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U.S. Citizenship
and Immigration
Services

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FILE:

[REDACTED]
SRC 06 255 50980

Office: TEXAS SERVICE CENTER

Date:

NOV 03 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, Chief
Administrative Appeals Office

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

The petitioner is a day health care facility for the elderly. It seeks to employ the beneficiary permanently in the United States as staff accountant. 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 2001 priority date of the visa petition and denied the petition accordingly.

On appeal, counsel states that an appeal will be filed to submit evidence that the petitioner has the ability to pay the proffered wage. Counsel states that he is sending a brief and/or evidence to the AAO within 30 days; however, the AAO has received no further evidence. Counsel dated the appeal January 29, 2007. As of this date, more than nineteen months later, the AAO has received nothing further.

On August 15, 2008, the AAO faxed the attorney of record with regard to whether he had submitted any further evidence to the record. Counsel did not respond to this correspondence. On July 31, 2008, the AAO faxed the petitioner with the same request for a copy of any further evidence submitted by the petitioner on appeal. The petitioner responded by stating "Said beneficiary is not connected with our company."

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. On the Form I-290B, counsel merely states that the petitioner will file evidence to establish its ability to pay the proffered wage. However, neither counsel or the petitioner has provided any additional evidence or argument. The appeal must therefore be summarily dismissed.

ORDER: The appeal is dismissed.