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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: **MAY 29 2013** OFFICE: TEXAS SERVICE CENTER FILE: [REDACTED]

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:

SELF-REPRESENTED

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.

Thank you,

A handwritten signature in black ink, appearing to read "Ron", with a long horizontal flourish extending to the left.

Ron Rosenberg  
Acting Chief, Administrative Appeals Office

cc: [REDACTED]

**DISCUSSION:** The employment-based immigrant visa petition was initially approved by the Director, Vermont Service Center, on March 28, 2003. However, the Director of the Texas Service Center (the director) revoked the approval of the immigrant petition and invalidated the labor certification on August 9, 2011. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal is improperly filed and will be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(1) (stating that an appeal filed by a person or entity not entitled to file it must be rejected as improperly filed). The director's decisions to revoke the approval of the petition and to invalidate the labor certification will not be disturbed.

The petitioner is a landscaping company. It seeks to permanently employ the beneficiary in the United States as a landscape gardener, 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).<sup>1</sup> 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 director determined that the petitioner failed to demonstrate the beneficiary possessed the requisite work experience in the job offered prior to the priority date and that the documentation submitted to show the beneficiary's qualifications was fraudulent. The director found fraud involving the labor certification and invalidated the labor certification, accordingly. Further, the director concluded that the beneficiary's current employer, the party that responded to the February 22, 2011 Notice of Intent to Revoke (NOIR), did not have legal standing in this case.

On appeal to the AAO, counsel for the beneficiary's current employer, [REDACTED] contends that [REDACTED] has legal standing to appeal the director's decision for several reasons. First, citing a decision of a district court judge in *Betancur et.al v. USCIS*, civil action no. 10cv11131-NG (August 19, 2011), counsel states that the beneficiary and his new employer, [REDACTED] are the affected parties.<sup>2</sup> The original petitioner, according

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<sup>1</sup> Section 203(b)(3)(A)(i) of 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.

<sup>2</sup> In *Betancur et.al v. USCIS, id.* the district court judge states:

Of course a petitioning employer has no "personal stake" or interest in appealing a revocation of the I-140 petition for an employee who has long since left their employment. That employer has suffered no real injury to redress. Indeed, it is clearly the employee and not the petitioning employer in this case who has suffered an injury. The only court in this jurisdiction to address the question found that the employee-beneficiary has standing to bring suit in federal court even if he has no standing to appeal through the administrative process. *See Ore v. Clinton*, 675 F. Supp. 2d 217, 223 (D. Mass. 2009) (Whether a litigant has

to counsel, is no longer in existence due to the death of the owner, [REDACTED] and therefore, cannot continue the proceedings in this case.

Counsel further argues that [REDACTED] has legal standing to continue the proceedings in this case because it is the successor-in-interest to the original petitioner. To establish successor relationship between the original petition and [REDACTED] counsel provides the following evidence:

- A copy of the death certificate of [REDACTED]
- A clipping of the obituary article of [REDACTED] and [REDACTED]
- An affidavit from [REDACTED] stating that her husband was the owner of [REDACTED] (the petitioner) until 2007 and that in her presence and with her knowledge her husband prepared and concluded the transfer of the petitioner to [REDACTED] (the owner of [REDACTED]) in October of 2007.

Counsel also states that the beneficiary's current employer has legal standing in this case because the beneficiary has legally ported to work in the same or substantially similar position pursuant to section 204(j) of the Act.

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.<sup>3</sup>

As a threshold issue, we must determine whether the beneficiary's new employer has legal standing to appeal in this proceeding.<sup>4</sup>

The regulation at 8 C.F.R. § 103.3(a)(1)(iii)(B) unequivocally states:

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standing to sue in federal court, however, is not dependent on any agency regulation. Instead, the Supreme Court has established a three-factor test for standing, requiring (1) injury in fact, (2) a causal connection between the injury and the conduct complained of, and (3) a substantial likelihood that the requested relief will remedy the injury in fact. *McConnell v. Fed. Election Comm'n*, 540 U.S. 93, 225, 124 S. Ct. 619, 157 L.Ed. 2d 491 (2003)).

<sup>3</sup> The submission of additional evidence on appeal is allowed by the instructions to the Form I-290B, which are incorporated into the regulations by the regulation at 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).

<sup>4</sup> Because of the uniqueness of the issue in this case, counsel for the beneficiary's new employer will be provided a courtesy copy of this decision.

