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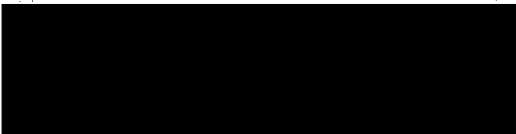
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FILE: LIN 05 188 51277 Office: NEBRASKA SERVICE CENTER Date: **MAY 01 2007**

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the nonimmigrant visa petition and certified his decision to the Administrative Appeals Office (AAO) for review. The director's decision will be affirmed. The petition will be denied.

The petitioner is a member of the Indianapolis Racing League (IRL) and owns a NASCAR racing team. It seeks to employ the beneficiary as a media relations manager. Accordingly, the petitioner endeavors to classify the beneficiary as a nonimmigrant pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b). The director denied the petition determining that the proffered position is not a specialty occupation. Upon review of the record, the AAO determined that the proffered position encompassed the duties of a specialty occupation. The AAO found, however, that the record did not contain a credentials evaluation of the beneficiary's foreign education, thus the petition could not be approved. The AAO remanded the matter to the director to determine whether the beneficiary is qualified to perform the services of a specialty occupation and instructed the director to afford the petitioner a reasonable opportunity to provide an educational credentials evaluation and any other evidence the director may deem necessary.

On December 26, 2006, the director requested evidence of the beneficiary's eligibility to perform the duties of the proffered position and noted that the petitioner must provide a response within 30 days of the request for further evidence or a new decision would be rendered based on the evidence in the record. On February 27, 2007, the director noted the petitioner's failure to respond to the notification requesting further evidence and determined that the petitioner had failed to establish the beneficiary's qualifications to perform the duties of a specialty occupation. The director notified the petitioner of his decision and indicated that the matter would be certified to the AAO as the AAO had directed. The record contains no additional documentation subsequent to the director's February 27, 2007 decision.

Upon review of the record on certification, the petitioner has not provided evidence that the beneficiary is qualified to perform the duties of a specialty occupation. Accordingly, the AAO will not disturb the director's February 27, 2007 denial of the petition.

The petition will be denied. As always, the burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

ORDER: The director's February 27, 2007 denial of the petition is affirmed and the petition is denied.