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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE  
425 Eye Street N.W.  
BCIS, AAO, 20 Mass, 3/F  
Washington, D.C. 20536

**AUG 12 2003**

File:

[REDACTED]  
SRC 02 089 54067

Office: TEXAS SERVICE CENTER

Date:

IN RE:

Petitioner:  
Beneficiary:

[REDACTED]

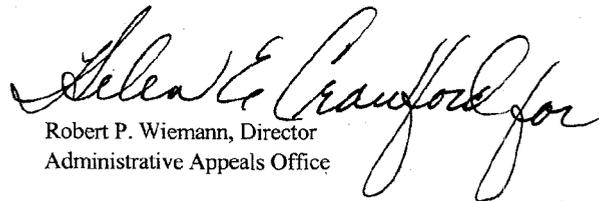
Petition: Immigrant Petition for Alien Worker as Skilled Worker or Professional Pursuant to § 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

ON BEHALF OF PETITIONER: SELF-REPRESENTED

**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.

  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The immigrant visa petition was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner is a restaurant. It seeks to employ the beneficiary as a specialty foreign food cook. As required by statute, the petition is accompanied by an individual labor certification, the Application for Alien Employment Certification (Form ETA 750), approved by the Department of Labor.

Section 203(b)(3)(A)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A)(i), provides for the granting of preference classification to qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing skilled labor (requiring at least two years training or experience), not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

The director considered that the diploma, dated November 9, 1998, related to banking (the banking diploma), but the Form ETA 750, block 14, required two (2) years of training as a Greek-style cook. The director determined that the record did not establish that the beneficiary met the petitioner's qualifications for the position and denied the petition in a decision dated July 11, 2002.

The beneficiary filed an appeal on August 12, 2002, but only an affected party may file an appeal. 8 C.F.R. § 103.3(a)(2)(i). The beneficiary is not an affected party.

Provisions of 8 C.F.R. § 103.3(a)(1)(iii) state:

(B) *Meaning of affected party.* For purposes of this section and sections 103.4 and 103.5 of this part, *affected party* means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

The appeal of the beneficiary must be rejected as improperly filed because 8 C.F.R. § 103.3(a)(2)(v) states:

*Improperly filed appeal--(A).* Appeal filed by person or entity not entitled to file it-- (1) Rejection without refund of filing fee. An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee the



Service has accepted will not be refunded.

The beneficiary improperly filed an appeal of the decision, and it must be rejected.

**ORDER:** The appeal is rejected.