

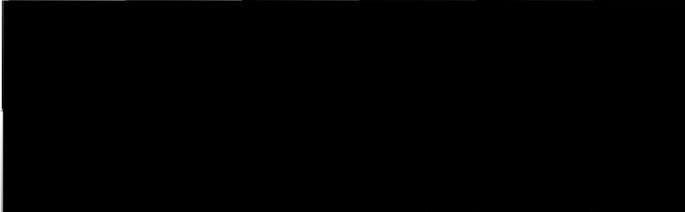
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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [Redacted]
LIN-06-251-52542

Office: NEBRASKA SERVICE CENTER

Date: OCT 22 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 preference visa petition was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a dry cleaner. It seeks to employ the beneficiary permanently in the United States as a supervisor dry-cleaning (manager). 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 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 record shows that the appeal is properly filed, timely and makes a specific allegation of error in law or fact. The procedural history in this case is documented by the record and incorporated into the decision. Further elaboration of the procedural history will be made only as necessary.

As set forth in the director's July 28, 2007 denial, the primary issue in this case is whether or not the petitioner has the ability to pay the proffered wage as of the priority date and continuing until the beneficiary obtains lawful permanent residence.

Section 203(b)(3)(A)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A)(i), provides for the granting of preference classification to qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing skilled labor (requiring at least two years training or experience), not of a temporary nature, for which qualified workers are not available in the United States.

The regulation 8 C.F.R. § 204.5(g)(2) states in pertinent part:

Ability of prospective employer to pay wage. Any petition filed by or for an employment-based immigrant which requires an offer of employment must be accompanied by evidence that the prospective United States employer has the ability to pay the proffered wage. The petitioner must demonstrate this ability at the time the priority date is established and continuing until the beneficiary obtains lawful permanent residence. Evidence of this ability shall be in the form of copies of annual reports, federal tax returns, or audited financial statements.

The petitioner must demonstrate the continuing ability to pay the proffered wage beginning on the priority date, which is the date the Form ETA 750 was accepted for processing by any office within the DOL's employment system. See 8 C.F.R. § 204.5(d). The petitioner must also demonstrate that, on the priority date, the beneficiary had the qualifications stated on its Form ETA 750 Application for Alien Employment Certification as certified by DOL and submitted with the instant petition. *Matter of Wing's Tea House*, 16 I&N Dec. 158 (Act. Reg. Comm. 1977).

Here, the Form ETA 750 was accepted on April 26, 2001. The proffered wage as stated on the Form ETA 750 is \$26.08 per hour (\$54,246.40 per year).¹ The Form ETA 750 states that the position requires two years of experience in the job offered or in the related occupation as a retail manager. The instant petition is for a substituted beneficiary.² On the petition, the petitioner claimed to have been established in 1991, to have a gross annual income of \$572,756.73, to have a net annual income of \$472,781.25, and to currently employ nine workers.³ With the petition, the petitioner submitted a Form ETA 750B with information pertaining to the qualifications of the new beneficiary. On the Form ETA 750B signed by the beneficiary on July 19, 2006, the beneficiary did not claim to have worked for the petitioner.

The AAO maintains plenary power to review each appeal on a de novo basis. 5 U.S.C. § 557(b) ("On appeal from or review of the initial decision, the agency has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule."); *see also*, *Janka v. U.S. Dept. of Transp.*, NTSB, 925 F.2d 1147, 1149 (9th Cir. 1991). The AAO's de novo authority has been long recognized by the federal courts. *See, e.g. Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989). The AAO considers all pertinent evidence in the record, including new evidence properly submitted upon appeal.⁴ On appeal, counsel submits a brief and a letter dated August 28, 2007 from [REDACTED] MBA, CPA (CPA August 28, 2007 letter) as new evidence of the petitioner's ability to pay the proffered wage. Other relevant evidence in the record includes Form 1120S U.S. Income Tax Return for an S Corporation filed by New Mind, Inc. for 2001 through 2003, and filed by the petitioner for 2004 through 2006, the petitioner's Form 941 Employer's Quarterly Federal Tax Return and Texas Employer's Quarterly Report for the first quarter of 2006, unaudited financial statements for 2005 and bank statements for the petitioner's business account covering January, June, August and October 2005, January through June of 2006 and January through May of 2007. The record does not contain any other evidence relevant to the petitioner's ability to pay the wage.

