

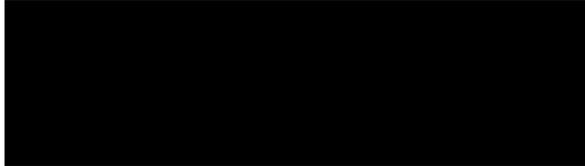
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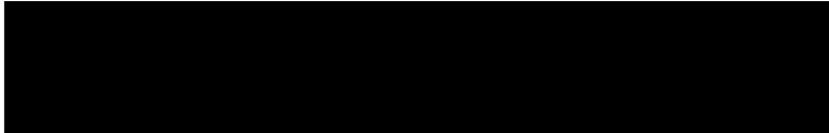
FILE: WAC 05 230 52070 Office: CALIFORNIA SERVICE CENTER Date: JUN 25 2007

IN RE: Petitioner:  
Beneficiary:



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.

*for Michael T. Kelly*  
Robert P. Wiemann, Chief  
Administrative Appeals Office

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

The petitioner is a production manufacturer and wholesale distributor of kosher food. It seeks to employ the beneficiary as a business production administrator. The petitioner, therefore, endeavors to extend the beneficiary's nonimmigrant classification as a worker in a specialty occupation 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 on the basis of his determination that the petitioner had failed to demonstrate that the proposed position qualifies for classification as a specialty occupation.

The record of proceeding before the AAO contains (1) the Form I-129 and supporting documentation; (2) the director's request for additional evidence; (3) the petitioner's response to the director's request; (4) the director's denial letter; and (5) the petitioner's Form I-290B and supporting documentation, including counsel's appellate brief. The AAO reviewed the record in its entirety before issuing its decision.

An 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. 8 C.F.R. § 103.3(a)(1)(v).

A close inspection of counsel's appellate brief reveals that, excluding its first two sentences, the brief is a verbatim repetition of the petitioner's January 3, 2006 response to the director's request for additional evidence. In those first two sentences, counsel states that the director's decision was arbitrary, capricious, and irrational, and that the beneficiary is qualified to perform the duties of the specialty occupation.<sup>1</sup> He does not identify any erroneous conclusion of law or statement of fact by the director, and presents no evidence not already contained in the record of proceeding.

Counsel is in essence asking the AAO to reconsider the evidence submitted in response to the director's request for additional evidence. However, as counsel has failed to identify any erroneous conclusion of law or statement of fact, or present any additional evidence not already contained in the record, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

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 sustained that burden.

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

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<sup>1</sup> The director did not question the beneficiary's qualifications to perform the duties of the proposed position.