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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: **SEP 19 2012** Office: CALIFORNIA 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, California Service Center, denied the nonimmigrant visa petition. The matter then came before the Administrative Appeals Office (AAO) on appeal. On July 18, 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 California corporation, states that it operates a wholesale business. The petitioner has employed the beneficiary in the position of president since June 2007 and now seeks to extend her L-1A status for two additional years.

The director denied the petition on July 6, 2010, based on a finding that the petitioner failed to establish that it would employ the beneficiary in a qualifying managerial or executive position under the extended petition. The petitioner filed a timely appeal.

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 July 18, 2012 that, according to the AAO's search of State of California corporate records and business registrations, the petitioner's corporate status is "dissolved." *See* Website of California Secretary of State, Business Search <<http://kepler.sos.ca.gov/cbs.aspx>> (accessed on July 11, 2012).

This office also notified the petitioner that if its corporate status is currently dissolved, this fact is material to its eligibility for the requested nonimmigrant classification. Specifically, the petitioner's dissolution 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 and counsel's addresses of record and allowed the petitioner 30 days in which to provide evidence to rebut the finding that the petitioner's corporate status has been dissolved. 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 35 days have passed, and the AAO has not received a response. One copy of the notice was returned to the AAO as undeliverable with no forwarding address provided.

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(l)(1)(ii)(H). Given that the petitioner's corporate status is shown as

dissolved, 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 dissolution of its 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 forfeited corporate status renders the issues in this proceeding moot. Therefore, the appeal will be dismissed.

ORDER: The appeal is dismissed as moot.