For purposes of this section and §§ 103.4 and 103.5 of this part, affected party (in addition to the Service) means the person or entity with legal standing in a proceeding. **It does not include the beneficiary of a visa petition.** (Emphasis added).

Further, the regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(1) states, “An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed.” The language of the cited regulations explicitly states that only the affected party has legal standing and is authorized to file the appeal in this matter. Neither the beneficiary nor his counsel has legal standing in this visa petition proceeding. The beneficiary’s new employer is also not the affected party and therefore, has no legal standing to file the appeal.

In this case, however, the appeal was filed and authorized by the beneficiary’s new employer. The record contains no evidence showing that the original petitioner consented to the filing of the appeal. For this reason, we find that [REDACTED] is not entitled to file the appeal in this case. Further, because the beneficiary’s new employer is not entitled to appeal in this proceeding, the appeal was not properly filed, and the appeal must, therefore, be rejected.

On appeal, counsel for the beneficiary’s new employer states that [REDACTED] has legal standing to appeal the matter and continue the proceeding since the beneficiary has ported from the petitioner pursuant to section 204(j) of the Act, and that the beneficiary’s new employer may take place of and become the petitioner of an I-140 petition in situations involving the application of section 106(c) of the American Competitiveness in the Twenty First Century Act of 2000 (AC21).<sup>5</sup>

The AAO disagrees.

To address this issue, we must first analyze section 106(c) of AC21 and determine the interpretation of the statute as intended by Congress. Specifically, section 106(c) of AC21 added the following to section 204(j) of the Act:

Job Flexibility for Long Delayed Applicants for Adjustment of Status to Permanent Residence – A petition under subsection (a)(1)(D) [since redesignated section 204(a)(1)(F)] for an individual whose application for adjustment of status pursuant to section 245 has been filed and remained unadjudicated for 180 days or more shall remain valid with respect to a new job if the individual changes jobs or employers if the new job is in the same or a similar occupational classification as the job for which the petition was filed.

AC21, Pub. L. No. 106-313, § 106(c), 114 Stat. 1251, 1254 (Oct. 17, 2000); § 204(j) of the Act, 8 U.S.C. § 1154(j).

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<sup>5</sup> On October 17, 2000 Congress passed section 106(c) of AC21, which amended section 204(j) of the Act; 8 U.S.C. § 1154(j).

Section 212(a)(5)(A)(iv) of the Act, 8 U.S.C. § 1182(a)(5)(A)(iv), states further:

Long Delayed Adjustment Applicants- A certification made under clause (i) with respect to an individual whose petition is covered by section 204(j) shall remain valid with respect to a new job accepted by the individual after the individual changes jobs or employers if the new job is in the same or a similar occupational classification as the job for which the certification was issued.

Statutory interpretation begins with the language of the statute itself. *Pennsylvania Department of Public Welfare v. Davenport*, 495 U.S. 552 (1990). Statutory language must be given conclusive weight unless the legislature expresses an intention to the contrary. *Int'l. Brotherhood of Electrical Workers, Local Union No. 474, AFL-CIO v. NLRB*, 814 F.2d 697 (D.C. Cir. 1987). The plain meaning of the statutory language should control except in rare cases in which a literal application of the statute will produce a result demonstrably at odds with the intent of its drafters, in which case it is the intention of the legislators, rather than the strict language, that controls. *Samuels, Kramer & Co. v. CIR*, 930 F.2d 975 (2d Cir.), *cert. denied*, 112 S. Ct. 416 (1991).

In addition, we are expected to give the words used their ordinary meaning. *Chevron, U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984). We are to construe the language in question in harmony with the thrust of related provisions and with the statute as a whole. *K Mart Corp. v. Cartier Inc.*, 486 U.S. 281, 291 (1988) (holding that construction of language which takes into account the design of the statute as a whole is preferred); *see also COIT Independence Joint Venture v. Federal Sav. and Loan Ins. Corp.*, 489 U.S. 561 (1989); *Matter of W-F-*, 21 I&N Dec. 503 (BIA 1996).

