

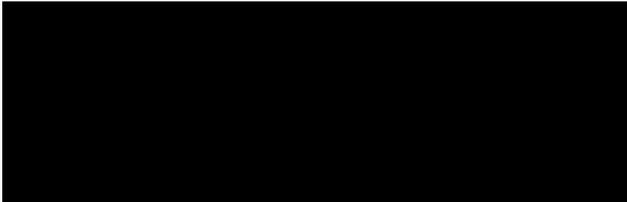
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U.S. Citizenship
and Immigration
Services

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FILE: SRC 03 199 55339 Office: TEXAS SERVICE CENTER Date: MAY 10 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:

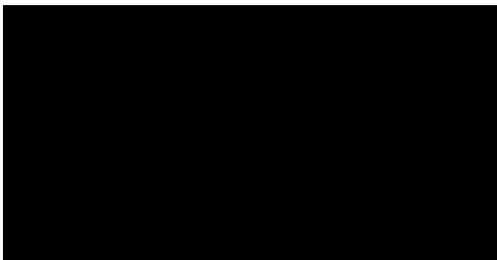
SELF-REPRESENTED

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 retail jeweler that seeks to employ the beneficiary as a sales and marketing manager. 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 on the basis that the proffered position did not meet the definition of a specialty occupation.

[REDACTED] a nonprofit immigration service-provider organization, signed the Form G-28, Entry of Appearance as Attorney or Representative, that was submitted in conjunction with the appeal. The representative in this case was not authorized to file the appeal. The authorization was signed by the beneficiary and not by the petitioner. The beneficiary had no legal standing.

The regulation at 8 C.F.R. § 103.3(a)(1)(iii)(B) states that when an application or petition is denied, an affected person or entity with legal standing in a proceeding may file an appeal. The regulation states:

It does not include the beneficiary of a visa petition. An affected party may be represented by an attorney or representative in accordance with part 292 of this chapter.

The regulation at 8 C.F.R. § 1.1(f) defines an attorney in the United States, 8 C.F.R. § 292.1(a)(6) defines an attorney outside the United States, and an accredited representative is defined in 8 C.F.R. § 292.1(a)(4) as a person who represents an organization described in 8 C.F.R. § 292.2 and has been accredited by the Board of Immigration Appeals (the Board). The regulation at 8 C.F.R. § 292.2(a) defines a qualifying organization as follows:

A non-profit religious, charitable, social service, or similar organization established in the United States and recognized as such by the Board may designate a representative or representatives to practice before the Service alone or the Service and the Board (including practice before the Immigration Court).

No evidence in the record establishes that [REDACTED] is either an attorney or an accredited representative as defined pursuant to the regulations. Nor is there evidence that [REDACTED] is a qualifying organization under 8 C.F.R. § 292.2(a). Further, the beneficiary, and not the petitioner, has no standing in these proceedings.

Accordingly, the AAO will reject the appeal pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

ORDER: The appeal is rejected.