It is noted that New Mind, Inc. dba Best Cleaners filed the underlying labor certification application with DOL on April 26, 2001 and the Form ETA 750 was certified by DOL on November 15, 2005 to New Mind, Inc. dba Best Cleaners. On August 28, 2006, the petitioner filed the instant petition as the successor-in-interest to New Mind, Inc. dba Best Cleaners. The successor-in-interest status requires documentary evidence that the successor-in-interest has assumed all of the rights, duties, and obligations of the predecessor

¹ It is noted that the proffered wage offered by the petitioner on the Form I-140, Immigrant Petition for Alien Worker is \$1,238.80 per week (\$64,417.60 per year). However, this office will consider the proffered wage as stated on the Form ETA 750 in determining the petitioner's continuing ability to pay the proffered wage.

² An I-140 petition for a substituted beneficiary retains the same priority date as the original ETA 750. Memo. from Luis G. Crocetti, Associate Commissioner, Immigration and Naturalization Service, to Regional Directors, *et al.*, *Substitution of Labor Certification Beneficiaries*, at 3, http://ows.doleta.gov/dmstree/fm/fm96/fm_28-96a.pdf (March 7, 1996).

³ However, the petitioner's tax return for 2005 provides inconsistent information: it indicates that the petitioner was incorporated on February 7, 1995, had gross receipts or sales of \$541,613, total income of \$441,851 and ordinary business income of (\$5,033).

⁴ The submission of additional evidence on appeal is allowed by the instructions to the Form I-290B, which are incorporated into the regulations by the regulation at 8 C.F.R. § 103.2(a)(1) and the record in the instant case provides no reason to preclude consideration of any of the documents newly submitted on appeal, *See Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988).

company. The fact that the petitioner is doing business at the same location as the predecessor does not establish that the petitioner is a successor-in-interest. In response to the director's request for evidence (RFE) issued on March 28, 2007, counsel submitted a bill of sale signed on December 29, 2004 between New Mind, Inc. and the petitioner by which New Mind, Inc. sold and the petitioner purchased a dry-cleaning business under the trade name of Best Cleaners. This document has established the petitioner's successor-in-interest status to New Mind, Inc. In order to maintain the original priority date, a successor-in-interest must demonstrate that the predecessor had the ability to pay the proffered wage. Moreover, the petitioner must establish the financial ability of the predecessor enterprise to have paid the certified wage at the priority date. *See Matter of Dial Auto Repair Shop, Inc.*, 19 I&N Dec. 481 (Comm. 1986). Accordingly, the petitioner in the instant case must demonstrate that New Mind, Inc. had the ability to pay the proffered wage from the priority date of April 26, 2001 to the end of 2004 and that the petitioner as the successor-in-interest to New Mind, Inc. has been having the ability to pay the proffered wage since the beginning of 2005 to the present.

The petitioner must establish that its job offer to the beneficiary is a realistic one. Because the filing of an ETA 750 labor certification application establishes a priority date for any immigrant petition later based on the ETA 750, the petitioner must establish that the job offer was realistic as of the priority date and that the offer remained realistic for each year thereafter, until the beneficiary obtains lawful permanent residence. The petitioner's ability to pay the proffered wage is an essential element in evaluating whether a job offer is realistic. *See Matter of Great Wall*, 16 I&N Dec. 142 (Acting Reg. Comm. 1977). *See also* 8 C.F.R. § 204.5(g)(2). In evaluating whether a job offer is realistic, Citizenship and Immigration Services (CIS) requires the petitioner to demonstrate financial resources sufficient to pay the beneficiary's proffered wages, although the totality of the circumstances affecting the petitioning business will be considered if the evidence warrants such consideration. *See Matter of Sonogawa*, at 612.

