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U.S. Department of Justice
Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D. C. 20536



Public Copy

File: WAC-98-233-51876 Office: California Service Center Date: MAR - 8 2001

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)

IN BEHALF OF PETITIONER:
[Redacted]

Identification data deleted to prevent clearly unwarranted invasion of personal privacy.

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was approved by the Director, California Service Center. Based upon information obtained from a Service investigation, the director determined that the beneficiary was not clearly eligible for the benefit sought. Accordingly, the director properly served the petitioner with notice of her intent to revoke approval of the visa petition and her reasons therefore, and ultimately revoked the approval of the petition. The matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be rejected.

The petitioner is a computer consultancy and software development and training business with "1-2" employees and a projected gross annual income of \$1 million. It seeks to employ the beneficiary as a SAP software consultant for a period of three years. The director determined that there was no company or organization established as claimed by the petitioner at the address shown on the petition.

On appeal, the petitioner's president states in part that:

The denial of my request was improper because the above said employee of ours has been on a project [sic]

Since and the address of our client is [sic]

The COMPANY has contracted us for the services until the JUNE 30th, 2000.

The record indicates that the petition was revoked on December 17, 1999, and the filing date of the appeal is January 21, 2000.

8 C.F.R. 103.3(a)(2) states in part that:

The affected party shall file the complete appeal including any supporting brief with the office where the unfavorable decision was made *within 30 days after service of the decision.* (emphasis added).

As the evidence indicates that the appeal was not timely filed, the petitioner's appeal will be rejected.

ORDER: The appeal is rejected.