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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

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[Redacted]

DATE: SEP 21 2012

OFFICE: CALIFORNIA SERVICE CENTER FILE: [Redacted]

IN RE:

Petitioner:

Beneficiary:

[Redacted]

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,

Perry Rhew
Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The service center director denied the nonimmigrant visa petition. The matter is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed. The petition will be denied.

In the Form I-129 visa petition, the petitioner describes itself as a voice instruction studio established in 2009. The petitioner stated that it has no employees. In the Form I-129 petition, the petitioner failed to provide its gross annual income and net annual income. In order to employ the beneficiary in what it designates as a voice instructor position, the petitioner seeks to classify her as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The director denied the petition on the ground that the petitioner failed to establish that it meets the applicable statutory and regulatory provisions to determine that it is qualified to file an H-1B petition, that is, as a United States employer. On appeal, counsel asserts that the director's basis for denial was erroneous and contends that the petitioner satisfied all evidentiary requirements.

During the adjudication of the appeal, the AAO discovered that since February 1, 2011, the petitioning business in this matter, [REDACTED], has not been in good standing as a professional domestic limited liability company organized under the laws of the State of Colorado. On July 2, 2012, the AAO sent a notice to the petitioner informing it of this derogatory information and offering it the opportunity to submit rebuttal evidence. The petitioner was notified that its corporate status was material to its eligibility for the requested visa. Specifically, the petitioner's status raises serious questions about whether it continues to exist as an importing employer, whether the petitioner qualifies as a United States employer as defined, and whether it is authorized to conduct business. See section 214(c)(1) of the Act, 8 U.S.C. § 1184(c)(1); see also 8 C.F.R. § 214.2(h)(2)(i)(A), (4)(ii), (11)(ii). The petitioner was afforded 33 days to respond.

The petitioner did not respond within the period allowed, or any time since then. If a petitioner fails to respond to a request for evidence or a notice of intent to deny by the required date, the petition may be summarily denied as abandoned, denied based on the record, or denied for both reasons. See 8 C.F.R. § 103.2(b)(13)(i). As further provided in 8 C.F.R. § 103.2(b)(14), the failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition.

As the petitioner has not responded to the July 2, 2012 notice, the petition is deniable under the regulatory provisions cited above. Accordingly, the appeal will be dismissed, and the petition will be summarily denied as abandoned and denied due to the failure to submit requested evidence that precludes a material line of inquiry, making any remaining issues in this proceeding moot.

Moreover, a review of U.S. Citizenship and Immigration Services records indicates that the beneficiary applied for adjustment of status on May 16, 2012, and that she became a conditional permanent resident on August 15, 2012. Because the beneficiary's status has been adjusted to that of a conditional permanent resident, further pursuit of the matter at hand would be moot even if the

appeal were not dismissed, and the petition summarily denied as abandoned for the reasons discussed in the decision.

ORDER: The appeal is dismissed. The petition is summarily denied as abandoned and denied due to the failure to submit requested evidence that precludes a material line of inquiry.