In determining the petitioner's ability to pay the proffered wage during a given period, CIS will first examine whether the petitioner employed and paid the beneficiary during that period. If the petitioner establishes by documentary evidence that it employed the beneficiary at a salary equal to or greater than the proffered wage, the evidence will be considered *prima facie* proof of the petitioner's ability to pay the proffered wage. In the instant case, the petitioner did not submit any evidence to show that either New Mind, Inc. or the petitioner paid the beneficiary any amount of compensation in the relevant years. Thus, the petitioner failed to establish its ability to pay the proffered wage through wages paid to the beneficiary from 2001 onwards.

If the petitioner does not establish that it employed and paid the beneficiary an amount at least equal to the proffered wage during that period, CIS will next examine the net income figure reflected on the petitioner's federal income tax return, without consideration of depreciation or other expenses. Reliance on federal income tax returns as a basis for determining a petitioner's ability to pay the proffered wage is well established by judicial precedent. *Elatos Restaurant Corp. v. Sava*, 632 F. Supp. 1049, 1054 (S.D.N.Y. 1986) (citing *Tongatapu Woodcraft Hawaii, Ltd. v. Feldman*, 736 F.2d 1305 (9th Cir. 1984)); *see also Chi-Feng Chang v. Thornburgh*, 719 F. Supp. 532 (N.D. Texas 1989); *K.C.P. Food Co., Inc. v. Sava*, 623 F. Supp. 1080 (S.D.N.Y. 1985); *Ubeda v. Palmer*, 539 F. Supp. 647 (N.D. Ill. 1982), *aff'd*, 703 F.2d 571 (7th Cir. 1983). Counsel's assertions on appeal based on the CPA August 28, 2007 letter that the petitioner established its ability to pay the proffered wage with its gross sales, depreciation and ordinary income for the relevant years

are misplaced. Showing that the petitioner's total income exceeded the proffered wage is insufficient. Similarly, showing that the petitioner paid wages in excess of the proffered wage is insufficient.

In *K.C.P. Food Co., Inc. v. Sava*, 623 F. Supp. at 1084, the court held that the Immigration and Naturalization Service, now CIS, had properly relied on the petitioner's net income figure, as stated on the petitioner's corporate income tax returns, rather than the petitioner's gross income. Counsel's reliance on the petitioner's depreciation in determining its ability to pay the proffered wage is misplaced. The court in *K.C.P. Food Co., Inc. v. Sava* specifically rejected the argument that the Service should have considered income before expenses were paid rather than net income. The court in *Chi-Feng Chang* further noted:

Plaintiffs also contend the depreciation amounts on the 1985 and 1986 returns are non-cash deductions. Plaintiffs thus request that the court *sua sponte* add back to net cash the depreciation expense charged for the year. Plaintiffs cite no legal authority for this proposition. This argument has likewise been presented before and rejected. *See Elatos*, 632 F. Supp. at 1054. [CIS] and judicial precedent support the use of tax returns and the *net income figures* in determining petitioner's ability to pay. Plaintiffs' argument that these figures should be revised by the court by adding back depreciation is without support.

(Emphasis in original.) *Chi-Feng Chang* at 537

The petitioner submitted New Mind, Inc.'s Form 1120S U.S. Income Tax Return for an S Corporation for 2001 through 2003 as evidence of the predecessor enterprise's ability to pay the proffered wage at the priority date and continuing to the date when the petitioner's successor-in-interest status was established. The record shows that the priority date in the instant case is April 26, 2001 and that the petitioner assumed all of the rights, duties, and obligations of New Mind, Inc. on December 29, 2004. Therefore, the petitioner must establish that New Mind, Inc. as the predecessor enterprise had the ability to pay the proffered wage of \$54,246.40 for each year of 2001 through 2004. The tax returns of New Mind, Inc. in the record demonstrate the following financial information concerning its ability to pay the proffered wage from the priority date:

- In 2001, the Form 1120S stated a net income⁵ of \$35,856.

⁵ Where an S corporation's income is exclusively from a trade or business, CIS considers net income to be the figure for ordinary income, shown on line 21 of page one of the petitioner's Form 1120S. The instructions on the Form 1120S U.S. Income Tax Return for an S Corporation state on page one, "Caution: Include only trade or business income and expenses on lines 1a through 21."

