(b)(6)

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: MAY 24 2013 OFFICE: TEXAS SERVICE CENTER FILE:

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,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The employment-based preference visa petition was initially approved by the Director, Texas Service Center (the director). In connection with the beneficiary's Application to Register Permanent Resident or Adjust Status (Form I-485), the director served the petitioner with notice of intent to revoke the approval of the petition (NOIR). In a Notice of Revocation (NOR), dated June 26, 2012, the director ultimately revoked the approval of the Form I-140, Immigrant Petition for Alien Worker. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

Section 205 of the Act, 8 U.S.C. § 1155, provides that "[t]he Attorney General [now Secretary, Department of Homeland Security], may, at any time, for what he deems to be good and sufficient cause, revoke the approval of any petition approved by him under section 204." The realization by the director that the petition was approved in error may be good and sufficient cause for revoking the approval. *Matter of Ho,* 19 I&N Dec. 582, 590 (BIA 1988).

The petitioner describes itself as a restaurant. It seeks to permanently employ the beneficiary in the United States as a cook. The petitioner requests classification of the beneficiary as a professional or skilled worker pursuant to section 203(b)(3)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A).[1]

The petition is accompanied by a Form ETA 750, Application for Alien Employment Certification (labor certification), certified by the U.S. Department of Labor (DOL).[2] The priority date of the petition, which is the date the DOL accepted the labor certification for processing, is April 27, 2001. *See* 8 C.F.R. § 204.5(d).

The director's decision revoking the petition concludes that the petitioner failed to demonstrate that the beneficiary satisfied the minimum level of experience stated on the labor certification because the qualifying employment letters were fraudulent. The director found that the evidence submitted by the petitioner failed to overcome the inconsistencies in the record, finding that the beneficiary committed material misrepresentation on the Form ETA 750 because the qualifying employment letters were not credible. The director also found that the petitioner had failed to establish the ability

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[1] Section 203(b)(3)(A)(i) of the Act, 8 U.S.C. § 1153(b)(3)(A)(i), grants preference classification to qualified immigrants who are capable 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. Section 203(b)(3)(A)(ii) of the Act, 8 U.S.C. § 1153(b)(3)(A)(ii), grants preference classification to qualified immigrants who hold baccalaureate degrees and are members of the professions.

[2] This petition involves the substitution of the labor certification beneficiary. The substitution of beneficiaries was formerly permitted by the DOL. On May 17, 2007, the DOL issued a final rule prohibiting the substitution of beneficiaries on labor certifications effective July 16, 2007. *See* 72 Fed. Reg. 27904 (codified at 20 C.F.R. § 656). As the filing of the instant petition predates the final rule, and since another beneficiary has not been issued lawful permanent residence based on the labor certification, the requested substitution will be permitted.

to pay the proffered wages of the beneficiary and other beneficiaries on whose behalf the petitioner had filed other Form I-140 immigrant petitions. The director denied the petition and invalidated the labor certification on June 26, 2012.

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.

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). The AAO considers all pertinent evidence in the record, including new evidence properly submitted upon appeal.[3] On appeal, counsel submits only the Form I-290B.[4]

The AAO notes that the NOIR was properly issued pursuant to *Matter of Arias*, 19 I&N Dec. 568 (BIA 1988) and *Matter of Estime*, 19 I&N Dec. 450 (BIA 1987). Both cases held that a notice of intent to revoke a visa petition is properly issued for "good and sufficient cause" when the evidence of record at the time of issuance, if unexplained and unrebutted, would warrant a denial of the visa petition based upon the petitioner's failure to meet his burden of proof. The director's NOIR, dated July 6, 2010, sufficiently detailed the evidence of the record, pointing out the deficiencies and inconsistencies in regard to the beneficiary's qualifying employment letters, that would warrant a denial if unexplained and unrebutted, and thus was properly issued for good and sufficient cause.

The beneficiary must meet all of the requirements of the offered position set forth on the labor certification by the priority date of the petition. 8 C.F.R. § 103.2(b)(l), (12). *See Matter of Wing's Tea House*, 16 I&N Dec. 158, 159 (Act. Reg. Comm. 1977); *see also Matter of Katigbak,* 14 I&N Dec. 45, 49 (Reg. Comm. 1971).

