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U.S. Citizenship  
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[REDACTED]

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FILE:

[REDACTED]  
EAC-02-261-51064

Office: VERMONT SERVICE CENTER

Date: **AUG 09 2007**

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, Chief  
Administrative Appeals Office

**DISCUSSION:** The employment-based preference visa petition was initially approved by the Acting Director (Director), Vermont Service Center. Based on the result of a permanent residence interview at the United States Embassy in Damascus, Syria, the director consequently served the petitioner with notice of intent to revoke the approval of the petition (NOIR). In a Notice of Revocation (NOR), the director ultimately revoked the approval of the Immigrant Petition for Alien Worker (Form I-140) because the record did not include a response to the NOIR. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be remanded to the director.

The petitioner is a rug cleaning and repair company. It seeks to employ the beneficiary permanently in the United States as a rug repairer (oriental rug repairer). As required by statute, a Form ETA 750, Application for Alien Employment Certification approved by the Department of Labor (DOL), accompanied the petition. The director found that the record did not include a response to the NOIR, and thus the grounds of revocation had not been overcome. The director revoked the approval of the petition accordingly.

The record shows that the appeal is properly filed, timely and makes a specific allegation of error in law or fact. The procedural history in this case is documented by the record and incorporated into the decision. Further elaboration of the procedural history will be made only as necessary.

As set forth in the director's October 21, 2005 NOR, the single issue in this case is whether or not the petitioner has overcome the grounds of revocation in the director's NOIR dated March 4, 2005.

The regulation at 8 C.F.R. § 103.2(b)(16)(i) states in pertinent part:

If the decision will be adverse to the applicant or petitioner and is based on derogatory information considered by [Citizenship and Immigration Services (CIS)] and of which the applicant or petitioner is unaware, he/she shall be advised of this fact and offered an opportunity to rebut the information and present information in his /her own behalf before the decision is rendered, ...

On appeal counsel asserts that the petitioner did not have the opportunity to submit any evidence to overcome the grounds of revocation because it did not receive the NOIR. The record shows that on March 4, 2005, the director issued the NOIR and mailed it to the petitioner's counsel at [REDACTED]. The record shows that counsel moved and filed the instant appeal from his new address at [REDACTED]. The record also shows that counsel changed its address several times during the proceedings. Therefore, it appears possible that the petitioner through its counsel did not receive the NOIR dated March 4, 2005. The submission of the instant appeal itself indicates that the petitioner does not have the intent to abandon this immigrant petition by not responding to the director's NOIR. If the petitioner had received the NOIR, it could have submitted its assertions and additional evidence to rebut the grounds of intent to revoke.

In view of the foregoing, the previous decision of the director will be withdrawn. The petition is remanded to the director to provide the petitioner an opportunity to rebut the grounds of revocation by re-issuing the NOIR. Similarly, the petitioner may provide additional evidence within a reasonable period of time to be determined by the director. Upon receipt of all the evidence, the director will review the entire record and enter a new decision, which if adverse to the petitioner, shall be certified to the AAO.

**ORDER:** The director's decision is withdrawn. The petition is remanded to the director for further action in accordance with the foregoing and entry of a new decision.