Where an S corporation has income from sources other than from a trade or business, net income is found on Schedule K. The Schedule K form related to the Form 1120S states that an S corporation's total income from its various sources are to be shown not on page one of the Form 1120S, but on line 23 or line 17e of the Schedule K, Shareholders' Shares of Income, Credits, Deductions, etc. For example, an S corporation's rental real estate income is carried over from the Form 8825 to line 2 of Schedule K. Similarly, an S corporation's income from sales of business property is carried over from the Form 4979 to line 5 of Schedule K. *See* Internal Revenue Service, Instructions for Form 1120S (2003), available at <http://www.irs.gov/pub/irs-prior/i1120s--2003.pdf>; Instructions for Form 1120S (2002), available at <http://www.irs.gov/pub/irs-prior/i1120s--2002.pdf>.

- In 2002, the Form 1120S stated a net income of \$105,892.
- In 2003, the Form 1120S stated a net income of \$121,716.

Therefore, for the year 2001, the year of the priority date, the predecessor did not have sufficient net income to pay the proffered wage while it had sufficient net income to pay the proffered wage in 2002 and 2003. The petitioner did not submit New Mind, Inc.'s tax return for 2004. Thus the petitioner failed to demonstrate that the predecessor enterprise had the ability to pay the proffered wage with its net income in the year of the priority date and also failed to establish the predecessor's ability to pay the proffered wage for 2004 because of failing to submit the tax return or other regulatory-prescribed evidence for 2004.

The record also contains copies of the petitioner's Form 1120S U.S. Income Tax Return for an S Corporation for 2004 through 2006 as evidence of the petitioner's ability to pay the proffered wage from the time of the petitioner's successor-in-interest status to the present. The record shows that the petitioner's successor-in-interest was established on December 29, 2004, that the petitioner is obligated to demonstrate its ability to pay the proffered wage beginning in 2005, and therefore, the petitioner's 2004 tax return is not necessarily dispositive in determining the petitioner's ability to pay the proffered wage in the instant case. The petitioner's tax returns for 2005 and 2006 demonstrate the following financial information concerning its ability to pay the proffered wage of \$54,246.40 per year from the year of the successor-in-interest:

- In 2005, the Form 1120S stated a net income of \$25,872.
- In 2006, the Form 1120S stated a net income of \$44,246.

The tax returns show that for the years 2005 and 2006, the petitioner did not have sufficient net income to pay the proffered wage and thus, the petitioner failed to establish its ability to pay the proffered wage for 2005 and 2006.

If the net income the petitioner demonstrates it had available during that period, if any, added to the wages paid to the beneficiary during the period, if any, do not equal the amount of the proffered wage or more, CIS will review the petitioner's assets. We reject, however, the idea the petitioner's total assets should have been considered in the determination of the ability to pay the proffered wage. The petitioner's total assets include depreciable assets that the petitioner uses in its business. Those depreciable assets will not be converted to cash during the ordinary course of business and will not, therefore, become funds available to pay the proffered wage. Further, the petitioner's total assets must be balanced by the petitioner's liabilities. Otherwise, they cannot properly be considered in the determination of the petitioner's ability to pay the proffered wage. Rather, CIS will consider net current assets as an alternative method of demonstrating the ability to pay the proffered wage. Counsel urges that the petitioner's cash on hand should be added to its net profits in calculating the funds available to the petitioner to pay the proffered wage. That calculation would be inappropriate. Some portion of the petitioner's revenue during a given year is paid in expenses and the balance is the petitioner's net income. Of its net income, some is retained as cash. Adding the petitioner's Schedule L Cash to its net income would likely be duplicative, at least in part. The petitioner's Schedule L Cash is included in the calculation of the petitioner's net current assets, which are considered separately from its net income.

Net current assets are the difference between the petitioner's current assets and current liabilities.⁶ A corporation's year-end current assets are shown on Schedule L, lines 1 through 6. Its year-end current liabilities are shown on lines 16 through 18. If the total of a corporation's end-of-year net current assets and the wages paid to the beneficiary (if any) are equal to or greater than the proffered wage, the petitioner is expected to be able to pay the proffered wage using those net current assets.

