U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF A-R-S-, L.L.C.

DATE: APR. 26, 2018

APPEAL OF TEXAS SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a roofing company, seeks to employ the Beneficiary as a project manager. It requests classification of the Beneficiary as a member of the professions holding an advanced degree under the second preference immigrant classification. Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). This employment-based immigrant classification allows a U.S. employer to sponsor a professional with an advanced degree for lawful permanent resident status.

The petition was initially approved. The Acting Director of the Texas Service Center subsequently revoked the approval of the petition, concluding that based on inconsistencies in the record, the Petitioner did not establish that the Beneficiary possessed the experience required by the labor certification as of the priority date. The Director also determined that the Petitioner did not establish its continuing ability to pay the proffered wage.

On appeal, the Petitioner submits additional evidence and asserts that the Director did not apply the proper standard of proof; that the Beneficiary worked two jobs from 2007 to 2010 and, therefore, the record is consistent regarding his employment during that period; that the letters in the record regarding the Beneficiary's prior employment are consistent; that the Petitioner is a disregarded entity for tax purposes; and that the Petitioner has established its ability to pay the proffered wage based on the tax returns of its parent company.

Upon *de novo* review, we will dismiss the appeal.

I. LAW

A. The Employment-Based Immigration Process

Employment-based immigration generally follows a three-step process. First, an employer obtains an approved labor certification from the U.S. Department of Labor (DOL).[1] *See* section

[1] The priority date of a petition is the date the DOL accepted the labor certification for processing, which in this case is March 24, 2014. *See* 8 C.F.R. § 204.5(d).

212(a)(5)(A)(i) of the Act, 8 U.S.C. § 1182(a)(5)(A)(i). By approving the labor certification, the DOL certifies that there are insufficient U.S. workers who are able, willing, qualified, and available for the offered position and that employing a foreign national in the position will not adversely affect the wages and working conditions of domestic workers similarly employed. *See* section 212(a)(5)(A)(i)(I)-(II) of the Act. Second, the employer files an immigrant visa petition with U.S. Citizenship and Immigration Services (USCIS). *See* section 204 of the Act, 8 U.S.C. § 1154. Third, if USCIS approves the petition, the foreign national applies for an immigrant visa abroad or, if eligible, adjustment of status in the United States. *See* section 245 of the Act, 8 U.S.C. § 1255.

B. Revocation of a Petition's Approval

After granting a petition, USCIS may revoke the petition's approval "at any time" for "good and sufficient cause." Section 205 of the Act, 8 U.S.C. § 1155. If supported by the record, a director's realization that a petition was erroneously approved may justify revocation. *Matter of Ho*, 19 I&N Dec. 582, 590 (BIA 1988).

Good and sufficient cause exists to issue a notice of intent to revoke (NOIR) where the record at the time of the notice's issuance, if unexplained or unrebutted, would have warranted the petition's denial. *Matter of Estime*, 19 I&N Dec. 450, 451 (BIA 1987). Similarly, revocation is proper if the record at the time of the decision, including any explanation or rebuttal evidence provided by a petitioner, warranted a petition's denial. *Id.* at 452.

II. THE BENEFICIARY'S EXPERIENCE

The Director revoked the approval of the petition concluding, in part, that the Petitioner did not establish that the Beneficiary possessed the experience required by the labor certification as of the priority date.[2]

A 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); *Matter of Wing's Tea House*, 16 I&N Dec. 158, 159 (Acting Reg'l Comm'r 1977). In this case, the labor certification requires a master's degree in civil engineering and one year of experience in the job offered, or a bachelor's degree [3]and five years of experience in the job offered. The job duties of the offered job of project manager include: develop or implement policies, standards, or procedures for engineering and technical work; manage integration of technical activities in architectural or engineering projects; present and explain proposals to clients; review, recommend, or approve contracts and cost

[2] The regulation at 8 C.F.R. § 205.2 states:

> (a) *General.* Any [USCIS] officer authorized to approve a petition under section 204 of the Act may revoke the approval of that petition upon notice to the petitioner on any ground other than those specified in § 205.1 when the necessity for the revocation comes to the attention of [the USCIS].

