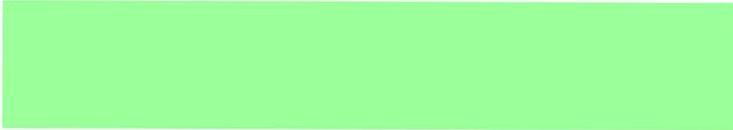


(b)(6)

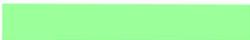


U.S. Citizenship
and Immigration
Services

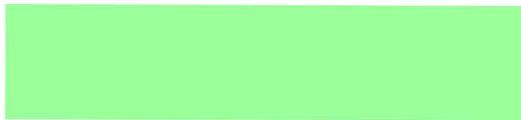


DATE: **MAR 08 2013**

OFFICE: CALIFORNIA SERVICE CENTER

FILE: 

IN RE: Petitioner:
 Beneficiary:



PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the
 Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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

On the Form I-129 visa petition, the petitioner describes itself as a real estate investment and property management company established in 2006. In order to employ the beneficiary in what it designates as a property accountant position, the petitioner seeks to classify him 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 basis of her determination that the petitioner had failed to demonstrate that the proffered position qualifies for classification as a specialty occupation.

During its adjudication of the appeal, the AAO discovered evidence indicating that the petitioner is not in good standing with the State of Texas. Specifically, on November 7, 2012 the Texas Comptroller of Public Accounts (“Texas Comptroller”) issued a “Certificate of Account Status,” which stated that the petitioner was not in good standing because it had failed to satisfy its franchise tax requirements. A “Taxable Entity Search” conducted on the website of the Texas Comptroller found similar information, revealing that the petitioner was “NOT IN GOOD STANDING” (caps in original).

The AAO sent the petitioner a Notice of Derogatory Information (NDI) on November 28, 2012. In the NDI, the AAO notified the petitioner of this evidence and information; provided it with copies of both the Texas Comptroller’s November 7, 2012 certificate and the results of the AAO’s search of the Texas Comptroller’s website; and afforded the petitioner the opportunity to submit rebuttal evidence.

The NDI notified the petitioner that its corporate status is material to its eligibility for the requested visa, and that the derogatory information regarding its status raises serious questions regarding its continuous existence as an importing employer, whether it qualifies as a United States employer as defined, and whether it is authorized to conduct business. The NDI also informed the petitioner that it was incumbent upon the petitioner to submit independent, objective evidence to resolve the issues specified in the NDI as arising from the derogatory corporate-status information. The NDI afforded the petitioner 30 days during which to respond, and warned the petitioner that “failure to timely respond to [the NDI] will result in the dismissal of the instant appeal as moot.”

To date, the AAO has not received any response to the NDI.

As the petitioner has not responded to the NDI and therefore opted to not address and resolve the material issues specified therein, the appeal will be dismissed as moot.

ORDER: The appeal is dismissed as moot. The petition is denied.