In evaluating the labor certification to determine the required qualifications for the position, U.S. Citizenship and Immigration Services (USCIS) may not ignore a term of the labor certification, nor may it impose additional requirements. *See Madany v. Smith*, 696 F.2d 1008 (D.C. Cir. 1983); *K.R.K. Irvine, Inc. v. Landon*, 699 F.2d 1006 (9th Cir. 1983); *Stewart Infra-Red Commissary of Massachusetts, Inc. v. Coomey*, 661 F.2d 1 (1st Cir. 1981).

Where the job requirements in a labor certification are not otherwise unambiguously prescribed, e.g., by regulation, USCIS must examine "the language of the labor certification job requirements" in order to determine what the petitioner must demonstrate about the beneficiary's qualifications. *Madany*, 696 F.2d at 1015. The only rational manner by which USCIS can be expected to interpret

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[3] The submission of additional evidence on appeal is allowed by the instructions to the Form I-290B, which are incorporated into the regulations by 8 C.F.R. § 103.2(a)(1). 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).

[4] While counsel indicated that he would file a brief within 30 days, the AAO has to date not received said brief. Further, the petitioner did not submit any additional evidence on appeal.

the meaning of terms used to describe the requirements of a job in a labor certification is to "examine the certified job offer *exactly* as it is completed by the prospective employer." *Rosedale Linden Park Company v. Smith*, 595 F. Supp. 829, 833 (D.D.C. 1984)(emphasis added). USCIS's interpretation of the job's requirements, as stated on the labor certification must involve "reading and applying *the plain language* of the [labor certification]." *Id.* at 834 (emphasis added). USCIS cannot and should not reasonably be expected to look beyond the plain language of the labor certification or otherwise attempt to divine the employer's intentions through some sort of reverse engineering of the labor certification.

In the instant case, the labor certification states that the offered position has the following minimum requirements:

EDUCATION
Grade School: 0 years
High School: 0 years
College: 0 years
College Degree Required: N/A
Major Field of Study: N/A
TRAINING: N/A
EXPERIENCE: Two (2) years in the job offered
OTHER SPECIAL REQUIREMENTS: None.

The labor certification states that the beneficiary qualifies for the offered position based on experience as a cook with Pakistan, from January 1991 until November 1993.[5] No other experience is listed. The beneficiary signed the labor certification on August 9, 2006, under a declaration that the contents are true and correct under penalty of perjury.

The regulation at 8 C.F.R. § 204.5(l)(3)(ii)(A) states:

> Any requirements of training or experience for skilled workers, professionals, or other workers must be supported by letters from trainers or employers giving the name, address, and title of the trainer or employer, and a description of the training received or the experience of the alien.

The record contains an experience letter from an unknown individual, General Manager, on letterhead stating that the company employed the beneficiary as a cook from January 1991 until November 1993. Moreover, according to the Corporate Director of human resources for the the experience letter submitted by the petitioner is fraudulent and was not issued by the company. also confirms that the beneficiary has never been employed by the company. It is incumbent

[5] The Form G-325A does not indicate a last occupation abroad.

upon a petitioner to resolve the inconsistencies in the record concerning the beneficiary's experience by independent objective evidence and any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *See Matter of Ho*, 19 I&N Dec. at 591-92.

The record contains an experience letter from Chief Executive, on letterhead stating that the company employed the beneficiary as a cook from June 1988 until December 1990. However, the letter does not contain the full address of the employer. The letter only contains the general address of Pakistan and does not provide the street address. *See* 8 C.F.R. § 204.5(g)(1) and (l)(3)(ii)(A). The AAO notes that the description of the qualifying job duties contained in the letter is identical to the language used on the labor certification for the experience required for the proffered position. Further, the labor certification only lists the beneficiary's experience as a cook for In *Matter of Leung,* 16 I&N Dec. 2530 (BIA 1976), the Board's dicta notes that the beneficiary's experience, without such fact certified by DOL on the beneficiary's Form ETA 750B, lessens the credibility of the evidence and facts asserted. It is incumbent upon a petitioner to resolve the inconsistencies in the record concerning the beneficiary's experience by independent objective evidence and any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Id.*

In response to the NOIR issued by the director, the petitioner submitted an affidavit from dated July 29, 2010, in which he states that he is the chief executive of in Pakistan and that the beneficiary was employed there from June 1988 until December 1990 as a cook. The affidavit is accompanied by various bills for dated from 1998 through 2010; however, the bills are not contemporary to the beneficiary's employment and the only bill which contains an individual name associated with is addressed to a and not to *Id.* Furthermore, the letter is undated except for a facsimile date of April 26, 2007, corresponding to a phone number belonging to has no connection to the qualifying employer and only engages in the distribution of restaurant equipment.[6]

