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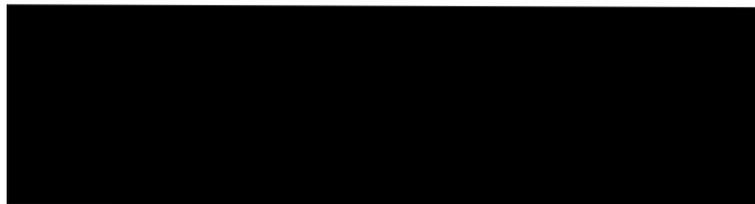
U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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FILE: [Redacted]  
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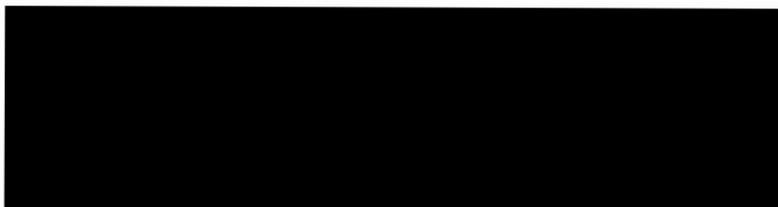
Office: CALIFORNIA SERVICE CENTER

Date: JUL 02 2007

IN RE: Petitioner: [Redacted]  
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:



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 immigrant visa petition approval was denied by the Director, California Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The petition will be remanded to the director for entry of a new decision.

The petitioner is a labels manufacturer. It seeks to employ the beneficiary permanently in the United States as a commercial designer. As required by statute, the petition is accompanied by a Form ETA 750, Application for Alien Employment Certification, approved by the U.S. Department of Labor. Based upon an investigation conducted into the beneficiary's work experience, the director determined that the beneficiary had not been employed by [REDACTED] of Aguascalientes, the Republic of Mexico, as stated on the labor certification. Thereafter, the director issued on May 13, 2005 a notice of intent to deny the petition. On July 14, 2005, the director revoked the petition finding that the petitioner had not responded to the notice of intent to deny the petition.

Counsel submitted a Form I-290B appeal in this matter. In the section reserved for the basis of the appeal, counsel states that the petitioner had responded in a timely fashion to the notice of intent to deny the petition.

On appeal, counsel submits additional evidence that the petitioner had responded in a timely fashion to the notice of intent to deny the petition: U.S. Postal Service mailing receipts dated June 8, 2005, a "Track & Confirm" receipt indicating mail was delivered on June 9, 2005; explanatory letters from counsel May 27, 2005 and dated June 7, 2005; a "declaration of [REDACTED]" dated June 8, 2005; two pay statements made by [REDACTED] to [REDACTED] two web pages from <http://canaintexags.org> as accessed June 2, 2005; two web pages from <http://us.f818.mail.yahoo.com>; two web pages from <http://seccionamarilla.com.mx>; a letter dated may 30, 2005, from [REDACTED] and, an excerpt from [REDACTED]'s Immigration Bulletin dated May 15, 2005.

All the above-mentioned documents are contained within the record of proceeding in this matter, as received by the California Service Center on June 9, 2005.

A notice of intent to deny the petition was issued by the director in this case according to the record of proceeding and a response from the petitioner was received in a timely manner. The director apparently issued his decision without considering the timely response from the petitioner. The AAO is remanding the case to the director to consider the timely submission made to the notice of intent to deny and to issue a substantive decision on the merits.

The AAO will remand the case to the director and the director can undertake any procedural mechanisms or request any additional information or evidence necessary to make an additional determination, and, if adverse to the petition's approval, certify the decision to the AAO.

**ORDER:** The petition is remanded to the director for entry of a new decision.