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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
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U.S. Citizenship
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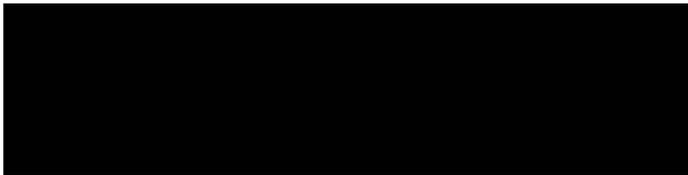


FILE: LIN 06 135 51741 Office: NEBRASKA SERVICE CENTER Date: **AUG 27 2008**

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.

A handwritten signature in black ink, appearing to read "Rob Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the employment-based immigrant visa petition, and the matter is now before the Administrative Appeals Office on appeal. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is an information technology company. It seeks to employ the beneficiary permanently in the United States as a programmer analyst. As required by statute, a Form ETA 750, Application for Alien Employment Certification approved by the Department of Labor, accompanied the petition. 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 and denied the petition accordingly.

On the Form I-290B, counsel wrote "Motion to Reopen/Please send to AAO." In Section 2 of the form, counsel indicates that he is not submitting a separate brief or evidence. The record contains no further evidence or comments submitted by counsel in support of either the petitioner's appeal or counsel's reference to a motion to reopen.

A motion to reopen must state the new facts to be proved in the reopened proceeding and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3). A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

In the instant matter, as stated previously, counsel submits no further documentation or brief to either support the petitioner's appeal or support a motion to reopen or reconsider the director's decision. Here, the appeal does not meet the requirements of a motion to reopen or a motion to reconsider. 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 for denial and has not provided any additional evidence. He has not even expressed disagreement with the director's decision. The appeal must therefore be summarily dismissed.

ORDER: The appeal is summarily dismissed.