

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

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

PUBLIC COPY



U.S. Citizenship  
and Immigration  
Services

B6



FILE: [REDACTED]  
LIN 07 129 50737

Office: NEBRASKA SERVICE CENTER

Date: SEP 14 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, Nebraska Service Center, and now the matter is before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a roofing and waterproofing company and seeks to employ the beneficiary permanently in the United States as a roofer. The director denied the petition finding that the petitioner had not established its continuing ability to pay the proffered wage as of the priority date of the petition.

On appeal, counsel fails to allege any error of law or fact made by the director. A copy of the petitioning sole proprietor's 2005 Schedule C, Profit or Loss from Business, was submitted in support of the appeal. However, the sole proprietor's Forms 1040, U.S. Individual Tax Return, for the years 2001 through 2005 were previously submitted in support of the I-140 petition and the director properly considered the petitioner's adjusted gross income as listed on those tax returns in reaching his decision as required by 8 C.F.R. §204.5(g)(2) and *Ubeda v. Palmer*, 539 F. Supp. 647 (N.D. Ill. 1982), *aff'd*, 703 F.2d 571 (7th Cir. 1983).

As stated in 8 C.F.R. § 103.3(a)(1)(v), any appeal that fails to specifically identify any erroneous conclusion of law or statement of fact will 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, counsel has not specifically addressed the basis for denial. The appeal must therefore be summarily dismissed.

**ORDER:** The appeal is dismissed.