



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 99 059 51670 Office: California Service Center

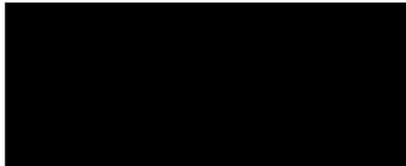
Date: OCT 11 2001

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)

IN BEHALF OF PETITIONER:



Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

INSTRUCTIONS:

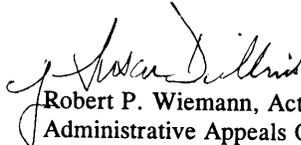
This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

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: Approval of the nonimmigrant visa petition was revoked by the director and is now before the Associate Commissioner for Examinations on appeal. The director's decision will be withdrawn and the matter remanded to her for further action and consideration.

The petitioner is a designer, manufacturer, distributor, wholesaler and retailer of women's apparel. It seeks to continue to employ the beneficiary as a public relations representative for a period of three years. On May 6, 1999 the director issued a letter outlining the reasons why she intended to revoke the approval of the petition. The director denied the petition on June 22, 1999, finding that the petitioner had submitted no response to the May 6, 1999 notice of intent to deny notification.

On appeal, counsel argues that the director's May 6, 1999 letter was not mailed to the petitioner until May 14, 1999. Counsel forwards a copy of the mailing envelope from the director postmarked May 14, 1999 to support this assertion. Counsel states that the given this fact, the petitioner's response to the director's letter was required to be delivered to the Service no later than 33 days from that date. Counsel then submits a Federal Express receipt dated June 4, 1999 to show that the petitioner submitted an initial response and evidence in the form of a letter dated June 1, 1999 from an account executive for the CGI Group, a Los Angeles-based public relations firm. Counsel then asserts that the petitioner submitted a second response to the notice of intent to deny that was received by the Service on June 15, 1999 which was prior to the director's June 22, 1999 determination.

In this case, the matter must be remanded to the director so that she may enter a new decision, given that the petitioner has verified one timely response to the director's notice of intent to revoke the approval of the visa petition. After considering all of the evidence of record, the director shall either allow the approval to stand or enter a new decision revoking the approval of the petition.

ORDER: The director's denial decision is withdrawn. The case is remanded for appropriate action and decision consistent with the above discussion.