U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF K-A-H-C-C- CORP

DATE: APR. 13, 2018

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a dry cleaning business, seeks to employ the Beneficiary as a dry cleaner presser. It requests classification of the Beneficiary as an unskilled worker under the third preference immigrant classification. Immigration and Nationality Act (the Act) section 203(b)(3)(A)(iii), 8 U.S.C. § 1153(b)(3)(A)(iii). This employment-based immigrant classification allows a U.S. employer to sponsor a foreign national for lawful permanent resident status to work in a position that requires less than two years of training or experience.

The Director of the Nebraska Service Center denied the petition because the Petitioner did not establish that it had the continuing ability to pay the proffered wage from the priority date. We dismissed a subsequent appeal. On motion,[1] the Petitioner asserts that it had sufficient net income to pay the proffered wage. Upon review, we will grant the motion to reconsider and sustain the appeal.

A petitioner must establish its continuing ability to pay the proffered wage from the priority date onward.[2] *See* 8 C.F.R. § 204.5(g)(2). The Petitioner submitted audited financial statements for the period covering the priority date. In our decision on appeal, we noted several inconsistencies in the Petitioner's audited financial statements. On motion, the Petitioner submits a letter from its auditor resolving those inconsistencies.

After review of the record, including additional materials submitted on motion, we find that the Petitioner has shown proper cause for us to reconsider our prior decision and has established that it has the continuing ability to pay the proffered wage from the priority date. Accordingly, we will grant the motion to reconsider and sustain the appeal.

ORDER: The motion to reconsider is granted and the appeal is sustained.

Cite as *Matter of K-A-H-C-C- Corp*, ID# 1054411 (AAO Apr. 13, 2018)

[1] The Petitioner filed a combined motion to reopen and motion to reconsider. Because we are granting the motion to reconsider, the motion to reopen is moot.

[2] The priority date of a petition is the date the labor certification was accepted for processing by the DOL. *See* 8 C.F.R. § 204.5(d). The priority date in this case is November 3, 2015, and the offered wage is $16,869 per year.