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

U.S. Citizenship and Immigration Services

**PUBLIC COPY**

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[redacted]

FEB 24 2004

FILE: WAC 02 198 51502 Office: CALIFORNIA 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 employment-based immigrant visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office 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), as a skilled worker. The petitioner is a Mexican restaurant/dinner theater. It seeks to employ the beneficiary permanently in the United States as a musician. As required by statute, the petition is accompanied by an individual labor certification approved by the Department of Labor. The director determined that the petitioner had not established that it had the financial ability to pay the beneficiary the proffered wage as of the priority date of the visa petition and continuing to the present.[1]

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."

The appeal was filed on December 27, 2002. It is indicated on part 2 of the Form I-290B that the appeal would be supplemented by 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, indicated that additional information would be submitted within 30 days, noting that the holidays had affected the ability to submit further evidence with the appeal. In addition, the statement on the I-290B simply asserted that the petitioner had complied with all applicable regulations and had satisfied its burden.

Nearly one year has passed since the filing of the appeal and no additional information has been submitted in support of the appeal. The appeal fails 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.

[1] Beyond the director's decision, it appears that there may also be an issue as to whether the petitioner has adequately established that the beneficiary met the requirements of the position offered.