

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



B6

FILE:



Office: NEBRASKA SERVICE CENTER

Date: OCT 29 2008

LIN-06-171-50384

IN RE:

Petitioner:

Beneficiary:



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:

SELF-REPRESENTED

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 preference visa petition was denied by the Acting Director (Director), Nebraska Service Center, and now the matter is before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner is a heating and air conditioning company and seeks to employ the beneficiary permanently in the United States as a welder fitter. The director denied the petition finding the petitioner had not established its continuing ability to pay the proffered wage as of the priority date of the petition.

The appeal was filed by [REDACTED] of [REDACTED] Language Services, who submitted a Form G-28, Notice of Entry of Appearance as Attorney or Representative signed by the petitioner. [REDACTED] claimed to represent the petitioner as a reputable person acting on an individual case basis at the request of the petitioner.

The regulation governing representation in filing immigration petitions and/or applications with Citizenship and Immigration Services (CIS) is found at 8 C.F.R. § 103.2(a)(3), which provides in pertinent part that:

(3) *Representation.* An applicant or petitioner may be represented by an attorney in the United States, as defined in § 1.1(f) of this chapter, by an attorney outside the United States as defined in § 292.1(a)(6) of this chapter, or by an accredited representative as defined in § 292.1(a)(4) of this chapter.

The regulation at 8 C.F.R. § 1.1(f) states:

The term attorney means any person who is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth, or the District of Columbia, and is not under any order of any court suspending, enjoining, restraining, disbaring, or otherwise restricting him in the practice of law.

The regulation at 8 C.F.R. § 292.1(a)(6) encompasses the following type of foreign attorneys:

Attorneys outside the United States. An attorney other than one described in Sec. 1.1(f) of this chapter who is licensed to practice law and is in good standing in a court of general jurisdiction of the country in which he/she resides and who is engaged in such practice. Provided that he/she represents persons only in matters outside the geographical confines of the United States as defined in section 101(a)(38) of the Act, and that the Service official before whom he/she wishes to appear allows such representation as a matter of discretion.

The regulation at 8 C.F.R. § 292.1(a)(4) defines an accredited representative as a person representing an organization described in 8 C.F.R. § 292.2 who has been accredited by the Board of Immigration Appeals (BIA). The regulation at 8 C.F.R. § 292.2 describes the processes by which the BIA (1) recognizes an organization as authorized to provide accredited representatives, and (2) accredits a person as a representative of a recognized organization.

On August 11, 2008, this office issued a notice of derogatory information (NDI) quoting the above regulations and advising that [REDACTED], according to the checked box on the Form G-28 and a review of the most recent Roster of Recognized Organizations and Accredited Representatives maintained by the Executive Office for Immigration and Review, available on the Internet at <http://www.usdoj.gov/eoir/statuspub/recognitionaccreditationroster.pdf>, was not an attorney or an accredited representative of an organization recognized by the BIA. Mr. [REDACTED] was provided 15 days in which to reply and advised that failure to respond would result in the appeal being rejected as improperly filed. The AAO received the response on August 21, 2008. In the response to the AAO's NDI, Mr. [REDACTED] claims that his representation is authorized by the regulation at 8 C.F.R. § 292.1, but failed to establish that he is an accredited representative by the BIA under the regulation at 8 C.F.R. § 292.1(a)(4) through the procedures set forth by the regulation at 8 C.F.R. § 292.2.

The appeal has not been filed by the petitioner, an authorized representative or any entity with legal standing in the proceeding, but rather by an unauthorized person. Therefore, the appeal has not been properly filed and must be rejected. 8 C.F.R. § 103.2(a)(2)(v)(A)(I).

ORDER: The appeal is rejected.