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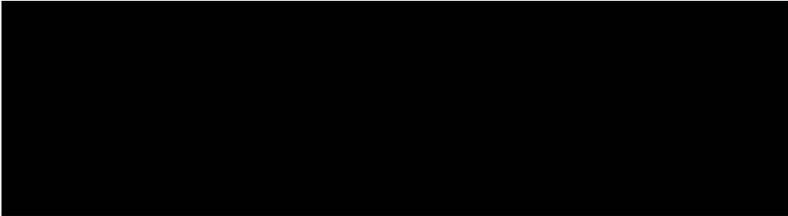
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:



WAC-03-258-54251

Office: CALIFORNIA SERVICE CENTER

Date: **OCT 31 2006**

IN RE:

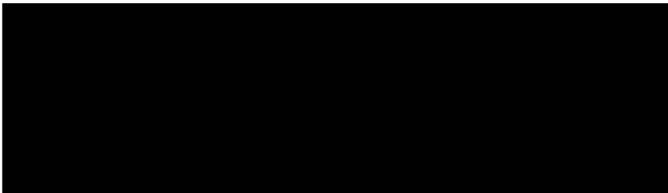
Petitioner:

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, Chief
Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is a restaurant. It filed the instant I-140 petition to seek to employ the beneficiary permanently in the United States as a foreign food specialty cook. As required by statute, the petition is accompanied by a Form ETA 750, Application for Alien Employment Certification, approved by the Department of Labor. On March 15, 2005, the director denied the petition because the evidence submitted with the initial filing and in response to his request for additional evidence did not establish the petitioner's ability to pay the proffered wage to the instant beneficiary for 2000 through 2003. The director further noted that the petitioner had filed multiple petitions since 2001 and three of those petitions were approved. The petitioner did not establish its ability to pay all proffered wages.

On appeal, counsel submitted the Form I-290B without any letter or brief, but indicated that a brief and/or evidence would be submitted to the AAO within 30 days. Counsel dated the appeal March 30, 2005 and the California Service Center received it on April 12, 2005. However, as of this date, more than eighteen (18) months later, the AAO has received nothing further. The regulations do not allow an applicant or petitioner an open-ended or indefinite period in which to supplement an appeal once it has been filed.

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. Counsel here has not specifically addressed the reasons stated in the denial decision and has not provided any additional evidence to rebut the ground of denial that the petitioner failed to establish that it had the ability to pay all proffered wages for the multiple beneficiaries, including instant beneficiary. Counsel has not even expressed disagreement with the director's decision. The appeal must therefore be summarily dismissed.

ORDER: The appeal is summarily dismissed.