Counsel suggests that the beneficiary and her new employer were given the authority by the petitioner of the Form I-140 petition once the petition was approved, the I-485 application had been pending for 180 days, and the beneficiary ported to a new employer and began her new employment in a similar position as the job offered by the petitioner. It is true that, absent revocation, the beneficiary would have been eligible for adjustment of status with a new employer provided, as counsel points out, that "the new job is in the same or similar occupation as that for which the beneficiary's petition was filed." However, critical to section 106(c) of AC21, the petition must be "valid" to begin with if it is to "**remain valid with respect to a new job.**" Section 204(j) of the Act, 8 U.S.C. § 1154(j) (emphasis added).<sup>6</sup>

<sup>6</sup> Furthermore, it would subvert the statutory scheme of the U.S. immigration laws to find that a petition is valid when that petition was never approved or, even if it was approved, if it was filed on behalf of an alien that was never entitled to the requested immigrant classification. We will not construe section 204(j) of the Act in a manner that would allow ineligible aliens to gain immigrant status simply by filing visa petitions and adjustment applications, thereby increasing USCIS backlogs, in the hopes that the application might remain unadjudicated for 180 days. In a case pertaining to the revocation of a Form I-140 petition, the Ninth Circuit Court of Appeals determined that the government's authority to revoke a Form I-140 petition under section 205 of

The statutory language provides no benefit or right for a new employer to "substitute" itself for the previous petitioner. Section 106(c) of AC21 states that the underlying Form I-140 petition "shall remain valid with respect to a new job if the individual changes jobs or employers if the new job is in the same or a similar occupational classification as the job for which the petition was filed." Pub. L. No. 106-313, § 106(c), 114 Stat. 1251, 1254 (Oct. 17, 2000); § 204(j) of the Act, 8 U.S.C. § 1154(j). Thus, the statute simply permits the beneficiary to change jobs and remain eligible to adjust based on a prior approved petition if the processing times reach or exceed 180 days.

There is no evidence that Congress intended to confer anything more than a benefit to beneficiaries of long delayed adjustment applications. In other words, the plain language of the statute indicates that Congress intended to provide the alien, as a "long delayed applicant for adjustment," with the ability to change jobs if the individual's Form I-485 took 180 days or more to process. Section 106(c) of AC21 does not mention the rights of a subsequent employer and does not provide other employers with the ability to take over already adjudicated immigrant petitions.

Counsel for the beneficiary's new employer has failed to show that the passage of AC21 granted any rights or benefits to subsequent employers of aliens eligible for the job portability provisions of section 106(c). Based on a review of the statute and legislative history, the AAO must reject counsel's assertions that the beneficiary and/or her new employer have now become the petitioner, and an affected party, in these proceedings.

Finally counsel argues on appeal that [REDACTED] has legal standing in this case because it is the successor-in-interest to the original petitioner. In order to establish a valid successor relationship for immigration purposes, [REDACTED] must satisfy three conditions. First, the job opportunity offered by [REDACTED] must be the same as originally offered on the labor certification by the original petitioner. Second, both the acquired and the acquiring company, or the merged company, must establish eligibility in all respects by a preponderance of the evidence. The petitioner is required to submit evidence of the ability to pay the proffered wage in accordance with 8 C.F.R. § 204.5(g)(2) beginning on the priority date until the date the transfer of ownership to the successor company is completed. The claimed successor – [REDACTED] – must also demonstrate its continuing ability to pay the proffered wage in accordance with 8 C.F.R. § 204.5(g)(2) from the transaction date forward. Third, [REDACTED] must fully describe and document the transfer and assumption of the ownership of all, or the relevant part of, the original petitioning company.

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Cir. 2009). Citing a 2005 AAO decision, the Ninth Circuit reasoned that in order to remain valid under section 204(j) of the Act, the I-140 petition must have been valid from the start. The Ninth Circuit stated that if the plaintiff's argument prevailed, an alien who exercised portability would be shielded from revocation, but an alien who remained with the petitioning employer would not share the same immunity. The Ninth Circuit noted that it was not the intent of Congress to grant extra benefits to those who changed jobs.

Evidence of transfer of ownership must show that [REDACTED] not only purchased assets from the original petitioner, but also the essential rights and obligations of the petitioner necessary to carry on the business in the same manner as the petitioner. [REDACTED] must continue to operate the same type of business as the petitioner and the essential business functions must remain substantially the same as before the ownership transfer. *See Matter of Dial Auto Repair Shop, Inc.*, 19 I&N Dec. 481 (Comm. 1986).

