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U.S. Department of Labor

Office of the Solicitor
Washington, D C 20210



AUG - 2 2004

ORIGINAL

Mr Leo Gordon
Clerk of the Court
U S Court of International Trade
One Federal Plaza
New York, New York 10278-0001

ASSIGNED TO SENIOR JUDGE TSCUCALAS

Re Former Employees of Computer Sciences Corporation v Chao, U S Secretary of Labor
Court No. 04-00149

Dear Mr. Gordon


Pursuant to Rule 72 of the Rules of the U S Court of International Trade, please find enclosed the supplemental administrative record for the above-referenced case Confidential business information has been identified and placed in a sealed envelope Also enclosed is a certified list of the contents of the record.

We are mailing copies of the record and the certified list to the U S Department of Justice; however, we are withholding the confidential business information from the plaintiff

Sincerely,

CHARLES D. RAYMOND
Associate Solicitor for
Employment and Training
Legal Services

By


R PETER NESSEN
Attorney

Enclosures

cc Michael Panzera, Esq
Rajb Pal, Esq

RECORDED IN SE 103 00002 78000000

UNITED STATES COURT OF INTERNATIONAL TRADE

* * * * *

Former Employees of
Computer Sciences Corporation

v.

U.S. Secretary of Labor

* * * * *

Court No. 04-00149

CERTIFICATE OF AGENCY RECORD

I, Elliott S. Kushner, in my official capacity as Certifying Officer of the Division of Trade Adjustment Assistance, United States Department of Labor, do hereby certify that I have legal custody and control of the records and documents constituting the amendment to the administrative record in the above-captioned case and pursuant to Rule 72 of the Rules of the United States Court of International Trade, I have prepared for transmittal to the Clerk of the United States Court of International Trade a true and complete copy of the records and documents constituting that record, which are identified on the list annexed hereto.

Items constituting the amended administrative record include public documents and confidential business information, as indicated on the annexed list. The confidential information is enclosed in a separate sealed envelope and should be kept under seal pending further disposition by the court.

Elliott S. Kushner

ELLIOTT S. KUSHNER
Certifying Officer, Division of
Trade Adjustment Assistance
U.S. Department of Labor
Washington, D.C. 20210

Subscribed and sworn to before me this *29th* day of July 2004.

NOTARY PUBLIC *Margo Terrell*

My Commission Expires: *10-30-2005*

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE
THIS *29th* DAY OF *July*, 2004, IN THE
DISTRICT OF COLUMBIA
Margo Terrell
MARGO TERRELL
Notary Public, District of Columbia
My Commission Expires Oct. 30, 2005

UNITED STATES COURT OF INTERNATIONAL TRADE

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Former Employees of *
Computer Sciences Corporation *
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v. *
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U.S. Secretary of Labor *
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Court No. 04-00149

LIST OF DOCUMENTS CONSTITUTING
THE SUPPLEMENTAL ADMINISTRATIVE RECORD

| | <u>Page</u> |
|--|-------------|
| 1. Facsimile of June 30, 2004, To Del-Min Amy Chen, U.S. Department of Labor (DOL), Division of Trade Adjustment Assistance (DTAA), From Tyler Raimo, Counsel, Computer Sciences Corporation (CSC), Falls Church, Virginia, Transmitting Response to Department's Request for Additional Information Regarding the Petition for Trade Adjustment Assistance, CSC, Financial Services Group, East Hartford, Connecticut, TA-W-53,209*/. | .1 |
| 2. Memorandum to the File, Dated July 14, 2004, From Del-Min Amy Chen, DTAA, Containing Notes of a Telephone Conversation with Mr. Raimo, CSC*/. | .6 |
| 3. Memorandum to the File, Dated July 15, 2004, From Del-Min Amy Chen, DTAA, Containing Notes of a Telephone Conversation with Mr. Raimo, CSC*/. | .7 |
| 4. E-Mail of July 21 2004, Between Del-Min Amy Chen, DTAA and Mr. Raimo, CSC*/. | 8 |

5. E-Mail of July 21 2004, From Del-Min Amy Chen, DTAA
To Mr. Raimo, CSC, Concerning TA-W-53,209 */.10
6. Memorandum to the File, Dated July 15, 2004, From
Del-Min Amy Chen, DTAA, Containing Notes of a
Telephone Conversation with Mr. Raimo's Assistant,
Ms. Julie Koski*/. 12
7. Notice of Negative Determination on Reconsideration on
Remand, Computer Sciences Corporation, Financial Services
Group, East Hartford, Connecticut. 13

*/ Business Confidential Information

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2004 AUG -5 P 12 12

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN ACCORDANCE WITH THE PROVISION
OF RULE 5(e) THIS PAPER IS DEEMED
FILED AS OF THE DATE OF MAILING-
TO WIT 8-2-04

UNITED STATES COURT OF INTERNATIONAL TRADE

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Tyler Raimo

Computer Sciences Corporation
Corporate Law Office
3170 Fairview Park Drive
Falls Church, VA 22042

