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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



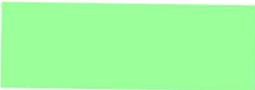
U.S. Citizenship  
and Immigration  
Services



DATE: **MAY 07 2013**

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,

*Rachel Vignio*  
RV

Ron Rosenberg  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Texas Service Center (director), denied the employment-based immigrant visa petition. The petitioner appealed the decision to the Administrative Appeals Office (AAO). The appeal will be summarily dismissed pursuant to 8 C.F.R. § 103.2(b)(13)(i).

The petitioner describes itself as a Post Office courier business. It seeks to permanently employ the beneficiary in the United States as a Vice President for Marketing & Sales. 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 an ETA 750, Application for Alien Employment Certification, approved by the U.S. Department of Labor.

The director concluded that the beneficiary did not have a U.S. bachelor's degree or foreign equivalent degree required by the terms of the ETA 750. He further found that the petitioner had not established its ability to pay the beneficiary the proffered wage.

The record shows that the appeal is properly filed and makes a specific allegation of error in law or fact. The procedural history in this case is documented by the record and incorporated into the decision. Further elaboration of the procedural history will be made only as necessary.

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3<sup>rd</sup> Cir. 2004). The AAO considers all pertinent evidence in the record, including new evidence properly submitted upon appeal.<sup>1</sup>

On February 28, 2013, the AAO sent the petitioner a Notice of Intent to Dismiss, Request for Evidence, and Notice of Derogatory Information, with a copy to counsel of record. In that notice, the AAO indicated that the evidence of record was insufficient to demonstrate that the beneficiary held a U.S. baccalaureate degree or its foreign equivalent in management, as required by the Form ETA 750, and asked the petitioner to provide the beneficiary's academic transcripts to establish that he had completed four years of college. The AAO additionally asked the petitioner to submit evidence regarding its wages paid to the beneficiary or its ability to pay the proffered wage for 2009 through 2011. The AAO further requested evidence that the job offer in the present case was *bona fide*, given that the beneficiary was the registered agent, president, and half owner of the petitioning entity. Additional documentation was requested to demonstrate the beneficiary's intent to work in the proffered position and to establish the petitioner, whose tax records reflect its main business activity as laundry care, as the postal courier business indicated on the Form ETA 750.

The notice allowed the petitioner 30 days in which to submit a response. The AAO informed the petitioner that failure to respond to the notice would result in a dismissal of the appeal.

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<sup>1</sup> The submission of additional evidence on appeal is allowed by the instructions to the Form I-290B, which are incorporated into the regulations by 8 C.F.R. § 103.2(a)(1).

As of the date of this decision, the petitioner has not responded to the AAO's notice. Therefore, the AAO will summarily dismiss the appeal without further discussion, based on the evidentiary deficits identified in that notice. *See* 8 C.F.R. § 103.2(b)(13)(i). The AAO will also dismiss the appeal based on the petitioner's failure to submit the requested evidence, which has precluded the AAO from pursuing a material line of inquiry. *See* 8 C.F.R. § 103.2(b)(14).

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 summarily dismissed.