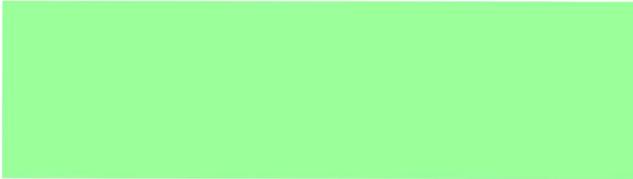
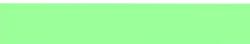


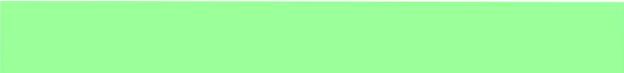


U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: **MAR 18 2015** OFFICE: VERMONT 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 (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The service center director denied the nonimmigrant visa petition, and the petitioner appealed the denial to the Administrative Appeals Office (AAO). We withdrew the director's decision and remanded the record to the director for further action and the issuance of a new decision. The director determined that she was unable to make a favorable determination in this matter, and certified the decision to our office for review. The appeal will be dismissed. The petition will be denied.

ANALYSIS

On the Petition for a Nonimmigrant Worker (Form I-129), the petitioner describes itself as a law office with one employee. In order to employ the beneficiary in what it designates as a law clerk 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).¹

The director denied the petition, finding that the petitioner had not established that the proffered position qualifies as a specialty occupation in accordance with the applicable statutory and regulatory provisions. The petitioner filed an appeal of that decision to our office.

On appeal, we determined that the Labor Condition Application (LCA) did not correspond to the position offered to the beneficiary. We withdrew the director's decision denying the petition, and remanded the matter to the service center. We did not examine the issue of whether the position offered to the beneficiary qualified as a specialty occupation.

Thereafter, the director issued a request for evidence (RFE). The request advised the petitioner of our determination, and afforded the petitioner 87 days in which to respond. The petitioner did not respond within the time period allowed, or any time since then. Subsequently, the director certified the decision to our office, noting that the petitioner did not respond to the RFE, and that it was unable to enter a favorable determination.

Upon review, we concur with the director's determination. If a petitioner fails to respond to a notice 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 did not respond to the director's RFE, 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

¹ The visa petition was originally filed with the petitioner's name specified as [REDACTED]. The petitioner has since provided evidence that it has changed its name to the [REDACTED].

(b)(6)

NON-PRECEDENT DECISION

Page 3

precludes a material line of inquiry, making any remaining issues in this proceeding moot.²

ORDER: The appeal is dismissed.

² We conduct appellate review on a *de novo* basis. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). However, as the appeal is dismissed, and the petition denied for the reasons discussed above, we will not further discuss the additional issues and deficiencies that we observe in the record of proceeding.