On appeal, counsel denies that the qualifying employment letters are fraudulent and states that it has been difficult for the beneficiary to obtain employment records that are more than 15 years old. Counsel states that the director's decision should be reversed because the experience letter is statutorily sufficient to sustain the labor certification. Counsel incorrectly states that the director did not question the validity of the letter. However, both the NOIR and NOR raised issues with the letter. Both the NOIR and NOR state that the claimed qualifying experience was not listed on the labor certification. The NOIR initially raised the issue that the director was unable to verify the existence of and the NOR concluded that the utility bills and affidavit submitted in response to the NOIR were

[6] The facsimile number is

insufficient to establish that the beneficiary was employed by or that the affiant was authorized by the claimed qualifying employer. The NOR also found that the original experience letter was undated and had a facsimile number related to a business other than the qualifying employer. The AAO finds that the petitioner has failed to establish that the beneficiary has the required experience for the proffered position.

The material issue remaining in this case is whether the petitioner has willfully misrepresented the beneficiary's qualifications to obtain an immigration benefit.

As immigration officers, USCIS Appeals Officers and Center Adjudications Officers possess the full scope of authority accorded to officers by the relevant statutes, regulations, and the Secretary of Homeland Security's delegation of authority. *See* sections 101(a)(18), 103(a), and 287(b) of the Act; 8 C.F.R. §§ 103.1(b), 287.5(a); DHS Delegation Number 0150.1 (effective March 1, 2003).

With regard to immigration fraud, the Act provides immigration officers with the authority to administer oaths, consider evidence, and further provides that any person who knowingly or willfully gives false evidence or swears to any false statement shall be guilty of perjury. Section 287(b) of the Act, 8 U.S.C. § 1357(b). Additionally, the Secretary of Homeland Security has delegated to USCIS the authority to investigate alleged civil and criminal violations of the immigration laws, including application fraud, make recommendations for prosecution, and take other "appropriate action." DHS Delegation Number 0150.1 at para. (2)(I).

As an issue of fact that is material to an alien's eligibility for the requested immigration benefit or that alien's subsequent admissibility to the United States, the administrative findings in an immigration proceeding must include specific findings of fraud or material misrepresentation. Within the adjudication of the visa petition, a finding of fraud or material misrepresentation will undermine the probative value of the evidence and lead to a reevaluation of the reliability and sufficiency of the remaining evidence. *Matter of Ho*, 19 I&N Dec. at 591-92.

Outside of the basic adjudication of visa eligibility, there are many critical functions of the Department of Homeland Security that hinge on a finding of fraud or material misrepresentation. For example, the Act provides that an alien is inadmissible to the United States if that alien seeks to procure, has sought to procure, or has procured a visa, admission, or other immigration benefits by fraud or willfully misrepresenting material fact. Section 212(a)(6)(C) of the Act, 8 U.S.C. § 1182. Additionally, the regulations state that the willful failure to provide full and truthful information requested by USCIS constitutes a failure to maintain nonimmigrant status. 8 C.F.R. § 214.1(f). For these provisions to be effective, USCIS is required to enter a factual finding of fraud or material misrepresentation into the administrative record.[7]

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[7] It is important to note that while it may present the opportunity to enter an administrative finding of fraud, the immigrant visa petition is not the appropriate forum for finding an alien inadmissible. *See Matter of O*, 8 I&N Dec. 295 (BIA 1959). Instead, the alien may be found inadmissible at a later date when he or she subsequently applies for admission into the United States or applies for adjustment of status to permanent resident status. *See* sections 212(a) and 245(a) of the Act,

If USCIS were to be barred from entering a finding of fraud after a petitioner withdraws the visa petition or appeal, the agency would be unable to subsequently enforce the law and find an alien inadmissible for having "sought to procure" an immigrant visa by fraud or willful misrepresentation of a material fact. *See* section 212(a)(6)(C) of the Act.

With regard to the current proceeding, section 204(b) of the Act states, in pertinent part, that:

> After an investigation of the facts in each case . . . the [Secretary of Homeland Security] shall, if he determines that the facts stated in the petition are true and that the alien . . . in behalf of whom the petition is made is an immediate relative specified in section 201(b) or is eligible for preference under subsection (a) or (b) of section 203, approve the petition . . . .

