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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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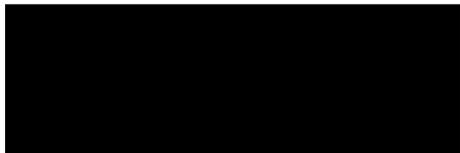
Date: **JUL 31 2012** Office: VERMONT SERVICE CENTER

FILE:

IN RE: Petitioner:   
Beneficiary:

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

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,

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center, denied the nonimmigrant visa petition. The matter then came before the Administrative Appeals Office (AAO) on appeal. On May 22, 2012, this office provided the petitioner with notice of derogatory information in the record and afforded the petitioner an opportunity to provide evidence that might overcome this information.

The petitioner filed this nonimmigrant petition seeking to classify the beneficiary as an intracompany transferee pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner, a Texas limited liability company, states that it operates a telecommunications services company. The petitioner seeks to employ the beneficiary in the position of general manager for a period of two years.

The director denied the petition on April 9, 2010, based on a finding that the petitioner failed to establish: (1) that the beneficiary would be employed in the United States in a primarily managerial or executive capacity; or (2) that the U.S. company maintained adequate physical premises to operate its business as of the date it filed the petition.

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). Pursuant to 8 C.F.R. § 103.2(b)(16)(i), this office notified the petitioner on May 22, 2012 that, according to the AAO's search of State of Texas corporate records and business registrations, the petitioner's corporate status is "No Standing, Franchise Responsibility Ended." *See* Website of Texas Comptroller of Public Accounts, Taxable Entity Search, available at <<http://ourepa.cpa.state.tx.us/coa/Index.html>> (accessed on May 21, 2012).

This office also notified the petitioner that if the petitioner has no standing to conduct business in Texas, this fact is material to its eligibility for the requested nonimmigrant classification. Specifically, the petitioner's lack of valid corporate status raises serious questions about whether it continues to exist as an importing employer, whether the petitioner maintains a qualifying relationship, and whether it is authorized to conduct business in a regular and systematic manner. *See* section 214(c)(1) of the Act; *see also* 8 C.F.R. §§ 214.2(l)(1)(ii)(G) and (l)(3).

The AAO properly mailed the notice of derogatory information to the petitioner's address of record and allowed the petitioner 30 days in which to provide evidence to rebut the finding that the petitioner has no corporate standing in the State of Texas. The regulation at 8 C.F.R. § 103.8(a)(1)(i) provides that "[r]outine service consists of mailing the notice by ordinary mail addressed to the affected party and his or her attorney or representative of record at his or her last known address." As of this date, more than 50 days have passed, and the AAO has not received a response.

In order to employ the beneficiary as an intracompany transferee, the petitioner must be a United States legal entity that is the same employer as the firm, corporation, or other legal entity that employed the beneficiary abroad or the U.S. petitioner must be a subsidiary or affiliate of that foreign entity, and it must be doing

business as defined at 8 C.F.R. § 214.2(1)(1)(ii)(H). Given that the petitioner's corporate status is shown as "no standing" in the State of Texas, the AAO finds that the petitioner is no longer a legal entity that is qualified to file a nonimmigrant petition in the beneficiary's behalf.

The petitioner's lack of active corporate status effectively terminates the employer's business. Where there is no active and legal U.S. entity, no legitimate job offer exists, and the request that a foreign worker be allowed to fill the position offered in the petition has become moot.

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. While the petitioner has not withdrawn the appeal in this proceeding, its lack of corporate standing renders the issues in this proceeding moot. Therefore, the appeal will be dismissed.

**ORDER:** The appeal is dismissed as moot.