



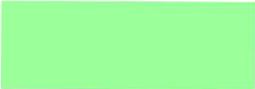
U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: JUN 17 2013

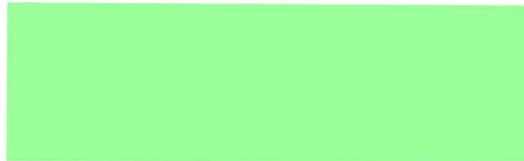
OFFICE: TEXAS SERVICE CENTER

FILE: 

IN RE: Petitioner: 
Beneficiary: 

PETITION: Immigrant Petition for Alien Worker as a Multinational Executive or Manager Pursuant to Section 203(b)(1)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(C)

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.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, initially approved the preference visa petition. Upon subsequent review, the director issued a Notice of Intent to Revoke (NOIR) approval of the petition, and ultimately revoked approval. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected. The approval of the petition will remain revoked.

The petitioner is a Texas corporation initially organized on July 10, 2010. The petitioner stated on the Form I-140, Immigrant Petition for Alien Worker, that its type of business is "retail stores." It seeks to employ the beneficiary as its vice-president. Accordingly, the petitioner endeavors to classify the beneficiary as an employment-based immigrant pursuant to section 203(b)(1)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(C), as a multinational executive or manager.

As observed above, the director initially approved the petition but upon subsequent review issued a NOIR based on the dissolution of the petitioning entity. In response, the petitioner did not provide any evidence that it had been doing business from before or after the date of its dissolution in October 2009. As observed by the director, the Texas Certificate of Reinstatement dated March 3, 2011 did not provide evidence that the petitioner had been conducting business during the time it was not registered as a corporation. The I-140 petition approval was automatically revoked as a function of law when the petitioner's business terminated. 8 C.F.R. § 205.1(a)(3)(iii)(D).

The regulation at 8 C.F.R. § 205.1 provides the list of grounds for automatic revocation:

(a) Reasons for automatic revocation. The approval of a petition or self-petition made under section 204 of the Act and in accordance with part 204 of this chapter is revoked as of the date of approval:

(iii) Petitions under section 203(b), other than special immigrant juvenile petitions.

(D) Upon termination of the employer's business in an employment-based preference case under section 203(b)(1)(B), 203(b)(1)(C), 203(b)(2), or 203(b)(3) of the Act.

Upon review of the petitioner's rebuttal, the director automatically revoked the approval of the employment-based petition pursuant to 8 C.F.R. § 205.1(a)(3)(iii)(D).

Although the petitioner filed an appeal seeking to have the director's decision reviewed and overturned by the AAO, the AAO lacks jurisdiction in the case of an automatic revocation. *See Matter of Zaidan*, 19 I&N Dec. 297 (BIA 1985). The precedent decision notes that 8 C.F.R. § 205.2 allows for an appeal of a decision of the district director revoking approval of a visa petition on notice pursuant to 8 C.F.R. § 205.2. *Id.* The Board of Immigration Appeals determined, however, that there

is no such provision for appellate review when a petition is automatically revoked pursuant to 8 C.F.R. ^ 205.1. *Id.* As the approval in the instant matter was revoked pursuant to 8 C.F.R. ^ 205.1(a)(3)(iii)(D), the petitioner cannot seek to appeal this decision. Accordingly, the appeal will be rejected.

While it is not contemplated by regulation, the director did not violate any procedural regulations by issuing the NOIR before issuing the notice of automatic revocation. The NOIR simply provided the petitioner the opportunity to rebut the director s finding.

The appeal will be rejected for the above stated reason. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. ^ 1361.

ORDER: The appeal is rejected.