

(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 TAA petition, filed on behalf of workers at Colonial Tanning Corporation, Gloversville, New York engaged in the production of tanned leather, was denied because the "contributed importantly" group eligibility requirement of Section 222 of the Trade Act of 1974, as amended, was not met. The "contributed importantly" test is generally demonstrated through a survey of the workers' firm's customers. The Department conducted a survey of the subject firm's major customers regarding their purchases of competitive products in 2001 through April of 2003. The respondents reported no increased imports. The subject firm shifted production to China, but did not import tanned deerskins during the relevant period.

The union alleges that the subject firm is affiliated with two other companies and that these two companies imported tanned leather from foreign sources.

In the original investigation, one of the two companies noted by the union above was listed as a major declining customer; their survey response indicated no imports. In regard to the second company named by the union, a company official was contacted. In regard to this second company, it was revealed that one of the owners of the subject firm also owned the rights to the company name of the second company. It was also revealed that the total sales volume of this affiliated company was negligible relative to the sales volume at the subject firm, and thus any imports that occurred at the second company could not contribute importantly to layoffs at the subject firm.

The union also alleged that subject firm workers should be eligible because workers at a "direct competitor" (Johnstown Leather, TA-W-51,104) were certified eligible for trade adjustment assistance.

A review of the abovementioned case for workers at Johnstown Leather revealed that these workers were certified eligible for trade adjustment assistance based on increased customer imports. However, as Colonial Tanning Corporation has a different major declining customer base, this certification has no bearing on the eligibility of subject firm workers for TAA.

## 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 16th day of July, 2003.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-51,539]

#### Divine Brothers Company, Utica, NY, Notice of Negative Determination Regarding Application for Reconsideration

By application of June 1, 2003, the Union of Needletrades, Industrial & Textiles Employees, Local 653-T requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice was signed on May 6, 2003 and published in the **Federal Register** on May 19, 2003 (68 FR 27107).

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 mis-interpretation of facts or of the law justified reconsideration of the decision.

The TAA petition, filed on behalf of workers at Divine Brothers Company, Inc., Utica, New York engaged in the production of industrial metal finishing products and supplies, was denied because criterion (2) was not met. Sales of industrial metal finishing products and supplies increased in 2002 compared to 2001 and remained relatively stable in January-March 2003 compared to the same period in 2002.

In the request for reconsideration, the union alleged that the closure of the Caster and Wheel Division (Truck Wheel) contributed to layoffs.

A company official stated that the company had made a decision to close the abovementioned division and that it closed in May of 2002. However, coinciding with the decline and ultimate closure of this division, other product lines produced by the company increased, which would explain the stable sales figures in the relevant period.

The union official also supplied information concerning allegations of layoffs of this division and bumping rights of employees under union agreements.

The petitioning workers were denied because sales and production did not decline in the relevant period, and workers are not separately identifiable, thus the information is irrelevant to a reconsideration of the original determination.

## 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 11th day of July, 2003.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-51,366]

#### Georgia-Pacific Corporation, Operating as James River Paper Co., Inc., Consumer Products Division, Old Town, ME; Notice of Negative Determination Regarding Application for Reconsideration

By application of June 24, 2003, a company official requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice was signed on May 16, 2003 and published in the **Federal Register** on June 3, 2003 (68 FR 33195).

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