- The predecessor's net current assets during 2001 were (\$48,699).
- The petitioner's net current assets during 2005 were (\$128,002).
- The petitioner's net current assets during 2006 were (\$13,711).

For the year 2001, the predecessor did not have sufficient net current assets to pay the proffered wage, and thus, the petitioner failed to establish the predecessor enterprise's ability to pay the proffered wage with its net current assets in the year of the priority date; for the year 2004, the petitioner did not submit the predecessor's tax return or other regulatory-prescribed evidence for 2004, and thus, failed to establish the predecessor's ability to pay the proffered wage with its net income or net current assets; and for 2005 and 2006, the petitioner did not have sufficient net current assets to pay the proffered wage, and thus, failed to establish its ability to pay the proffered wage with its net current assets in these years.

Therefore, from the date the Form ETA 750 was accepted for processing by DOL, the petitioner had not established that the predecessor and the petitioner had the continuing ability to pay the beneficiary the proffered wage as of the priority date in 2001 to 2006 through an examination of wages paid to the beneficiary, their net income or net current assets except for 2002 and 2003.

Counsel asserts in her brief accompanying the appeal that there is another way to determine the petitioner's continuing ability to pay the proffered wage from the priority date. Counsel advocates combining the petitioner's net income with its net current assets to demonstrate the petitioner's ability to pay the proffered wage based on the CPA August 28, 2007 letter. This approach is unacceptable because net income and net current assets are not, in the view of the AAO, cumulative. The AAO views net income and net current assets as two different ways of methods of demonstrating the petitioner's ability to pay the wage--one retrospective and one prospective. Net income is retrospective in nature because it represents the sum of income remaining after all expenses were paid over the course of the previous tax year. Conversely, the net current assets figure is a prospective "snapshot" of the net total of petitioner's assets that will become cash within a relatively short period of time minus those expenses that will come due within that same period of time. Thus, the petitioner is expected to receive roughly one-twelfth of its net current assets during each month of the coming year. Given that net income is retrospective and net current assets are prospective in nature, the AAO does not agree with counsel that the two figures can be combined in a meaningful way to illustrate the petitioner's ability to pay the proffered wage during a single tax year. Moreover, combining the net income and net current assets could double-count certain figures, such as cash on hand and, in the case of a taxpayer who reports taxes pursuant to accrual convention, accounts receivable.

⁶According to *Barron's Dictionary of Accounting Terms* 117 (3rd ed. 2000), "current assets" consist of items having (in most cases) a life of one year or less, such as cash, marketable securities, inventory and prepaid expenses. "Current liabilities" are obligations payable (in most cases) within one year, such accounts payable, short-term notes payable, and accrued expenses (such as taxes and salaries). *Id.* at 118.

The CPA August 28, 2007 letter refers to decisions issued by the AAO, but does not provide their published citations. While 8 C.F.R. § 103.3(c) provides that precedent decisions of CIS are binding on all its employees in the administration of the Act, unpublished decisions are not similarly binding. Precedent decisions must be designated and published in bound volumes or as interim decisions. 8 C.F.R. § 103.9(a).

The record contains the petitioner's unaudited financial statements for 2005. Counsel's reliance on unaudited financial records is misplaced. The regulation at 8 C.F.R. § 204.5(g)(2) makes clear that where a petitioner relies on financial statements to demonstrate its ability to pay the proffered wage, those financial statements must be audited. As there is no accountant's report accompanying these statements, the AAO cannot conclude that they are audited statements. Unaudited financial statements are the representations of management. The unsupported representations of management are not reliable evidence and are insufficient to demonstrate the ability to pay the proffered wage.