Facsimile Cover Sheet

To: Del-Min Amy Chen
Company: U.S. Department of Labor,
ETA/DTAA
Phone: 202.693.3591
Fax: 202.693.3584

From: Tyler Raimo
Phone: (703) 641-2508
E-mail : traimo@csc.com

Date: June 30, 2004
Pages including this 5
cover page:

**RE: CSC Response to the U.S. Department of Labor's Request
for Information regarding TA-W No. 53,209**

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PAGES 2 THROUGH 12 ARE DELETED FROM THE PUBLIC FILE
TO PROTECT BUSINESS CONFIDENTIAL INFORMATION

DEPARTMENT OF LABOR

Employment and Training Administration

TA-W-53,209

COMPUTER SCIENCES CORPORATION
FINANIAL SERVICES GROUP
EAST HARTFORD, CONNECTICUT

Notice of Negative Determination
On Reconsideration on Remand

The United States Court of International Trade (USCIT) granted the Secretary of Labor's motion for a voluntary remand for further investigation in Former Employees of Computer Sciences Corporation v. Elaine Chao, U.S. Secretary of Labor, No. 04-00149.

The Department's initial negative determination for the workers of Computer Sciences Corporation, Financial Services Group, East Hartford, Connecticut (hereafter "CSC") was issued on October 24, 2003 and published in the Federal Register on November 28, 2003 (68 FR 66878). The Department's determination was based on the finding that workers did not produce an article within the meaning of Section 222 of the Trade Act of 1974. It was determined that the subject worker group were not engaged in the production of an article, but provided business and information consulting, specialized application software, and technology outsourcing support to customers in the financial services industry.

(13)

By letter of November 24, 2003, the petitioner requested administrative reconsideration of the Department's negative determination. The Department issued a Notice of Affirmative Determination Regarding Application for Reconsideration on January 5, 2004. The determination Notice was published in the Federal Register on January 23, 2004 (69 FR 3391).

The Department's Notice of Negative Determination on Reconsideration was issued on February 3, 2004 and published in the Federal Register on February 24, 2004 (69 FR 8488). On reconsideration, the Department determined that the workers produced widely marketed software components on CD Rom and tapes but were not eligible to apply for Trade Adjustment Assistance (TAA) because the subject company did not import completed software on physical media that is like or directly competitive with that which was produced at the subject facility and did not shift abroad functions performed at the subject facility.

In his letter to the Court, the petitioner infers that packaging functions (storing completed software on physical media and making a tape copy of the completed software on physical media) had shifted to India. The Department requested, and was granted, a voluntary remand. On June 2, 2004, the Court ordered that the Department further investigate the matter and determine whether the subject worker group is eligible for certification for worker adjustment assistance benefits.

As part of the remand investigation, the Department reviewed previously submitted information and contacted the subject company officials to determine the process in which software code is fixed onto tangible media, identify which functions were shifted to India, and determine whether the subject worker group meets the statutory criteria for TAA certification.

In response to the Department's inquiries regarding CSC's software delivery processes, the company official stated that the software is copied from a central computer system onto physical media. When the software is ordered by a customer, a copy is made at the subject facility and delivered to the customer. Delivery of the software could be a CSC employee physically bringing the physical media and instruction materials to the customer from the subject facility, a customer physically picking up the physical media and instruction materials from the subject facility, or sending an electronic message to the customer with the software and instruction materials attached.*

During the remand investigation, the Department found that no "packaging" functions were shifted to India, as asserted by the petitioner. The investigation revealed that the storing of the completed software onto physical media, the copying of the completed software onto physical media, and the delivery of the software continue to take place at the subject facility.

To determine the workers' TAA eligibility, the Department inquired into CSC's production, sales, and import levels during the relevant time period, determined whether there was a shift of production abroad, and investigated whether increased imports of completed software like or directly competitive with those produced at the subject facility contributed importantly to the workers' separations.

In response to the Department's inquiries, CSC submitted sales and production figures for the software produced at the subject facility during the relevant period (2002 and 2003). An examination of the submission shows increased sales in three lines of software and declines in a fourth line of software. To clarify this matter, the Department sought an explanation from the subject company. The Department was repeatedly informed that during the period of sales decline, CSC was enhancing that particular line of software and decided not to market it while it was being enhanced; and that while the existing version was available for purchase, most customers decided to wait until the new version was released because any enhancements would have to be separately purchased later to make it perform as well as the newly released version.


As previously discussed, the Department determined that there was no shift of production abroad by the subject company during the relevant period.

According to the company official, CSC does not import any completed software which is like or directly competitive with those produced at the subject facility which experienced sales declines during the relevant time period.

Conclusion

After reconsideration on remand, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance for workers and former workers of Computer Sciences Corporation, Financial Services Group, East Hartford, Connecticut.

Signed at Washington, D.C. this 29TH day of July 2004.


ELLIOTT S. KUSHNER
Certifying Officer, Division of
of Trade Adjustment Assistance

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2004 AUG -5 P 12:10

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
LESTER K. QUINN, CLERK

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