

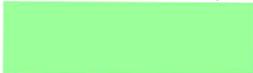
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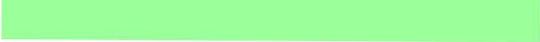
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

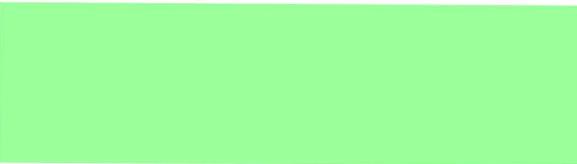


Date: Office: TEXAS SERVICE CENTER FILE: 
MAY 02 2013

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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: On February 13, 2012 the Administrative Appeals Office (AAO) dismissed the appeal and affirmed the decision of the Director, Texas Service Center (the director). The petitioner has now filed a motion to reconsider the AAO's decision. The motion will be dismissed, and the approval of the petition will remain revoked.

The petitioner is a cleaning company. It seeks to employ the beneficiary permanently in the United States as a bookkeeper, pursuant to section 203(b)(3)(A)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A)(i).¹ As required by statute, the petition is accompanied by a Form ETA 750, Application for Alien Employment Certification, approved by the United States Department of Labor (DOL). The AAO dismissed the appeal, finding that the director had good and sufficient cause to revoke the approval of the petition in accordance with section 205 of the Act, 8 U.C.S. § 1155. Specifically, we determined that the petitioner failed to establish by a preponderance of the evidence that (a) it conducted the recruitment properly, (b) the beneficiary possessed the requisite work experience in the job offered before the priority date, and (c) the company has the ability to pay the proffered wage from the priority date and continuously until the beneficiary receives his lawful permanent residence.

On motion to reconsider, counsel for the petitioner disagrees with the AAO's finding and determination but offers no additional evidence and/or precedent decisions to support his point.

The AAO conducts appellate review on a *de novo* basis. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

Here, counsel mainly disagrees with the AAO's decision and requests this office to issue a Request for Evidence (RFE) "stating what is required so [the] petitioner can respond to it." However, both the director's April 30, 2009 decision and the AAO's decision in February 2012 advised the petitioner of the issues in the instant case, as well as the deficiencies in the record.

Further, the motion in this case is not supported by any precedent decisions to establish that the AAO's decision was based on an incorrect application of law. Without documentary evidence and precedent decisions to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. 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. For the reasons stated above, the motion must be dismissed.

ORDER: The motion is dismissed, and the approval of the petition will remain revoked.

¹ 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.