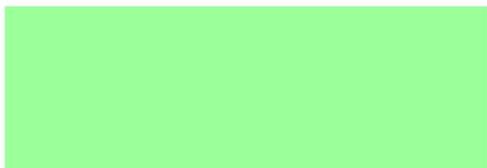




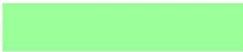
**U.S. Citizenship
and Immigration
Services**

(b)(6)



DATE: **MAY 31 2013**

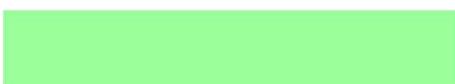
OFFICE: NEBRASKA SERVICE CENTER

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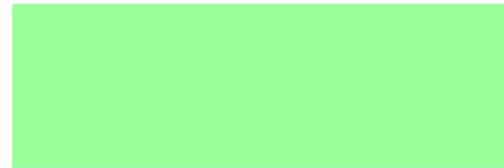
Petitioner:

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 immigrant visa petition was approved by the Director, Nebraska Service Center. However, following a consular interview of the beneficiary, the director informed the petitioner that the beneficiary disclosed he was not qualified for the proffered job. The approval was revoked accordingly. The revocation is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be 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) as a skilled worker or professional. During a consular interview, the beneficiary failed to answer questions about goldsmithing, although the proffered job is for a jeweler. The official conducting the interview questioned the beneficiary further, whereupon the beneficiary conceded he was not a goldsmith and did not possess the qualifications needed for the proffered job.

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 AAO finds that the director had good and sufficient cause to revoke the approval of the petition.

On appeal, counsel resubmits letters from persons purporting to be the beneficiary’s past employers, and what purports to be membership cards in trade associations. We note that the membership card in the trade association was issued on January 8, 2008, more than five years after the priority date. Thus, that document does not establish that the beneficiary was a practicing goldsmith as of the priority date in 2003. Furthermore, the card is inconsistent with the remainder of the evidence submitted which shows the beneficiary was working as a goldsmith since 1989. According to *Matter of Ho*, 19 I&N Dec. 591-592:

[i]t is incumbent upon the petitioner to resolve the inconsistencies by independent objective evidence. Attempts to explain or reconcile the conflicting accounts, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice.

Counsel states that the beneficiary’s verbal statements are not valid because they were not transcribed verbatim and the beneficiary did not provide a written confession. Counsel argues that the director, relying on the beneficiary’s admissions, did not have “good and sufficient cause to revoke” the petition’s approval. The AAO first notes that nothing in the regulations requires that interviews be transcribed verbatim. Next, counsel does not provide legal authority which dictates the director cannot use an alien’s admissions of fraud or misrepresentation or inconsistencies to revoke a petition.

In visa petition proceedings, the burden is on the petitioner to establish eligibility for the benefit sought. See *Matter of Brantigan*, 11 I&N Dec. 493 (BIA 1966). The petitioner must prove by a preponderance of evidence that the beneficiary is fully qualified for the benefit sought. *Matter of*

Martinez, 21 I&N Dec. 1035, 1036 (BIA 1997); *Matter of Patel*, 19 I&N Dec. 774 (BIA 1988); *Matter of Soo Hoo*, 11 I&N Dec. 151 (BIA 1965). The record contains a substantial inconsistency in that there are foreign documents purporting to show the beneficiary has skills required by the labor certification, and the record shows that the beneficiary confessed to not having the minimum necessary experience required by the labor certification.

During the 2009 consular interview, the beneficiary was asked standard questions about jewelry. The beneficiary did not know the answers to six of the basic questions. The beneficiary then admitted he was not a goldsmith, but was a buyer and purchaser. The inconsistencies in the record noted above, and the results of the beneficiary's consular interview, have not been explained satisfactorily to demonstrate that the beneficiary is in fact qualified for the offered position.

Counsel asserts that the beneficiary never admitted to being a salesman instead of a craftsman. The petitioner alleges, without evidence, that this must have been a translator error. However, counsel's assertion does not explain how the beneficiary failed to answer the scripted questions about the trade he professed to practice for many years.

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 dismissed.