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U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



File: [Redacted] Office: Nebraska Service Center Date: 28 MAR 2002

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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)

IN BEHALF OF PETITIONER:



PUBLIC COPY

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner seeks to classify the beneficiary pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(2), as a member of the professions holding an advanced degree. The petitioner is a provider of information systems. It seeks to employ the beneficiary permanently in the United States as a senior systems application specialist at an annual salary of \$77,000. As required by statute, the petition was accompanied by certification from the Department of Labor. The certification had originally been issued to Oracle Corporation. The director determined the petitioner had not established that it had the financial ability to pay the beneficiary's proffered wage as of the filing date of the visa petition.

Review of Service records indicates that, subsequent to filing the instant petition, the beneficiary obtained an immigrant visa through a separate proceeding, and entered the United States with that visa, and therefore the alien is now a lawful permanent resident. Because the alien is a lawful permanent resident, further pursuit of the matter at hand is moot. This office is not in a position to grant any benefit that the alien has not already obtained.

We note that, had we adjudicated the appeal, we would likely have remanded the matter for further consideration because the director's decision appears to be inconsistent with case law regarding change of employers and the burden on the new petitioner regarding ability to pay. We need not, however, expound upon these arguments in detail, because the beneficiary has already obtained the benefit that the petitioner intended to secure through this petition.

ORDER: The appeal is dismissed, based on the alien's lawful permanent resident status.