/or additional evidence would be submitted to the AAO within 30 days of the appeal. Subsequently, in a motion, dated November 16, 2012, counsel indicated that the petitioner was in the process of obtaining additional financial evidence and requested an extension of time to December 18, 2012 to file a brief and additional evidence. The AAO granted an extension of time to January 31, 2013. As of this date, nearly five months later, the AAO has received nothing further, and the regulation requires that any brief shall be submitted directly to the AAO. 8 C.F.R. §§ 103.3(a)(2)(vii) and (viii).

As stated in 8 C.F.R. § 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

Counsel here has not specifically addressed the reasons stated for denial and has not provided any additional evidence. He has not even expressed disagreement with the director's decision, rendered based on the record presently before the AAO. The appeal must therefore be summarily dismissed.

**ORDER:** The appeal is dismissed.

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<sup>1</sup> A search of the California Secretary of State's website revealed the petitioning entity's status as "suspended." See <http://kepler.sos.ca.gov/> (last accessed June 14, 2013). If the petitioning organization is no longer in business, then no *bona fide* job offer exists, and the petition and appeal would be therefore moot. Even if the appeal could be otherwise sustained, the approval of the petition would be subject to automatic revocation due to the termination of the petitioning organization's business. See 8 C.F.R. § 205.1(a)(iii)(D).

<sup>2</sup> The record indicates that this is the petitioner's third petition on behalf of the beneficiary based on the same underlying Form ETA 750, Application for Alien Employment Certification. The director denied the prior two petitions based on the petitioner's failure to establish its ability to pay the proffered wage.