In this case, the record is devoid of evidence that [REDACTED] is the successor-in-interest to the original petitioner identified in the Form ETA 750 and the Form I-140 petition. The affidavit of [REDACTED] is not sufficient to establish a successor relationship between the petitioner and [REDACTED]. No documentation has been submitted to corroborate the assertions that the petitioner sold the business to [REDACTED] or that [REDACTED] bought the petitioner. Nor has [REDACTED] submitted evidence establishing its ability to pay beyond 2007.<sup>7</sup>

Counsel for [REDACTED] claims on appeal that the petitioner transferred all of its assets, rights, and obligations to [REDACTED]. No supporting documentation, however, has been submitted to corroborate the veracity of the claim. In *Matter of Dial Auto*, *id.* the petitioner in that case *represented* that it had assumed all of the original employer's rights, duties, and obligations, but failed to submit requested evidence to establish that this was, in fact, true; the Commissioner, consequently, dismissed the appeal and denied the petition. Similarly, in this case, counsel's statement alone is not reliable. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). Further, 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). For the reasons stated above, the AAO will not recognize New Creatascapes as the successor-in-interest to the original petitioner.

Further, as no evidence of record suggests that the original petitioner authorized the filing of the appeal, the AAO finds that the appeal was improperly filed pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(1) and must be rejected.

On appeal, counsel for [REDACTED] maintains that the petitioner has submitted sufficient evidence to establish that the beneficiary possessed the requisite work experience in the job offered prior to the priority date. Counsel further states that the director's decision to revoke the approval of the petition and finding of fraud involving the labor certification are not justified by

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<sup>7</sup> Assuming that successor relationship between the petitioner and [REDACTED] were established in this case, the petition would not have been approvable as the record does not contain any evidence of the continuing ability to pay beyond 2007 by the successor entity.

evidence of record. According to counsel, the director revoked the approval of the petition and invalidated the labor certification only because the petition was filed by [REDACTED]

Section 205 of the Immigration and Nationality Act (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 [she] deems to be good and sufficient cause, revoke the approval of any petition approved by [her] 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).

This means that the director must provide notice before revoking the approval of any petition. Specifically, 8 C.F.R. § 205.2 reads:

(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 this [USCIS]. (emphasis added).

Further, the regulation at 8 C.F.R. § 103.2(b)(16) states:

(i) Derogatory information unknown to petitioner or applicant. If the decision will be adverse to the applicant or petitioner and is based on derogatory information considered by [USCIS] and of which the applicant or petitioner is unaware, he/she shall be advised of this fact and offered an opportunity to rebut the information and present information in his/her own behalf before the decision is rendered, except as provided in paragraphs (b)(16)(ii), (iii), and (iv) of this section. Any explanation, rebuttal, or information presented by or in behalf of the applicant or petitioner shall be included in the record of proceeding.

Moreover, *Matter of Arias*, 19 I&N Dec. 568 (BIA 1988); *Matter of Estime*, 19 I&N Dec. 450 (BIA 1987) provide that:

A notice of intention to revoke the approval of 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. However, where a notice of intention to revoke is based upon an unsupported statement, revocation of the visa petition cannot be sustained.

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<sup>8</sup> At the time the NOIR was issued to the petitioner in 2011, [REDACTED] was under USCIS investigation for submitting fraudulent Form ETA 750 labor certification applications and Form I-140 immigrant worker petitions. We note that he has been suspended from the practice of law before the Immigration Courts, Board of Immigration Appeals (BIA), and Department of Homeland Security (DHS) for a period of three years as of March 1, 2012.

Here, the director indicated in the NOIR dated February 22, 2011 that the CNPJ number listed on the January 8, 2001 employment verification letter from [redacted] was not a valid number,<sup>9</sup> and concluded that the petitioner must have submitted false documentation. While the CNPJ number in and of itself is not determinative of the beneficiary's qualifications for the job offered in this case, the NOIR contains specific derogatory information relating to the current proceeding with respect to the beneficiary's qualifications, and therefore, the AAO finds that the director appropriately reopened the approval of the petition and issued the NOIR.

Consistent with *Matter of Wing's Tea House*, 16 I&N Dec. 158 (Act. Reg. Comm. 1977), the petitioner must demonstrate that the beneficiary had all of the qualifications stated on the Form ETA 750 as certified by DOL and submitted with the petition as of the priority date. Here, the priority date is April 9, 2001, which was the date when the Form ETA 750 was filed and accepted for processing by DOL. The name of the job title or the position for which the petitioner seeks to hire is "Landscape Gardener." The job description listed on the Form ETA 750 part A item 13 partly states:

Executes all types of landscaping projects, including preparation of ornamental gardens, pool areas, grading, seeding, sodding, cultivating, maintaining. Construct small walls and lay elementary walks; maintain and overhaul equipment, prune, transplant.

