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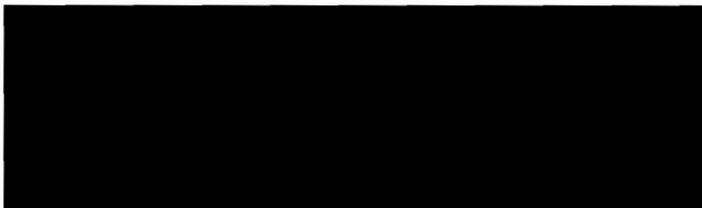
FILE: WAC-03-188-53173 Office: CALIFORNIA SERVICE CENTER Date: JUL 3 0 2007

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. The subsequent appeal was remanded to the director by the Administrative Appeals Office (AAO). The matter is before the AAO for review. The director's new decision will be affirmed and the petition will be denied.

The petitioner is a women's garment manufacturer. It seeks to employ the beneficiary permanently in the United States as a patternmaker. As required by statute, the petition is accompanied by a Form ETA 750, Application for Alien Employment Certification, approved by the Department of Labor (DOL). The petition was filed on June 10, 2003. The director determined that the petitioner had not established that the beneficiary had the requisite experience as stated on the labor certification petition. The director denied the petition accordingly. On appeal, the petitioner submitted additional evidence pertinent to the beneficiary's qualifying experience as a patternmaker. The AAO concurred with counsel's assertion and withdrew that ground of the director's denial, however, remanded the petition to the director for further action on the issue of the petitioner's continuing ability to pay the proffered wage from the priority date to the present, with instruction that if the new decision was adverse to the petitioner, it should be certified to the AAO for review. The director made a new decision on June 9, 2006.

The record shows that the director issued a request for evidence (RFE) on February 25, 2006. The RFE was mailed to the attorney of record for the instant case at his address in the record and granted the petitioner 12 weeks to respond to the RFE under the regulation. The record does not contain any response to the director's RFE from the petitioner or counsel. Accordingly, the director denied the petition on June 9, 2006, 15 weeks after issuing the RFE, due to abandonment since the petitioner failed to respond to the director's RFE.

The regulation at 8 C.F.R. § 103.2(b)(13) states:

*Effect of failure to respond to a request for evidence or appearance.* If all requested initial evidence and requested additional evidence is not submitted by the required date, the application or petition shall be considered abandoned and, accordingly, shall be denied.

The petitioner failed to respond the director's properly issued RFE within the allotted period, the petition is considered abandoned, and therefore, the petition must be denied due to abandonment. After a complete review of the record of proceeding, the AAO finds that the director properly issued the RFE and denied the petition for abandonment in accordance with the regulations. The director's June 9, 2006 decision must be affirmed.

**ORDER:** The director's June 9, 2006 decision is affirmed and the petition is denied.