[3] The record establishes that the Beneficiary has the foreign equivalent of a U.S. bachelor's degree.

estimates; direct, review, or approve project design changes; assess project feasibility; confer with management regarding projects specifications or procedures; prepare budgets, bids, or contracts; consult with clients regarding project specifications; direct recruitment, placement, and evaluation of architectural or engineering staff; apply roofing standards and regulations from Venezuela and Columbia; and apply knowledge of building codes for foreign buyers.

The issue on appeal is whether the Beneficiary has five years of post-baccalaureate experience as a project manager. The labor certification states that the Beneficiary qualifies for the offered position based on experience as a project manager for [redacted] in Venezuela from December 8, 2006, to August 30, 2010, and from January 1, 2012, to March 24, 2014.

Evidence relating to qualifying experience must be in the form of a letter from a current or former employer and must include the name, address, and title of the writer, and a specific description of the duties performed by the beneficiary. *See* 8 C.F.R. § 204.5(l)(3). Here, the record contains a letter dated March 24, 2014, from [redacted] President of [redacted] stating that the Beneficiary was employed as a project manager from December 8, 2006, to August 30, 2010, and from January 1, 2012, to the date of the letter. The duties of project manager detailed by [redacted] in the letter are nearly identical to the duties of the offered job listed on the labor certification.

In the NOIR, the Director noted that a letter submitted with the Beneficiary's prior H-1B nonimmigrant visa petition stated that the Beneficiary began working as the general manager and director for [redacted] in 2007. The Director indicated that the Petitioner must resolve the inconsistency with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. at 591-592. Unresolved material inconsistencies may lead us to reevaluate the reliability and sufficiency of other evidence submitted in support of the requested immigration benefit. *Id.*

In response to the NOIR, the Petitioner stated that from 2006 to 2010, the Beneficiary worked for [redacted] and [redacted]. The Petitioner indicated that both jobs were referenced in other parts of the Beneficiary's H-1B nonimmigrant visa petition, including the Beneficiary's resume, reference letters,[4] and a work experience evaluation. These documents indicate that the Beneficiary worked for [redacted] and [redacted] from 2007 to 2010. The Petitioner further indicated that the Beneficiary's employment with [redacted] was not required to be listed on the labor certification because it was not relevant experience as a project manager and it did not occur within the three years preceeding the filing of the labor certification.

[4] The reference letters include a letter dated July 15, 2010, from [redacted] stating that the Beneficiary worked as a "General Manager/Director" starting in 2007 at a salary of "BsF. 350,000.00 – USD 81,395.00;" and a letter dated July 15, 2010, from [redacted] stating that the Beneficiary worked as a "General Manager - Director" starting in 2007 at a salary of "BsF. 280,000.00 – USD 65,116.27." The duties of the two jobs are identical, and include: oversee overall development; prepare feasibility studies for new investments; handle relationship with official entities regarding permits, financing and operations; review annual budget; and plan, organize, and control administrative activities. The Petitioner asserts on appeal that these letters are consistent with letters that were subsequently provided to the record.

In response to the NOIR, the Petitioner also submitted new letters from [redacted] and [redacted] both written by [redacted] The letter from [redacted] dated February 23, 2017, states that the Beneficiary began as general manager in 2007 once the company received rezoning approval for a commercial property, and that he worked ten hours per week.[5] The letter indicates that the Beneficiary left in 2010, but returned in 2012 and resumed "some of the administrative duties of the operation" on a part-time basis.

The letter from [redacted] dated February 21, 2017, states that the Beneficiary's "role with the company has been that of General Manager and Project and Building Engineer; in other words he served as our Project Manager" from December 8, 2006, to August 30, 2010, and from January 1, 2012, to the end of 2014. The duties listed in the 2017 [redacted] letter mirror those listed on the labor certification for the job offered. The letter also adds duties that were not listed in the March 24, 2014, letter – namely, numerous "administrative duties" listed in the 2010 letter submitted with the H-1B including: oversee overall development; prepare feasibility studies; handle relationship with official entities regarding permits, financing, and operations; review annual budget; and plan, organize, and control administrative activities. The letter indicated that his fee was 15% of the overall cost of the project and that the Beneficiary drew against that fee during his employment.

