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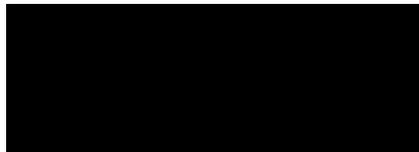
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FILE: WAC 03 055 52649 Office: CALIFORNIA SERVICE CENTER Date: SEP 22 2005

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:

The Director, California Service Center, revoked the nonimmigrant petition and the Administrative Appeals Office (AAO) summarily dismissed a subsequent appeal on April 1, 2005, on the basis that the petitioner had not submitted a brief or evidence specifying how the director made any erroneous conclusion of law or statement of fact in revoking the petition.

By an April 26, 2005 letter responding to the AAO decision, counsel submitted a copy of an appellate brief and evidence that counsel had submitted the original brief to the AAO prior to its decision to dismiss the appeal. It is now established that, prior to the AAO's decision, the original brief had been mistakenly returned to counsel by a member of the AAO's administrative staff, and then resubmitted by counsel to the AAO. However, the brief and the related correspondence between counsel and the AAO had not been included in the record of proceeding upon which the AAO had based its decision.

As the AAO's decision was based on a record of proceeding that did not include counsel's timely submitted brief on appeal, the AAO is reopening this matter on motion pursuant to 8 C.F.R. § 103.5(a)(5)(ii) for purposes of entering a new decision. The record of proceeding now includes the brief that had been

submitted on appeal and the related correspondence, and the brief will be considered by the AAO before it enters a new decision. However, you are permitted a period of 30 days in which to submit an additional brief. If you do not wish to submit an additional brief, you may waive this 30-day period in writing and fax the waiver to the AAO at [REDACTED]



Robert P. Wiemann, Director
Administrative Appeals Office