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**U.S. Citizenship  
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Services**

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*BE*



FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date: OCT 06 2005  
SRC-03-042-51458

IN RE: Petitioner: [REDACTED]  
Beneficiary: [REDACTED]

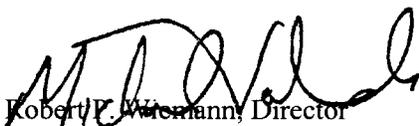
PETITION: Petition for Alien Worker as a Skilled Worker or Professional Pursuant to Section 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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 preference 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 and the case remanded to the director.

The petitioner is a remodeling company. It seeks to employ the beneficiary permanently in the United States as a wood carver. 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.

The director invalidated the labor certification based upon a finding that it had been procured by fraud or willful misrepresentation. The director then denied the petition, *inter alia*, because it was not supported by a valid labor certification.

On appeal, the petitioner submits a statement and additional evidence.

Although the director's decision advised the petitioner's counsel that an appeal was available, that information was in error. The authority to adjudicate appeals is delegated to the AAO by the Secretary of the Department of Homeland Security (DHS) pursuant to the authority vested in him through the Homeland Security Act of 2002, Pub. L. 107-296. *See* DHS Delegation Number 0150.1 (effective March 1, 2003); *see also* 8 C.F.R. § 2.1 (2003). The AAO exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003). *See* DHS Delegation Number 0150.1(U) *supra*; 8 C.F.R. § 103.3(a)(iv).

Among the appellate authorities are appeals from denials of petitions for immigrant visa classification based on employment, "except when the denial of the petition is based upon lack of a certification by the Secretary of Labor under section 212(a)(5)(A) of the Act." 8 C.F.R. § 103.1(f)(3)(iii)(B) (2003 ed.). Authority to invalidate labor certifications is delegated to Citizenship and Immigration Services (CIS) by DHS Delegation Number 0150.1(X), *supra*.

Since the director invalidated the labor certification, the petition was no longer supported by a labor certification from the Department of Labor. Consequently, this office lacks jurisdiction to consider an appeal from the director's decision. However, the AAO remands the case to the director in order that she consider whether counsel's submissions satisfy the requirements of a motion to reopen pursuant to 8 C.F.R. § 103.5.

**ORDER:** The appeal is rejected and the petition is remanded to the director.