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

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FILE:

[REDACTED]
LIN-06-248-52448

Office: NEBRASKA SERVICE CENTER

Date: JUL 02 2008

IN RE:

Petitioner:
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:

[REDACTED]

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 F. Wiemann, Chief
Administrative Appeals Office

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

The petitioner seeks to classify the beneficiary as a professional worker pursuant to 8 C.F.R. § 204.5(1)(2). The director determined that the petitioner could not demonstrate that the beneficiary had the required education to meet the terms of the certified labor certification. Further, the director determined that the petitioner failed to demonstrate that it had the ability to pay the beneficiary the proffered wage from the priority date onward.

On appeal, counsel indicated that it would send a brief within 30 days on behalf of the petitioner.

The appeal was filed on April 12, 2007. As of this date, more than thirteen months after filing the appeal, the AAO has received nothing further. On March 20, 2008, the AAO director issued a Notice of Intent to Deny (“NOID”) for the petitioner to respond to within 30 days. The NOID requested that the petitioner provide a copy of the recruitment file submitted to DOL in order to determine how the petitioner described the position offered to the public in its labor certification advertisements. Further, the NOID provided that the petitioner had failed to provide evidence of the petitioner’s ability to pay for the years 2000, 2001, 2002, 2003, and 2005. The petitioner additionally failed to provide an educational evaluation to demonstrate the U.S. equivalency of the beneficiary’s foreign education, and failed to provide any evidence that the beneficiary had the prior two years of work experience required as listed on Form ETA 750. Further, the NOID provided that the petitioner had indicated it would file a brief within 30 days, and requested that the petitioner indicate whether or not it had filed a brief with its response to the NOID. The petitioner failed to respond to the NOID, and did not send any brief as indicated on Form I-290.¹

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.

The petitioner here has not addressed the reasons stated for denial and has not provided any additional evidence related to the issues of the beneficiary’s qualifications, and/or the petitioner’s ability to pay the beneficiary the proffered wage, the bases on which the petition was denied. Further, the petitioner has failed to identify the specific erroneous conclusion of law. The appeal must therefore be summarily dismissed.

ORDER: The appeal is dismissed.

¹ The purpose of the request for evidence is to elicit further information that clarifies whether eligibility for the benefit sought has been established, as of the time the petition is filed. See 8 C.F.R. §§ 103.2(b)(8) and (12). The failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(13).