



U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE:

**MAY 22 2015**

FILE #:

PETITION RECEIPT #:

IN RE:

Petitioner:

Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)


ON BEHALF OF PETITIONER:



Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. The Form I-290B web page ([www.uscis.gov/i-290b](http://www.uscis.gov/i-290b)) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

  
Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center (Director). It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The petitioner describes itself as a creative editorial services business. On June 20, 2014 it filed a Form I-140, Immigrant Petition for Alien Worker, seeking to permanently employ the beneficiary in the United States as an art director and to classify him as an advanced degree professional pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2). The petition was accompanied by an ETA Form 9089, Application for Permanent Employment Certification, which was filed at the U.S. Department of Labor (DOL) on June 2, 2013, and certified by the DOL (labor certification) on February 5, 2014.

The regulation at 8 C.F.R. § 204.5(k)(2) defines advanced degree, in pertinent part, as follows:

*Advanced degree* means any United States academic or professional degree or a foreign equivalent degree above that of baccalaureate. A United States baccalaureate degree or a foreign equivalent degree followed by at least five years of progressive experience in the specialty shall be considered the equivalent of a master's degree .....

On December 3, 2014, the Director denied the petition on the ground that the beneficiary did not have the requisite education and experience to be eligible for classification as an advanced degree professional, as defined in 8 C.F.R. § 204.5(k)(2), and to qualify for the job under the terms of the labor certification. The petitioner filed a timely appeal.

On March 26, 2015, we issued a Notice of Intent to Dismiss the appeal (NOID). In reviewing the beneficiary's educational credentials from Spain, we noted that they did not appear to be equivalent, either individually or collectively, to a U.S. baccalaureate or higher degree. Accordingly, we requested additional evidence from the petitioner as to how the beneficiary met the educational requirements of 8 C.F.R. § 204.5(k)(2) and the labor certification. We also requested additional letters from the beneficiary's employers, past and present, to establish the details of the beneficiary's qualifying employment and meet the substantive requirements of 8 C.F.R. § 204.5(g)(1). Finally, we requested additional documentation to establish the petitioner's ability to pay the proffered wage of the job offered from the priority date of the petition (June 2, 2013) up to the present, in accord with 8 C.F.R. § 204.5(g)(2). The petitioner was granted 45 days to file a response.

The petitioner did not respond to the NOID within the 45-day period allowed, or at any time up to the date of this decision. If a petitioner does not respond to a request for evidence or a notice of intent to deny 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). The failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. See 8 C.F.R. § 103.2(b)(14).

Since the petitioner has not responded to the NOID of March 26, 2015, the petition is deniable under the regulatory provisions cited above. Accordingly, the appeal will be summarily dismissed.

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*NON-PRECEDENT DECISION*

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**ORDER:** The appeal is dismissed.