

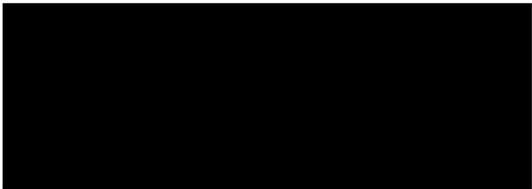
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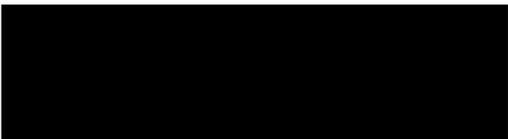


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Office: VERMONT SERVICE CENTER

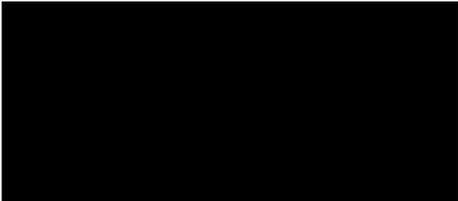
Date: FEB 03 2006

IN RE: Petitioner:
Beneficiary:



PETITION: Immigrant Petition for Alien Worker as a Skilled Worker or Professional Pursuant to Section 203(b) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)

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, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be summarily dismissed.

The petitioner seeks to classify the beneficiary pursuant to section 203(b)(3) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3) as a skilled worker or professional. The petitioner is a restaurant. It seeks to employ the beneficiary permanently in the United States as a cook, specialty foreign food. As required by statute, a Form ETA 750, Application for Alien Employment Certification, approved by the Department of Labor, accompanies the petition. The director determined that the petitioner had not established its continuing ability to pay the proffered wage from the priority date of April 30, 2001.

On appeal, counsel declines to provide a brief. Counsel states, "The bank statements submitted in addition to the Federal Tax Return are evidence that the company had sufficient assets each month to pay the proffered wage."

The regulation at 8 C.F.R. § 103.3(a)(1)(v) provides that "[a]n 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."

In this case, the bare assertion of error is not a sufficient basis for a substantive appeal, especially since in the notice of decision; the director stated, "It is noted that you have enclosed bank statements from 2001. During that year, the ending balances were routinely less than the proffered wage. The statements do not bear ending balances that increase and remain above the proffered wage for a sustained period of time. Therefore, they do not serve to verify your ability to pay the beneficiary." Counsel's assertion on appeal does not specifically address errors in the director's decision.

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

ORDER: The appeal is summarily dismissed.