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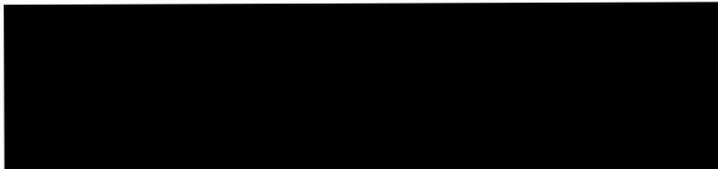
U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
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FILE:

EAC 06 115 51728

Office: TEXAS SERVICE CENTER

Date: APR 17 2008

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 for*

Robert P. Wiemann, Chief  
Administrative Appeals Office

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

The petitioner is a restaurant/diner. It seeks to employ the beneficiary permanently in the United States as a manager. As required by statute, the petition is accompanied by a Form ETA 750, Application for Alien Employment Certification, approved by the United States Department of Labor (DOL). The director determined that the petitioner had not established that it had the continuing ability to pay the beneficiary the proffered wage beginning on the priority date of the visa petition. The director denied the petition accordingly.

The petitioner submitted a Form I-290B appeal in this matter. In the section reserved for the basis of the appeal, the petitioner inserted,

“Appellant alleges that it has established according to generally accepted accounting principles that it has the ability to pay the proffered wage of \$36,000 per year.”

On appeal, counsel indicated that she would submit a brief and/or evidence to the AAO within 60 days.

Counsel dated the appeal November 21, 2006. As of this date, more than 16 months later, the AAO has received nothing further. The AAO sent a fax to counsel on February 26, 2008 informing counsel that no separate brief and/or evidence was received, to confirm whether or not she would send anything else in this matter, and as a courtesy, providing her with five days to respond. Counsel responded by fax on February 27, 2008 indicating that she does not plan to file a brief or evidence in support of this appeal.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part: “An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.”

The petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal and the appeal must be summarily dismissed.

**ORDER:** The appeal is dismissed.