Pursuant to section 204(b) of the Act, USCIS has the authority to issue a determination regarding whether the facts stated in a petition filed pursuant to section 203(b) of the Act are true. In the instant case, the AAO affirms the director's finding that the petitioner made a willful misrepresentation of a material fact by stating that the beneficiary was employed by from January 1991 until November 1993 and by submitting a fraudulent letter of employment from

Willful misrepresentation of a material fact in these proceedings may render the beneficiary inadmissible to the United States. *See* section 212(a)(6)(c) of the Act, 8 U.S.C. § 1182, regarding misrepresentation, "(i) in general – any alien, who by fraud or willfully misrepresenting a material fact, seeks (or has sought to procure, or who has procured) a visa, other documentation, or admission to the United States or other benefit provided under the Act is inadmissible."

A material issue in this case is whether the beneficiary has the required two (2) years of experience for the position offered. The Attorney General has held that a misrepresentation made in connection with an application for a visa or other document, or with entry into the United States, is material if either:

> (1) the alien is excludable on the true facts, or (2) the misrepresentation tends to shut off a line of inquiry which is relevant to the alien's eligibility and which might well have resulted in a proper determination that he be excluded.

Matter of S & B-C-, 9 I&N Dec. 436, 447 (A.G. 1961). Accordingly, the materiality test has three parts. First, if the record shows that the alien is inadmissible on the true facts, then the misrepresentation is material. *Id.* at 448. If the foreign national would not be inadmissible on the

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8 U.S.C. §§ 1182(a) and 1255(a). Nevertheless, the AAO has the authority to enter a fraud finding, if during the course of adjudication, it discloses fraud or a material misrepresentation. In this case, the beneficiary has been given notice of the proposed findings and has been presented with opportunity to respond to the same.

true facts, then the second and third questions must be addressed. The second question is whether the misrepresentation shut off a line of inquiry relevant to the alien's admissibility. *Id.* Third, if the relevant line of inquiry has been cut off, then it must be determined whether the inquiry might have resulted in a proper determination that the foreign national should have been excluded. *Id.* at 449.

In this case, the beneficiary certified, upon completing and signing the Form ETA 750B labor certification application that he qualified for the position (that he had, at least two (2) years of work experience in the job offered) before the priority date. The petitioner maintained that the beneficiary was employed by from January 1991 until November 1992, even though the beneficiary failed to list the employment on the Form G-325 under penalty of perjury. Further, evidence from the qualifying employer confirms that the employment letter is fraudulent and that the beneficiary has never been employed by The petitioner also maintained that the beneficiary was employed by from June 1988 until December 1990, even though the beneficiary failed to list the employment on the Form ETA 750B labor certification under penalty of perjury and evidence that the signatory on the employment letter is not associated with the employer.

Counsel contends that the employment letter from is legitimate and that the beneficiary is unable to verify the employment because the management of the employer has changed and did not maintain sufficient records. The assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). As noted above, the petitioner has failed to provide independent, objective evidence sufficient to resolve the inconsistencies in the record and establish that the beneficiary was employed during the period he claims to have been employed by The AAO therefore affirms the director's decision to invalidate the labor certification.

Based on the noted inconsistencies and the petitioner's failure to provide independent objective evidence to overcome those inconsistencies, the AAO finds that the petitioner has deliberately concealed and misrepresented facts about the beneficiary's prior work experience from June 1988 until December 1990 and from January 1991 until November 1993.

Furthermore, the petitioner's false statements regarding the beneficiary's prior employment with shut off a line of relevant inquiry in these proceedings. Before the DOL, this misrepresentation prevented the agency from determining whether the essential elements of the labor certification application, including the actual minimum requirements, should be investigated more substantially. *See* 20 C.F.R. § 656.17(i). A job opportunity's requirements may be found not to be the actual minimum requirements where the alien did not possess the necessary qualifications prior to being hired by the employer. *See Super Seal Manufacturing Co.*, 88-INA-417 (BALCA Apr. 12, 1989) (*en banc*). In addition, DOL may investigate the alien's qualifications to determine whether the labor certification should be approved. *See Matter of Saritejdiam*, 1989-INA-87 (BALCA Dec. 21, 1989). Where an alien fails to meet the employer's actual minimum requirements, the labor certification application must be denied. *See Charley Brown's*, 90-INA-345 (BALCA Sept. 17, 1991); *Pennsylvania Home Health Services*, 87-INA-696 (BALCA Apr. 7, 1988). Stated another way, an employer may not require more experience or education of U.S. workers than the alien

actually possesses. *See Western Overseas Trade and Development Corp.*, 87-INA-640 (BALCA Jan. 27, 1988).

