

What has been deleted to
protect your privacy
has been replaced by
[REDACTED]

U.S. Department of Homeland Security
20 Mass Ave., N.W., Rm.A3042,
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

B6

[REDACTED]

FILE: EAC 02 144 52717 Office: VERMONT SERVICE CENTER

Date: AUG 11 2006

IN RE: Petitioner:
Beneficiary:

[REDACTED]

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

ON BEHALF OF PETITIONER:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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 employment-based immigrant visa petition was denied by the Director, Vermont Service Center. The Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is now before the AAO on a motion to reconsider. The motion will be rejected as improperly filed.

The petitioner is a hat manufacturer. It sought to employ the beneficiary permanently in the United States as a hat sewer supervisor. As required by statute, the petition was accompanied by an individual labor certification approved by the Department of Labor.

On February 13, 2003, the director determined that the petitioner had failed to demonstrate that it had the continuing financial ability to pay the proffered wage as of the priority date of the petition.

The AAO dismissed the petitioner's appeal on December 10, 2003, concurring with the director's determination that the petitioner had failed to establish a continuing financial ability to pay the certified wage as required by 8 C.F.R. § 204.5(g)(2).

The record indicates that the beneficiary has filed a motion to reconsider the AAO's dismissal of the appeal.

The regulation at 8 C.F.R. § 103.3(a)(1)(iii) states in pertinent part:

(B) Meaning of Affected Party. For purposes of this section and §§103.4 and 103.5 of this part, *affected party* (in addition to (Citizenship and Immigration Services)) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition. (Original emphasis).

As the beneficiary is not an affected party, he has no standing to file a motion. Therefore his motion to reconsider must be rejected as improperly filed.

ORDER: The motion to reconsider is rejected.