Counsel also submits bank statements for the petitioner's business checking accounts for selected months from January 2005 to May 2007. Counsel's reliance on the balances in the petitioner's bank accounts is also misplaced. First, bank statements are not among the three types of evidence, enumerated in 8 C.F.R. § 204.5(g)(2), required to illustrate a petitioner's ability to pay a proffered wage. While this regulation allows additional material "in appropriate cases," the petitioner in this case has not demonstrated why the documentation specified at 8 C.F.R. § 204.5(g)(2) is inapplicable or otherwise paints an inaccurate financial picture of the petitioner. Second, bank statements show the amount in an account on a given date, and cannot show the sustainable ability to pay a proffered wage. Third, no evidence was submitted to demonstrate that the funds reported on the petitioner's bank statements somehow reflect additional available funds that were not reflected on its tax return, such as the petitioner's taxable income (income minus deductions) or the cash specified on Schedule L that was considered in determining the petitioner's net current assets.

If the instant petition were the only petition filed by the predecessor and/or the petitioner, they would be required to produce evidence of their ability to pay the proffered wage to the single beneficiary of the instant petition. However, where a predecessor enterprise or petitioner has filed multiple petitions for multiple beneficiaries which have been pending simultaneously, the petitioner must produce evidence that their job offers to each beneficiary are realistic, and therefore, that they have the ability to pay the proffered wages to each of the beneficiaries of its pending petitions, as of the priority date of each petition and continuing until the beneficiary of each petition obtains lawful permanent residence. *See Mater of Great Wall*, 16 I&N Dec. 142, 144-145 (Acting Reg. Comm. 1977) (petitioner must establish ability to pay as of the date of the Form MA 7-50B job offer, the predecessor to the Form ETA 750 and ETA Form 9089). *See also* 8 C.F.R. § 204.5(g)(2).

CIS records show that the predecessor enterprise, New Mind, Inc. dba Best Cleaner, had filed three other immigrant petitions.⁷ Accordingly, New Mind, Inc. was responsible to pay three beneficiaries (including the instant beneficiary) the proffered wages in each of the years 2001 through 2004. The New Mind, Inc.'s net

⁷ SRC-08-007-58345 filed on October 9, 2007 and currently pending; and SRC-08-133-52517 filed on March 18, 2008 and currently pending.

income of \$35,856⁸ was not sufficient for even a single beneficiary in 2001; although the net income of \$105,892 in 2002 was sufficient to pay the single instant beneficiary the proffered wage, it was not sufficient to pay all three beneficiaries at the same level of the proffered wage as the instant petition; the net current assets of \$135,811⁹ was not sufficient to pay all three beneficiaries the same proffered wages as the instant beneficiary in 2003. Therefore, the predecessor had insufficient net income or net current assets to pay all proffered wages it should be responsible for the years 2001 through 2004.

CIS records also show that the petitioner filed one more immigrant petition in 2007 and 2008 respectively, both of which are currently pending.¹⁰ The petitioner was responsible to pay at least two beneficiaries (including the instant beneficiary) the proffered wages in 2007 and three beneficiaries in 2008.¹¹ Since neither the petitioner's net income nor the net current assets for 2005 and 2006 was insufficient to pay the single beneficiary the proffered wage, the petitioner also failed to establish its ability to pay the multiple proffered wages from 2005 to the present.

Counsel's assertions on appeal cannot be concluded to outweigh the evidence presented in the tax returns as submitted by the petitioner that demonstrates that the predecessor and/or the petitioner could not pay the proffered wage from the day the Form ETA 750 was accepted for processing by DOL.

The evidence submitted does not establish that the petitioner had the continuing ability to pay the proffered wage beginning on the priority date.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

ORDER: The appeal is dismissed.

⁸ The net income for 2001 was more than the net current assets, and thus this office chooses the net income instead of the net current assets in determining the ability to pay.

⁹ In 2003, New Mind, Inc.'s net current assets were more than the net income.

¹⁰ SRC-99-127-54511 filed on March 22, 1999 with a priority date of October 10, 1996 and approved on November 12, 1999; SRC-02-095-51601 filed on January 30, 2002 with a priority date of August 23, 2000, approved on July 1, 2002 and the beneficiary's Form I-485 Application for Adjustment of Status was pending until 2006; SRC-03-092-51033 filed on February 10, 2003 with a priority date of January 13, approved on August 19, 2003 and the beneficiary's adjustment of status application was pending until 2005.

¹¹ If considering their priority dates, the petitioner would have beneficiaries in addition to the instant beneficiary for prior years.