In this case, the DOL was unable to make a proper investigation of the facts when determining certification, because the beneficiary shut off a line of relevant inquiry. If the DOL had known the true facts, it would have denied the employer's labor certification, as the beneficiary was not qualified for the job opportunity at issue. In other words, the concealed facts, if known, would have resulted in the employer's labor certification being denied. *See Matter of Silver Dragon Chinese Restaurant*, 19 I&N Dec. 401, 403 (Comm'r 1986). Accordingly, the petitioner's misrepresentation was material under the second and third inquiries of *Matter of S & B-C-*.

By misrepresenting the beneficiary's work experience and making misrepresentations to the DOL, the petitioner sought to procure a benefit provided under the Act through willful misrepresentation of a material fact. Any finding of fraud as a result shall be considered in any future proceeding where admissibility is an issue. *See Matter of Ho*, 19 I&N Dec. at 591-92.

As noted above, it is proper for the AAO to make a finding of fraud pursuant to section 212(a)(6)(c) of the Act, 8 U.S.C. § 1182. The director specifically issued notice to the petitioner and the opportunity to respond or submit evidence to overcome the alleged misrepresentations concerning the beneficiary's prior experience that could warrant a denial if unexplained and unrebutted. As noted, the response was insufficient to overcome the noted inconsistencies. *Id.*

The AAO affirms the director's decision that the petitioner failed to establish that the beneficiary met the minimum requirements of the offered position set forth on the labor certification as of the priority date. Therefore, the beneficiary does not qualify for classification as a professional or skilled worker under section 203(b)(3)(A) of the Act.

The AAO affirms the director's finding of fraud and misrepresentation involving the labor certification. The AAO also affirms the director's invalidation of the labor certification. The regulation at 20 C.F.R. § 656.30(d) provides:

> (d) Invalidation of labor certifications. After issuance, a labor certification may be revoked by ETA using the procedures described in Sec. 656.32. Additionally, after issuance, a labor certification is subject to invalidation by the DHS or by a Consul of the Department of State upon a determination, made in accordance with those agencies' procedures or by a court, of fraud or willful misrepresentation of a material fact involving the labor certification application. If evidence of such fraud or willful misrepresentation becomes known to the CO or to the Chief, Division of Foreign Labor Certification, the CO, or the Chief of the Division of Foreign Labor Certification, as appropriate, shall notify in writing the DHS or Department of State, as appropriate. A copy of the notification must be sent to the regional or national office, as appropriate, of the Department of Labor's Office of Inspector General.

As the evidence reflects fraud involving the labor certification, the director appropriately invalidated the ETA Form 750, Application for Permanent Employment Certification (labor certification) in this case.

The petitioner has also failed to establish its continuing ability to pay the proffered wage as of the priority date. *See* 8 C.F.R. § 204.5(g)(2). The regulation at 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 either 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, Application for Alien Employment Certification, was accepted for processing by any office within the employment system of the DOL. *See* 8 C.F.R. § 204.5(d). The record before the director closed on August 9, 2010 with the receipt by the director of the petitioner's submissions in response to the director's NOIR. As of that date, the petitioner's 2009 federal income tax return was the most recent return available. However, the record does not any contain annual reports, federal tax returns, or audited financial statements for the petitioner for 2006 through 2009.

Additionally, according to USCIS records, the petitioner has filed five (5) Form I-140 petitions on behalf of other beneficiaries.[8] Accordingly, the petitioner must establish that it has had the continuing ability to pay the combined proffered wages to each beneficiary from the priority date of the instant petition. *See Matter of Great Wall*, 16 I&N Dec. 142, 144-145 (Acting Reg'l Comm'r 1977).

The evidence in the record does not document the priority date, proffered wage or wages paid to each beneficiary, whether four (4) of the other petitions have been withdrawn, revoked, or denied, or whether any of the other beneficiaries have obtained lawful permanent residence. Thus, it is also concluded that the petitioner has not established its continuing ability to pay the proffered wage to the beneficiary and the proffered wages to the beneficiaries of its other petitions.

The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

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[8] The Petitioner provided evidence that one of the petitions was revoked in 2006; however, the petitioner must still establish its ability to pay the beneficiary of the revoked petition through 2006.

ORDER: The appeal is dismissed.

FURTHER ORDER: The AAO finds that the petitioner knowingly misrepresented a material fact by submitting fraudulent documents in an effort to procure a benefit under the Act and the implementing regulations.

FURTHER ORDER: The alien employment certification, Form ETA 750, ETA case number is invalidated.