The NOIR response also contained a 2010 work experience report from Global Education Group (GEG). The evaluation indicates that it was based on letters issued by employers detailing the Beneficiary's job responsibilities; however, those letters are not detailed in or attached to the evaluation. Further, the evaluator states that he assumes "no responsibility for the authenticity of the documents reviewed." The evaluation states that the Beneficiary was manager and administrator of [redacted] and [redacted] from 2007 to the date of the evaluation on July 28, 2010. His job titles and duties at both companies were listed together, seemingly identical to each other. The duties listed are similar to the duties listed in the 2010 letters submitted to the record, with two additions: safeguard marketing and sales functions, and plan and develop goals and annual objectives. The information used to prepare the evaluation was provided by the Beneficiary, and thus, the GEG evaluation is not independent, objective evidence of the Beneficiary's experience as a full-time project manager with [redacted] from December 8, 2006, to August 30, 2010, and from January 1, 2012, to March 24, 2014. Further, the evaluation lists the Beneficiary's employment with [redacted] as a manager and administrator of [redacted] from 2007 to the date of the evaluation on July 28, 2010. It does not verify his five years of experience in the job offered of project manager.

The NOIR response also included the Beneficiary's tax returns from Venezuela for 2006-2007, 2009-2010, and 2012-2014, and a February 24, 2017, letter from an accountant regarding the Beneficiary's income. The Petitioner asserted that the report from the accountant and the Beneficiary's tax returns provided independent, objective evidence of the Beneficiary's employment. The accountant's report details the Beneficiary's "income from professional fees as Civil Engineer, Rents and Participation in the Companies [redacted] and other income from January 1, 2009, to December 31, 2016. The report states that the Beneficiary "is responsible for the

[5] The Beneficiary is also a 66% owner of [redacted]

information provided and the determination of the amount of income." It lists the following "annual income ratio" for the Beneficiary as follows:

Year	Participation	Rent & Professional Fees	Other Income	Bs/Year
2009	161.230,000	69.094,00	416.000,00	646.324,04
2010	272.000,00	194.142,85	0,00	466.142,85
2011	100.000,00	320.357,16	0,00	420.357,16
2012	100.000,00	456.761,47	0,00	556.761,47
2013	0,00	519.531,36	0,00	519.531,36
2014	360.000,00	75.119,16	0,00	435.119,16
2015	460.000,00	215.346,83	0,00	675.346,83
2016	500.000,00	485.535,62	0,00	985.535,62

The report states that income was demonstrated through documents of assurances (revenue invoices). However, these revenue invoices were not submitted to the record, and the accountant's report does not indicate the source of revenues. The report does not indicate that the Beneficiary received income as a full-time project manager with [redacted] from December 8, 2006, to August 30, 2010, and from January 1, 2012, to March 24, 2014. The tax returns also do not indicate the source of the Beneficiary's income for 2006-2007, 2009-2010, and 2012-2014, and all of the English translations provided with the tax returns are incomplete.[6] For example, the 2006 and 2007 Venezuelan returns each consist of two pages, but the translations contain only a small portion of the first page of each return; the 2009 Venezuelan return contains five pages, but the translation contains less than three pages of that information; and the 2010 Venezuelan return contains four pages, but the translation contains only a small portion of the first page of the return. We also note that the 2010 letters from [redacted] and [redacted] indicate that the Beneficiary made a combined annual total of 630.000,00 Bs/year from both companies. The report from the accountant does not reflect that amount. Further, it is not clear why the Beneficiary was purportedly paid more by [redacted] (350.000,00) than by [redacted] (280.000,00) if he worked only 10 hours per week at [redacted] and full-time at [redacted] Because of these inconsistencies, the report from the accountant and the Beneficiary's tax returns do not resolve the inconsistencies in the record. Instead, they add to the inconsistencies in the record. *See Matter of Ho*, 19 I&N Dec. at 591-592.

