

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

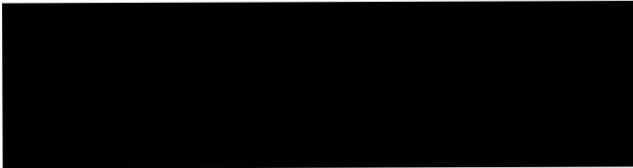
PUBLIC COPY



U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090

**U.S. Citizenship
and Immigration
Services**

B6



FILE: [REDACTED]
SRC 07 217 52309

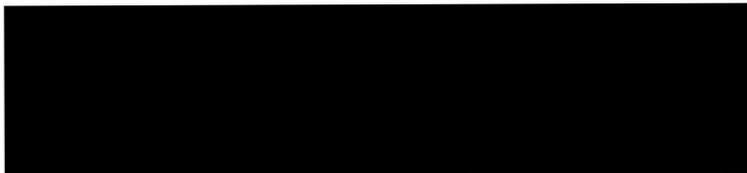
Office: TEXAS SERVICE CENTER

Date: **MAY 13 2009**

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom
Acting Chief, Administrative Appeals Office

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

The petitioner is an online food distributor. It seeks to employ the beneficiary permanently in the United States as a Senior ABAP/4 Developer. As required by statute, the petition is accompanied by a Form ETA 750, Application for Alien Employment Certification approved by the U.S. 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 further determined that the that the petitioner had not demonstrated that the beneficiary had the qualifications stated on the labor certification submitted with the instant petition. The director denied the petition accordingly.

On appeal, counsel states that the director erred in concluding that the petitioner did not establish its ability to pay the proffered wage. Counsel further asserts that the director erred in concluding that the beneficiary had a three-year degree and thus did not meet the qualifications stated on the labor certification. The petitioner failed to specifically address the director's analysis of the evidence, and did not furnish any additional evidence. Counsel indicated on the Form I-290B, Notice of Appeal or Motion, that a brief and/or additional evidence would be submitted to the AAO within 30 days. However, no brief or evidence has been received by the AAO. The regulation at 8 C.F.R. §§ 103.3(a)(2)(vii) and (viii) states that an affected party may make a written request to the AAO for additional time to submit a brief and that, if the AAO grants additional time, the affected party may submit the brief directly to the AAO.

As stated in 8 C.F.R. § 103.3(a)(1)(v), any appeal that fails to identify specifically any erroneous conclusion of law or statement of fact shall be summarily dismissed. A review of the decision reveals that the director accurately set forth a legitimate basis for denial of the petition. On appeal, the petitioner has not presented additional evidence. Nor has the petitioner specifically addressed the basis for denial. The appeal must therefore be summarily dismissed.

ORDER: The appeal is dismissed.