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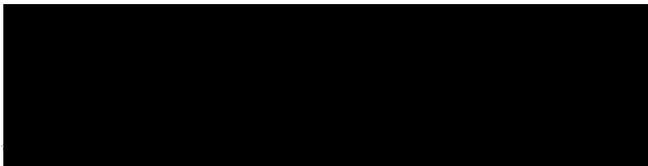
FILE: EAC 02 207 52974 Office: VERMONT SERVICE CENTER

Date: **OCT 21 2005**

IN RE: Petitioner:   
Beneficiary: 

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:



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 Acting Center Director (director), Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is a garment manufacturer. It seeks to employ the beneficiary permanently in the United States as a sample maker. As required by statute, a Form ETA 750, Application for Alien Employment Certification approved by the Department of Labor, accompanied the petition.

The director denied the petition on March 10, 2004, concluding that the petitioner had failed to establish its ability to pay the proffered salary.

The notice of appeal was filed on April 12, 2004, accompanied by a copy of the director's decision. Counsel merely states on the notice of appeal that the director's decision was arbitrary, capricious, and contrary to law.

Part 2 of the notice indicates that counsel will submit a brief and/or or evidence to the AAO within 30 days. As of this date, nothing further has been received to the record. The AAO faxed an inquiry to counsel's office on August 30, 2005, stating that nothing had been received to the file and requesting a copy of any additional evidence or brief that was submitted with the appeal. A reply from counsel's office by facsimile consisted of two pages. The first page is marked indicating that no brief or other evidence was ever submitted. The second page is a note signed by [REDACTED] Esq., acknowledging receipt of the AAO's inquiry, but stating that the brief and supporting documents were actually sent with the appeal (contrary to the original notation on the I-290B) and a request "to please adjudicate the case based on the brief and evidence at hand."

As stated in 8 C.F.R. § 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

This office is left with a bare statement that the director has acted arbitrarily, capriciously, and contrary to law. This does not does not sufficiently identify a specific conclusion of law or statement of fact upon which a substantive appeal may be filed. The appeal must therefore be summarily dismissed.

**ORDER:** The appeal is dismissed.