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U.S. Department of Homeland Security
Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, Rm 3042
425 I Street, N.W.
Washington, DC 20536

[REDACTED]

File: WAC 01 289 52624 Office: California Service Center

Date:

JAN 21 2004

IN RE: PETITIONER:
BENEFICIARY

[REDACTED]

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 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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of Citizenship and Immigration Services (CIS) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner.
Id.

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann
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 medical clinic¹. It seeks to employ the beneficiary permanently in the United States as medical secretary. As required by statute, the petition is accompanied by an individual labor certification approved by the Department of Labor². The director made a request for evidence seeking additional information regarding the petitioner's ability to pay the proffered wage as of the priority date of the visa petition and seeking information to clarify the identity of the employer³. Petitioner submitted additional information in the form of additional records including tax returns and quarterly wage reports in support of the ability to pay issue. In support of the employer's identity, the petitioner submitted a copy of an October 19, 1998 letter from the State of California Medical Board to Moshen Moghaddam, M.D. granting a fictitious name permit in the name of "Tarzana Multi-Specialty Medical Center." The documents did not, however, address the relationship between Tarzana Multi-Specialty Medical Center and Asia Medical Clinic. By way of explanation, the cover letter submitted by petitioner's counsel dated April 23, 2002, and submitted with the accompanying documents attributes the difference to a "clerical mistake."

The director issued a decision on August 7, 2003 citing the petitioner's failure to submit evidence of a state registration demonstrating ownership of Tarzana Multi-Specialty Medical Center dba Asia Medical Clinic, or other evidence demonstrating that the petitioner was previously doing business as Asia Medical Clinic. The director's decision also noted the requirement that petitioner demonstrate that the current petitioner is a successor-in-interest to the organization which successfully obtained the labor certification and that such successor in interest has assumed all of the rights, duties, obligations, and assets of the original employer. See Matter of Dial Auto Repair Shop, Inc., 19 I&N Dec. 481 (Comm. 1981).

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."

Counsel filed an appeal on September 5, 2002. Counsel indicated on part 2 of the Form I-290B Notice of Appeal that he would send 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 contained the following statement:

We would like to present to the Service documents to prove that the Notice of Intent

¹ The file contains various references to the medical clinic as either "Tarzana Multi Specialist" or "Tarzana Muti Specialty." This decision will refer to it as "Tarzana Multi Specialist" in accordance with the name used in the Form I-140.

² The original labor certification was filed in connection with an alien by the name of Suaad Abdulaziz. Petitioner seeks to substitute the current beneficiary, Saied Gityforoze.

³ Petitioner's tax records indicate that the corporation is "Asia Medical Center."

to Deny is not factual. We will present the brief within the allotted time.

Counsel has submitted no additional documents in support of the appeal and has consequently failed 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.