

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

U.S. Department of Homeland Security
20 Mass. Ave. N.W., Room A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



D1

FILE: EAC 03 172 53146

Office: VERMONT SERVICE CENTER

Date: JAN 04 2005

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:

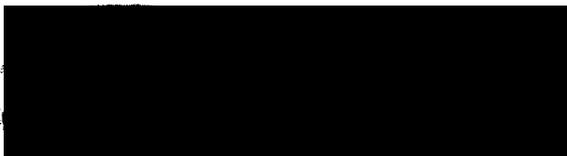
SELF-REPRESENTED

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, Director
Administrative Appeals Office

cc:



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

The petitioner is a restaurant that seeks to employ the beneficiary as a food service manager/executive chef. The petitioner endeavors to classify the beneficiary as a nonimmigrant 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 because the proffered position was not a specialty occupation.

The record reflects that on May 2, 2003, the petitioner consented in writing to give [REDACTED] LLC, of Whitestone, New York, authority to act on its behalf in these proceedings. On the same date the petitioner signed the Form I-129 petition and filed it at the Vermont Service Center. On June 30, 2003, the center director denied the petition because the evidence did not satisfy any of the criteria for classifying the proffered position as a specialty occupation. On August 1, 2003, ALTRA Consulting Services filed a Form I-290B, which ALTRA signed on the petitioner's behalf, seeking to appeal the director's decision.

In this case, ALTRA Consulting is neither a licensed attorney nor an authorized representative of the petitioner, and therefore cannot file an appeal on the petitioner's behalf. Under 8 C.F.R. § 103.2(a)(3), a 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. An appeal may be filed on behalf of an affected party by an attorney or by an authorized representative. 8 C.F.R. § 103.3(a)(1)(iii)(B). As the appeal has not been filed, either by an attorney or an authorized representative, pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(1), the AAO will reject the appeal.

ORDER: The appeal is rejected.