Under section 14 of the Form ETA 750A the petitioner specifically required each applicant for this position to have a minimum of two years of work experience in the job offered. We note that the beneficiary listed on the Form ETA 750B the following relevant work experience under item 15 of the Form ETA 750, part B:

Name and address of employer:

[redacted]

Name of Job:

Landscape Gardener.

Date started:

July 1995.

Date left:

October 1997.

<sup>9</sup> The January 8, 2001 letter of employment verification from [redacted] contains the following CNPJ number: [redacted]. The director accessed the CNPJ database online at [redacted] and found the CNPJ number not valid. CNPJ or Cadastro Nacional da Pessoa Juridica is a unique number given to every business registered with the Brazilian authority. In Brazil, a company can hire employees, open bank accounts, buy and sell goods only if it has a CNPJ. The Department of State has determined that the CNPJ provides reliable verification with respect to the adjudication of employment-based petitions in comparing an individual's stated hire and working dates with a Brazilian-based company to that Brazilian company's registered creation date.

Submitted along with the approved Form ETA 750 and the Form I-140 petition was a letter of employment verification dated January 8, 2001 from [REDACTED] Administrative Manager, who stated that the beneficiary was “our employee during the period from July 30, 1995 to October 22, 1997, working as LANDSCAPE GARDENER.”

In response to the NOIR, counsel for [REDACTED] submitted the following evidence to show that the beneficiary possessed the minimum requirements for the position offered:

- An affidavit dated March 22, 2011 from the beneficiary confirming that he worked as a landscape gardener at [REDACTED] from July 30, 1995 to October 22, 1997, that the business is still operating today under new ownership and name, that he was unable to locate the owner for whom he worked to request another statement verifying his work experience, that he did not know why the CNPJ number of the business was not valid, and that he does not have any paystubs because he was paid in cash only;
- A notarized statement dated March 11, 2011 from [REDACTED] stating that he worked with the beneficiary; and
- Various articles published in [REDACTED] intended to show that there are many enterprises in Brazil that are not registered with the local government and do not pay taxes.

In the Notice of Revocation (NOR), the director noted the following inconsistencies in the record concerning where the beneficiary lived and worked from 1995 to 1997. On the Form G-325 (Biographic Information), which the beneficiary filed along with the Application to Register Permanent Residence or Adjust Status (Form I-485), the beneficiary claimed to have lived in Gov. Valaderes, Minas Gerais, Brazil, from 1974 until October 1998. The location of [REDACTED] where the beneficiary claimed to have worked from July 1995 to October 1997, however, is in Sao Paulo. The director noted that the distance between Gov. Valaderes, Minas Gerais, and Sao Paulo is approximately 565 miles. The director then concluded that it is unlikely that the beneficiary could have worked in Sao Paulo between 1995 and 1997 while living in Gov. Valaderes, Minas Gerais.<sup>10</sup>

No independent objective evidence, i.e. the beneficiary’s booklet of employment, social security or other government-issued documents, has been submitted to resolve the inconsistencies in the record pertaining to the beneficiary’s claimed employment as a landscape gardener in Brazil. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. at 591-92.

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<sup>10</sup> We also note that the distance between Itacolomi, Minas Gerais, where Confecoes Machado Queiros ME was located, and Belo Horizonte, Minas Gerais, is about 111.14 kilometers (about 69.06 miles). This information is from Distance Calculator, which can be accessed online at the following website: <http://www.distancecalculator.globefeed.com> (last accessed January 2, 2013).

In summary, the AAO finds that the petitioner has failed to establish that the beneficiary possessed the minimum experience requirements for the proffered position, and that the director had good and sufficient cause to revoke the approval of the petition, consistent with section 205 of the Act, 8 U.S.C § 1155. For these reasons, the director's decisions to revoke the approval of the petition and to invalidate the labor certification are upheld.

The petition will remain revoked for the above stated reasons, with each considered as an independent and alternate basis for revocation. 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.

**ORDER:** The appeal is rejected as improperly filed. The director's decision to revoke the approval of the petition remains undisturbed.