U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF S-A-M-, LLC

DATE: DEC. 5, 2017

APPEAL OF TEXAS SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a medical practice and research clinic, seeks to employ the Beneficiary as director of clinical research.[1] It requests his classification as a member of the professions holding an advanced degree under the second-preference immigrant category. *See* Immigration and Nationality Act section 203(b)(2)(A), 8 U.S.C. § 1153(b)(2)(A). This employment-based, "EB-2" classification allows a U.S. business to sponsor a professional with a master's degree or a bachelor's degree followed by five years of experience for lawful permanent resident status.

The Director of the Texas Service Center denied the petition finding that the Petitioner did not establish that the Beneficiary had the training required for the offered position. The Director subsequently denied the Petitioner's motion to reopen and reconsider.

On appeal, the Petitioner did not submit sufficient evidence to establish that the Beneficiary had the required training for the offered position. Further, in the course of reviewing the record, we identified four additional grounds of ineligibility. Accordingly, we issued a notice of intent to dismiss and request for evidence (NOID/RFE). In the NOID/RFE we notified the Petitioner that in addition to lacking sufficient evidence of the Beneficiary's training, the record also does not establish that: (1) the Beneficiary has the experience required for the offered position, (2) the Beneficiary has the education required for the offered position, (3) the job opportunity was *bona fide*, and (4) the Petitioner intends to employ the Beneficiary in the offered positon. In the NOID/RFE we specifically instructed the Petitioner to provide additional documentation to address the evidentiary deficiencies and discrepancies in the record. The Petitioner did not respond to the NOID/RFE.

If a petitioner does not timely respond to a request for evidence or notice of intent to deny, U.S. Citizenship and Immigration Services may summarily deny a petition as abandoned, deny it based on the record, or deny it on both grounds. 8 C.F.R. § 103.2(b)(13)(i).

[1] The petition identifies the offered position as medical scientist. We will refer to the position as director of clinical research, however, as stated on the accompanying labor certification, approved by the U.S. Department of Labor (DOL).

Here, we mailed a NOID/RFE to the Petitioner on August 24, 2017. Our NOID/RFE specifically informed the Petitioner that "[w]e may dismiss your case if we do not receive your response to this NOID/RFE **within 87 days of the date on the cover letter**. This time period includes three days added for service by mail." (Emphasis in original).

To date, more than 95 days have lapsed, and we have not received a response from the Petitioner. As such, we will dismiss the appeal as abandoned pursuant to 8 C.F.R. § 103.2(b)(13)(i). Moreover, because the Petitioner did not submit the required evidence, the Beneficiary is not eligible for immigrant classification as an advanced degree professional.

As the Petitioner did not respond to our NOID/RFE, it abandoned its appeal.

ORDER: The appeal is summarily dismissed as abandoned pursuant to 8 C.F.R. § 103.2(b)(13).

Cite as *Matter of S-A-M-, LLC*, ID# 012095 (AAO Dec. 5, 2017)