In his decision, the Director found that the evidence submitted in response to the NOIR did not overcome the inconsistencies in the record. He noted that the Beneficiary's experience with [redacted] represents relevant experience that should have been listed on the labor certification.[7] He indicated

[6] A full English language translation must accompany any document containing foreign language. 8 C.F.R. § 103.2(b)(3). The translator must certify that the translation is complete and accurate, and that the translator is competent to translate from the foreign language into English. *Id.* Because the Petitioner did not submit a properly certified English language translation of the document, we cannot meaningfully determine whether the translated material is accurate and thus supports the Petitioner's claims.

[7] The omission of the Beneficiary's claimed experience from the labor certification application casts doubt on the experience's validity. *See Matter of Leung*, 16 I&N Dec. 12, 14-15 (Distr. Dir. 1976), *disapproved of on another ground*

that the Petitioner did not disclose the experience with [redacted] until the NOIR response, and the Petitioner did not submit evidence of actual payments made to the Beneficiary by [redacted] or [redacted]. He also noted that the employment verification letters submitted in response to the NOIR contain identical wording, which reduces their credibility. The Director also noted that the Beneficiary's relationship with [redacted] as co-owners of [redacted] casts doubt on the credibility of the experience letters written by him.[8] Thus, the Director found that the Petitioner had not established that the Beneficiary had the required five years of progressive post-baccalaureate experience.

On appeal, the Petitioner asserts that the Beneficiary worked two jobs from 2006 to 2010 and, therefore, the record is consistent regarding his employment during that period; and that the letters in the record regarding the Beneficiary's prior employment are consistent. We disagree. The Beneficiary's job descriptions clearly changed from the letters written in 2010 to the letters written in 2017. In the 2010 letters supporting the H-1B petition, the Beneficiary claimed to hold two simultaneous jobs as general manager/director at [redacted] and [redacted] The duties of the jobs were identical and included: oversee overall development; prepare feasibility studies for new investments; handle relationship with official entities regarding permits, financing, and operations; review annual budget; and plan, organize, and control administrative activities. The 2010 evaluation from GEG also described the job duties of the two positions in similar terms.

In the 2014 letter supporting the current petition, the Beneficiary's job title at [redacted] was changed from general manager/director to project manager, and his job duties were expanded and included: develop or implement policies, standards or procedures for engineering and technical work; manage integration of technical activities in architectural or engineering projects; present and explain proposals to clients; review, recommend, or approve contracts and cost estimates; direct, review, or approve project design changes; assess project feasibility; confer with management regarding projects specifications or procedures; prepare budgets, bids, or contracts; consult with clients regarding project specifications; direct recruitment, placement, and evaluation of architectural or engineering staff; apply roofing standards and regulations from Venezuela and Columbia; and apply knowledge of building codes for foreign buyers. This job description adds duties that were not included in the 2010 [redacted] letter, and uses a different job title.

Subsequently, in the 2017 letters, the Beneficiary attempts to distinguish his positions at [redacted] and [redacted] despite the jobs formerly being described in identical terms. While the [redacted] job duties remained limited in the 2017 letter, the [redacted] job duties were expanded to include all of the duties from both the 2010 letter and 2014 letter. While terming the additional duties "administrative" duties, it is clear that the 2017 [redacted] letter attempted to reconcile the inconsistencies in the 2010 and

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by Matter of Lam, 16 I&N Dec. 432 (BIA 1978) (finding a foreign national's claim of qualifying experience to lack credibility where he omitted the experience from a labor certification application).

[8] On appeal, the Petitioner states that the Beneficiary worked on several projects in different and overlapping capacities with [redacted] and that the relationship does not lessen the credibility of the letters written by [redacted]. We agree that the relationship does not, by itself, lessen the credibility of the letters. The record shows that [redacted] wrote letters on behalf of [redacted] and [redacted] in his capacity as an officer of the two entities.

2014 letters by combining all of the duties from both letters into one job description.[9] The credibility of the letters is lessened by the inconsistencies. A petitioner may not make material changes in an effort to conform a petition to USCIS requirements. *See Matter of Izummi*, 22 I&N Dec. 169, 176 (Assoc. Comm'r 1988).

