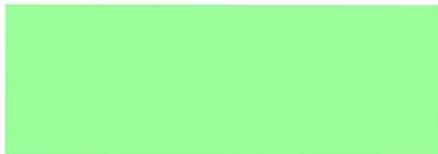




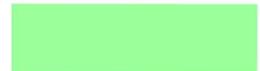
U.S. Citizenship
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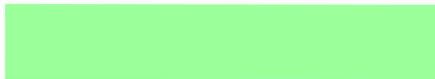


DATE: JUN 21 2013 OFFICE: NEBRASKA SERVICE CENTER

FILE:

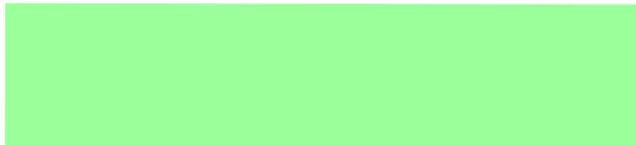


IN RE: Petitioner:
Beneficiary:



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,

Rachel Ni Jorio
fx

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center (director), denied the employment-based immigrant visa petition and the Administrative Appeals Office (AAO) dismissed the petitioner's subsequent appeal. The petitioner filed a motion to reopen and a motion to reconsider. The AAO granted the motion to reconsider but reaffirmed its prior decision. The petitioner has again submitted a motion to reopen and a motion to reconsider. The motion to reopen and the motion to reconsider will be summarily dismissed as abandoned pursuant to 8 C.F.R. § 103.2(b)(13)(i).

The petitioner describes itself as a restaurant. It seeks to permanently employ the beneficiary in the United States as a cook. The petitioner requests classification of the beneficiary as a professional or skilled worker pursuant to section 203(b)(3)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A). The petition is accompanied by a Form ETA 750, Application for Alien Employment Certification, approved by the U.S. Department of Labor.

The director in his decision found that the petitioner had not established its ability to pay the beneficiary the proffered wage.

On April 23, 2013, the AAO sent the petitioner a Notice of Intent to Dismiss and Derogatory Information, with a copy to counsel of record. In its notice, the AAO asked the petitioner for evidence of its continued existence, operations and good standing as the records of the Maryland Department of Assessments and Taxation indicated that it had been forfeited on August 20, 2008; that [REDACTED] had been forfeited on October 3, 2011 and that [REDACTED] was also forfeited.

The AAO informed the petitioner that if it was no longer in business then no *bona fide* job offer would exist and the petition and motions would be moot. It also indicated that, even if the motions could be otherwise granted, the approval of the petition would be subject to automatic revocation due to the termination of its business. *See* 8 C.F.R. § 205.1(a)(iii)(D).

The petitioner was given 30 days in which to submit a response. The AAO informed the petitioner that failure to respond to the RFE would result in a dismissal of the motions.

As of the date of this decision, the petitioner has not responded to the AAO's notice. Since the petitioner has not responded, the AAO will not consider this matter further. The motions will be summarily dismissed as abandoned pursuant to 8 C.F.R. § 103.2(b)(13)(i).

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 motions are summarily dismissed as abandoned.