

determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The TAA petition, which was filed on behalf of workers at Thomasville Furniture Industries, Inc., Upholstery Plant 9, Hickory, North Carolina engaged in the production of upholstered furniture, was denied based on the findings that sales and production of upholstered furniture at the subject firm did not decrease from 2006 to 2007, and during the period of January through May 2008 when compared to the same period in 2007. Furthermore, there was no shift in production from the subject firm to a foreign country during the relevant period.

In the request for reconsideration, the petitioner stated that in order to reveal the negative trend in sales and production, the Department should investigate the time period prior to 2006 and compare current data with 2005. To support his allegation, the petitioner attached financial information for sister plants from 2004, 2005 and 2006. The information was submitted to the Department in previous investigations, which led to certifications of those facilities. The petitioner seems to allege that because those facilities were previously certified eligible for TAA, the workers of the subject firm should be also eligible for TAA.

When assessing eligibility for TAA, the Department exclusively considers employment, production and sales during the relevant time period (one year prior to the date of the petition). Therefore, events occurring in 2005 are outside of the relevant time period and are not relevant in this investigation.

Should conditions change in the future, the company is encouraged to file a new petition on behalf of the worker group which will encompass an investigative period that will include any changing conditions.

After careful review of the request for reconsideration, the Department determines that 29 CFR 90.18(c) has not been met.

#### Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of

Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 31st day of July, 2008.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-63,420A]

#### **Bernhardt Furniture Company, Bernhardt Central Warehouse, Lenoir, NC; Notice of Negative Determination Regarding Application for Reconsideration**

By application dated July 17, 2008, a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on June 13, 2008 and published in the **Federal Register** on June 27, 2008 (73 FR 36576).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The negative TAA determination issued by the Department for workers of Bernhardt Furniture Company, Bernhardt Central Warehouse, Lenoir, North Carolina was based on the finding that the subject firm did not separate or threaten to separate a significant number or proportion of workers as required by Section 222 of the Trade Act of 1974.

The petitioner states that the workers of the subject firm warehouse and sell products exclusively manufactured by Bernhardt in China. The petitioner further states that the exported products from China have poor quality and require longer delivery periods. As a result, customers of the subject firm choose to purchase furniture manufactured in the United States, thus negatively impacting business at the

subject firm. The petitioner seems to allege that because Chinese products are less competitive than American-made, workers of the subject firm, who distribute foreign-made products should be eligible for TAA.

To establish workers' eligibility for TAA, the Department determines whether increased imports of foreign manufactured products negatively impact domestic production of those products. In this case, however, the workers state that imports of upholstered furniture from China do not have an impact on domestic production of upholstered furniture. Moreover, the petitioner states that domestic customers actually prefer buying domestic products. Therefore, based on worker allegations, foreign imports cannot negatively impact domestic production of upholstered furniture.

The petitioner did not supply facts not previously considered; nor provide additional documentation indicating that there was either (1) a mistake in the determination of facts not previously considered or (2) a misinterpretation of facts or of the law justifying reconsideration of the initial determination.

After careful review of the request for reconsideration, the Department determines that 29 CFR 90.18(c) has not been met.

#### Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed in Washington, DC, this 1st day of August 2008.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

TA-W-63,164

#### **SB Acquisition, LLC, d/b/a Saunders Brothers, Fryeburg, ME; Notice of Termination of Investigation**

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on April 9, 2008 in response to a worker petition filed by the Maine State Workforce