U.S. Department of Homeland Security
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Washington, DC 20536

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U.S. Citizenship and Immigration Services

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[redacted]

FEB 06 2004

FILE: EAC 02 132 52127 Office: VERMONT SERVICE CENTER Date:

IN RE: Petitioner: [redacted]
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:

[redacted]

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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be summarily dismissed.

The petitioner is an Indian restaurant. It seeks to employ the beneficiary permanently in the United States as a cook. As required by statute, the petition is accompanied by a Form ETA 750, Application for Alien Employment Certification filed on December 18, 2000, approved by the Department of Labor February 27, 2001. The director determined that the petitioner had not established that it had the continuing ability to pay the beneficiary the proffered wage beginning on the priority date of the visa petition.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) provides that "[a]n officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal."

Counsel filed an appeal on November 20, 2002. Counsel indicated on part 2 of the Form I-290B appeal that she would send a brief and/or evidence within 30 days. Part 3 of the Form I-290B providing for a brief statement of the reason for the appeal merely asserted that the director's decision was incorrect and repeated the claim that the personal assets of the owner of the corporation were sufficient to establish the ability to pay. No additional evidence accompanied the appeal.

The bare recitation of evidence submitted on appeal is not sufficient basis for a substantive appeal. It does not specifically address errors in the director's decision or specifically address the director's decision. While counsel asserts that the personal assets of the shareholder, Kochumathen Babu, must be considered counsel provides no authority for such contention.[1]

Counsel has failed to specifically identify an erroneous conclusion of law or a statement of fact as a basis for the appeal. The appeal must therefore be summarily dismissed.

ORDER: The appeal is dismissed.

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[1] Although this is a summary dismissal, it should be noted that to the contrary, authority exists that personal records are not within the scope of documents to be considered in determining the petitioner corporation's ability to pay. *Sitar Restaurant v. Ashcroft*, 2003 WL 22203713 (D.Mass, Sept. 18, 2003). A corporation is a legal entity separate and distinct from its owners or stockholders. Matter of M, 8 I&N Dec. 24 (BIA 1958; AG 1958). Furthermore, the debts and obligations of the corporation are not the debts and obligations of the owners or stockholders. As the owners or stockholders are not obliged to pay those debts, the income and assets of the owners or stockholders and their ability, if they wished, to pay the corporation's debts and obligations, are irrelevant to this matter and shall not be further considered.