Further, the record is inconsistent regarding the dates of the Beneficiary's prior employment with and The 2010 letters, the Beneficiary's resume, and the GEG evaluation state that the Beneficiary started both jobs in 2007; the 2014 letter states that the Beneficiary started with in 2006; and the 2017 letters state that the Beneficiary began in 2006 with and 2007 with The accountant's report doesn't reflect information for 2006 and 2007, and the tax returns for 2006 and 2007 are not properly translated and do not indicate the source of the Beneficiary's income in 2006 and 2007. Therefore, the accountant's report and tax returns do not resolve the inconsistencies in the Beneficiary's purported start dates of employment. In this case, the experience letters do not credibly support the Beneficiary's claimed employment on the labor certification, and the tax returns and accountant's report do not provide credible, independent, and objective evidence of that employment. *See Matter of Ho*, 19 I&N Dec. at 591-592.

On appeal, the Petitioner also states that the Beneficiary's employment was not listed on the labor certification because it was not relevant to his experience as a project manager and did not occur within three years preceeding the filing of the labor certification. We disagree. The letter from dated February 23, 2017, states that the Beneficiary began as general manager in 2007, left in 2010, and returned in 2012 on a part-time basis. Therefore, his most recent employment with occurred within the three year period preceeding the filing of the labor certification in 2014 and should have been listed. Further, the duties of the Beneficiary's positions at and were listed as identical in the July 15, 2010, letters from and If the duties were identical, and the Petitioner asserts that the job at qualifies the Beneficiary for the offered job, then the job at should also have been listed as a qualifying job. Although the Petitioner was not required to provide a letter verifying the Beneficiary's experience with if it was not using that work experience to qualify the Beneficiary for the offered job, the experience should have been listed on the labor certification.

On appeal, the Petitioner also asserts that the Director did not apply the proper standard of proof. We disagree. A petitioner must establish that it meets each eligibility requirement by a preponderance of the evidence. *Matter of Chawathe*, 25 I& N Dec. 369, 375-76 (AAO 2010). In other words, a petitioner must show that what it claims is "more likely than not" or "probably" true. To determine whether a petitioner has met its burden under the preponderance standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Id.* at 376; *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989). In this case, the Director's NOIR established that the evidence submitted by the Petitioner regarding the Beneficiary's experience was not credible due to inconsistencies in the Beneficiary's record. The

[9] The Petitioner states that the general duties listed in 2010 letters from and are present in the 2017 letters.

Petitioner failed to reconcile the inconsistencies in the record with independent, objective evidence establishing that the Beneficiary qualifies for the offered position based on experience as a project manager for [redacted] from December 8, 2006, to August 30, 2010, and from January 1, 2012, to March 24, 2014, as listed on the labor certification. The Petitioner has not met its burden under the preponderance standard.

The Petitioner has not established that the Beneficiary possessed the experience required by the labor certification as of the priority date. The petition's approval was properly revoked on this basis.

III. ABILITY TO PAY THE PROFFERED WAGE

The Director revoked the approval of the petition concluding, in part, that the Petitioner did not establish its continuing ability to pay the proffered wage from the petition's priority date onward. The proffered wage is $97,000 per year and the priority date is March 24, 2014.

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.

In determining a petitioner's ability to pay, we first examine whether it paid a beneficiary the full proffered wage each year from a petition's priority date.[10] If a petitioner did not pay a beneficiary the full proffered wage, we next examine whether it had sufficient annual amounts of net income or net current assets to pay the difference between the proffered wage and the wages paid, if any. If a petitioner's net income or net current assets are insufficient, we may also consider other evidence of its ability to pay the proffered wage.[11]

The Petitioner asserts that it is a disregarded entity for tax purposes; that it does not file its own tax return; and that its financial results are included on the tax returns of its parent entity. The record contains a credible letter from an accountant verifying this information. However, the parent's tax returns do not independently list the Petitioner's income, expenses, assets, and liabilities. Because

[10] The record does not demonstrate that the Petitioner has paid the Beneficiary any wages from the priority date onward.

