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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

[Redacted]

File: [Redacted] Office: CALIFORNIA SERVICE CENTER

Date: JUL 30 2002

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

Petition: Immigrant Petition for Alien Worker as a Skilled Worker or Professional Pursuant to § 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(3)

IN BEHALF OF PETITIONER:

[Redacted]

Public Copy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which 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 which 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 which 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
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The preference visa petition was initially approved by the Director, California Service Center. On the basis of new information received and on further review of the record, the director determined that the beneficiary was not eligible for the benefit sought. Accordingly, the director properly served the petitioner with notice of intent to revoke the approval of the preference visa petition, and her reasons therefore, and ultimately revoked the approval of the petition. The matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a garment manufacturer. It seeks to employ the beneficiary permanently in the United States as a master tailor. As required by statute, the petition was accompanied by certification from the Department of Labor.

The petition was approved on May 7, 1996. The director stated that an investigation was conducted, and after consideration, the approval of the petition was revoked on March 22, 2001. The revocation was based on the finding that the beneficiary did not have the required four years of experience as a master tailor as required on the labor certification.

The director, in his revocation notice, stated in pertinent part that:

The record clearly shows that there was a deliberate attempt to misrepresent a material fact in this case. For instance, the certification of employment from Erebuni that was recently provided indicates that [the beneficiary] worked for that company in Armenia from February 1984 to December 01, 1994. However, in the approved Labor Form ETA-750, [the beneficiary] indicated that she only started working for Erebuni from March 1991 to January 1994.

The director further stated that:

██████████ signed the I-140 petition in 1996, as well as the Labor Form ETA-750 in 1995 as the owner of the company. ██████████ tries to establish that although the company had moved, the structure of the company has not changed. However, the evidence in the record shows otherwise. The 1997 IRS Form 1120 Income Tax Return for ██████████ Inc. shows that the ownership structure has changed. It shows that "Arutyun Norashkharyan also owns the company. The Service notes here that it took four years from 1996 to year 2000 before the petitioner tries to establish continuing ownership of the company and only after the Service had

done some background investigation of the company's legitimacy.

On appeal, counsel submits a letter from the petitioner and states that:

Petitioner is the same employer listed on the original labor certification. Documentation submitted verify this. Beneficiary qualifies for position. The mere fact that experience could not be verified does not amount to fraud. The Soviet collapse & country system account for lack of records. Letter dated 1/16/2001 overcame this finding.

The above-mentioned letter from [REDACTED] states that the "beneficiary does possess the working experience as a master tailor. According to the consular investigation unit in Yerevan, Armenia her employment has not been verified."

No additional evidence has been received to date. Therefore, upon review, the petitioner has been unable to present sufficient evidence to overcome the findings of the district director in her decision to revoke the approval of the petition. The petitioner has not established eligibility pursuant to section 203(b)(3)(A)(i) of the Act and the petition may not be approved.

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.

ORDER: The appeal is dismissed.