

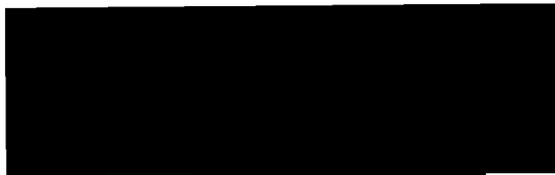
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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



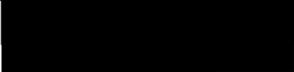
U.S. Citizenship
and Immigration
Services

B6



MAR 26 2010

FILE:



Office: NEBRASKA SERVICE CENTER

Date:

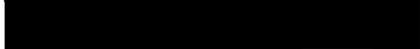
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IN RE:

Petitioner:

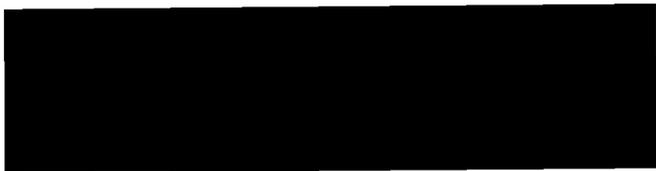


Beneficiary:



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:

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).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner seeks to classify the beneficiary pursuant to section 203(b)(3) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3). The director determined that the petitioner failed to demonstrate a continuing ability to pay the proffered wage beginning on the priority date.

On appeal, counsel merely stated that since the decision was sent to the wrong address of counsel, the petitioner did not receive proper notification. However, the AAO notes that counsel was informed by USCIS through its Internet information service "Case Status Search"¹ accessed by counsel on September 14, 2009, as follows:

"On September 1, 2009, the post office returned the notice we [USCIS] last sent you on this case I140 IMMIGRATION PETITION FOR ALIEN WORKER as undeliverable. This may have serious effects on processing this case. Please call 1-800-375-5283 to update your mailing address for this notice to be re-sent."

Counsel dated the appeal September 14, 2009, and it was accepted by the director. However, in the appeal, counsel stated that he would submit a brief and/or additional evidence within 30 days. As of this date, more than six months later, the AAO has received nothing further, and the regulation requires that any brief shall be submitted directly to the AAO. 8 C.F.R. §§ 103.3(a)(2)(vii) and (viii).

As stated in 8 C.F.R. § 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. Counsel here has not specifically addressed the reasons stated for denial and has not provided any additional evidence. He has not even expressed disagreement with the director's decision. The appeal must therefore be summarily dismissed.²

ORDER: The appeal is dismissed.

¹ The website is currently accessed at <<https://egov.uscis.gov/cris/Dashboard.do>>.

² Beyond the decision of the director, as a further reason for ineligibility for the immigration benefit requested, is that the petitioner has filed approximately eight other Immigrant Petitions (Forms I-140) according to the electronic records of USCIS. The petitions are identified as LIN0720653077; LIN0720653017; SRC0622252285; WAC0204155320, LIN0625951843; WAC02282551112; LIN0623651900; and WAC0123360020. Therefore, the petitioner must show that it had sufficient income to pay all the wages for all sponsored beneficiaries at the priority date. See the regulation at 8 C.F.R. § 204.5(g)(2). According to the record of proceeding, the petitioner does not have sufficient net income or net current assets to pay the proffered wage for the subject beneficiary based upon the evidence submitted. There is no evidence submitted in the record concerning the petitioner's ability to pay additional sponsored beneficiaries.