[11] Federal courts have upheld our method of determining a petitioner's ability to pay a proffered wage. *See, e.g., River St. Donuts, LLC v. Napolitano*, 558 F.3d 111, 118 (1st Cir. 2009); *Tongatapu Woodcraft Haw., Ltd. v. Feldman*, 736 F.2d 1305, 1309 (9th Cir. 1984); *Estrada-Hernandez v. Holder*, -- F. Supp. 3d --, 2015 WL 3634497, *5 (S.D. Cal. 2015); *Rizvi v. Dep't of Homeland Sec.*, 37 F. Supp. 3d 870, 883-84 (S.D. Tex. 2014), *aff'd*, 627 Fed. App'x. 292, 294-295 (5th Cir. 2015).

the Petitioner, a limited liability company, is a separate and distinct legal entity from its members, the income, expenses, assets and liabilities of its parent company cannot be considered in determining the Petitioner's ability to pay the proffered wage. *See Matter of Aphrodite Invs., Ltd.*, 17 I&N Dec. 530 (Comm'r 1980). In a similar case, the court in *Sitar v. Ashcroft*, No. Civ. A. 02-30197-MAP, 2003 WL 22203713 (D.Mass. Sept. 18, 2003) stated, "nothing in the governing regulation, 8 C.F.R. § 204.5, permits [USCIS] to consider the financial resources of individuals or entities who have no legal obligation to pay the wage." Therefore, we cannot determine the Petitioner's ability to pay the proffered wage using the parent company's tax returns in the record.

Further, where a petitioner has filed Form I-140 petitions for multiple beneficiaries, it must demonstrate that its job offer to each beneficiary is realistic, and that it has the ability to pay the proffered wage to each beneficiary. *See* 8 C.F.R. § 204.5(g)(2); *see also Patel v. Johnson*, 2 F. Supp. 3d 108, 124 (D. Mass. 2014) (upholding our denial of a petition where a petitioner did not demonstrate its ability to pay multiple beneficiaries). USCIS records show that the Petitioner filed two additional Form I-140 petitions for other beneficiaries in 2010.[12] Thus, the Petitioner must establish its ability to pay this Beneficiary as well as the beneficiaries of I-140 petitions that were pending or approved as of, or filed after, the priority date of the current petition.[13] It has not done so in this case.

We may consider evidence of a petitioner's ability to pay beyond its net income and net current assets, including such factors as: the number of years it has conducted business; the growth of its business; its number of employees; the occurrence of any uncharacteristic business expenditures or losses; its reputation in its industry; whether a beneficiary will replace a current employee or outsourced service; or other evidence of its ability to pay a proffered wage. *See Matter of Sonegawa*, 12 I&N Dec. 612, 614-615 (Reg'l Comm'r 1967).

In this case, the record indicates that the Petitioner was established in 2006 and has only 10 employees. The record does not establish the growth of the Petitioner's business; the occurrence of any uncharacteristic business expenditures or losses; its reputation in its industry; or whether the Beneficiary will replace a current employee or outsourced service. Also, unlike in *Sonegawa*, the Petitioner in this case must demonstrate its ability to pay multiple beneficiaries. Thus, assessing the totality of circumstances in this individual case, the record does not establish the Petitioner's continuing ability to pay the proffered wage pursuant to *Sonegawa*.

The Petitioner has not established its continuing ability to pay the proffered wage from the petition's priority date onward. The petition's approval was properly revoked on this basis.

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[12] The receipt numbers for those petitions are [redacted] and [redacted].

[13] The Petitioner's ability to pay the proffered wage of one of the other I-140 beneficiaries is not considered:

- After the other beneficiary obtains lawful permanent residence;
- If an I-140 petition filed on behalf of the other beneficiary has been withdrawn, revoked, or denied without a pending appeal or motion; or
- Before the priority date of the I-140 petition filed on behalf of the other beneficiary.

IV. CONCLUSION

We find that the Director properly revoked the approval of the petition because the Petitioner did not establish that the Beneficiary possessed the experience required by the labor certification as of the priority date. Further, the Petitioner did not establish its continuing ability to pay the proffered wage from the priority date.

ORDER: The appeal is dismissed.

Cite as *Matter of A-R-S-, L.L.C.*, ID# 1165149 (AAO Apr. 26, 2018)