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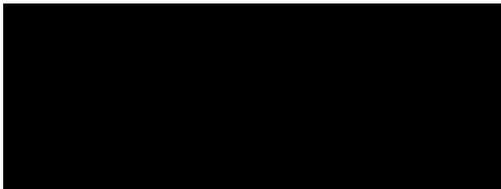
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FILE: EAC 03 069 54431 Office: VERMONT SERVICE CENTER Date: 11/10/11

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 materials have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The service center director denied the nonimmigrant visa petition. The matter is now on appeal before the Administrative Appeals Office (AAO). The appeal will be summarily dismissed. The petition will be denied.

The petitioner is a computer consulting and software development company. It seeks to employ the beneficiary as a programmer/analyst and to extend his classification as a nonimmigrant worker in a specialty occupation 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).

The director denied the petition on the grounds that the record failed to establish that the beneficiary would actually be employed by the petitioner, that the beneficiary would perform the duties of the proffered position for the requested time frame, that the job offer is for a bona fide position, or that the proffered position qualifies as a specialty occupation. The director recounted that a notice of action had been sent to the petitioner requesting documentary evidence to establish the bona fides of its job offer to the beneficiary to perform services in the specialty occupation of programmer/analyst, and that the petitioner had responded with a chart identifying sixty-one individuals for whom it had filed nonimmigrant or immigrant worker visa petitions, the outcome of the petitions, and the employment status of the beneficiaries vis-a-vis the petitioner. However, the petitioner had failed to provide other evidence specifically requested by the director, including the titles, job descriptions, salaries, and educational degrees of the petitioner's eighteen current employees, as well as their length of service with the petitioner. The director also cited various inconsistencies and misrepresentations of the petitioner with respect to the number of its employees, the failure to advise Citizenship and Immigration Services that three of its employees were no longer in valid H-1B status, and the status of some allegedly withdrawn petitions.

On appeal counsel submitted a letter which repeats almost word-for-word its previous letter responding to the director's request for evidence. The letter does not address the substance of the director's decision in any way and is not accompanied by any additional documentation to remedy the evidentiary shortcomings cited in the decision.

As specified in 8 C.F.R. § 103.3(a)(1)(v), "[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." The petitioner has not specifically identified any erroneous conclusion of law or statement of fact in the decision. Accordingly, the appeal must be summarily dismissed.

The petitioner bears the burden of proof in these proceedings. *See* section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden. Accordingly, the AAO will not disturb the director's decision denying the petition.

ORDER: The appeal is dismissed. The petition is denied.