

PUBLIC COPY

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

U.S. Department of Homeland Security
Citizenship and Immigration Services

D2

ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street, N.W.
Washington, D.C. 20536



DEC 30 2003

File: WAC-02-115-50706

Office: CALIFORNIA SERVICE CENTER

Date:

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:



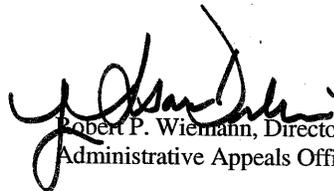
INSTRUCTIONS:

This is the decision 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.

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 that 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 Citizenship and Immigration Services (CIS) 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 that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.


Robert P. Wiemann, Director
Administrative Appeals Office

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

The petitioner is a fast food restaurant business with 600 employees and a gross annual income of \$25 million. It seeks to employ the beneficiary as a management analyst for a period of three years. The director determined that, as the petitioner did not submit the original documentation requested by the director, the beneficiary was ineligible for classification as an alien employed in a specialty occupation. The director further determined that, in accordance with 8 C.F.R. § 103.2(b)(5), the petitioner was unable to appeal the director's decision or move to reopen or reconsider the proceeding based upon the subsequent availability of the documentation requested by Citizenship and Immigration Services (CIS).

On appeal, counsel states, in part, that the documentation requested by the director, such as the petitioner's franchise agreement and federal tax returns, would be very voluminous and burdensome for the petitioner to submit and would be a violation of the franchiser's required confidentiality. Counsel also states that a copy of the petitioner's business license is sufficient for CIS because the original license is framed and posted on the petitioner's premises as required by law.

It is noted that the record does not contain a lease and/or mortgage for the petitioner's address, as requested by the director; counsel, however, does not address this issue.

Pursuant to 8 C.F.R. § 103.2(b)(5), there is no provision for an appeal from a denial based on the failure to submit an original document upon the request to substantiate a previously submitted copy. Further, a petitioner may not move to reopen or reconsider the proceeding based on the subsequent availability of the document.

In view of the foregoing, the petitioner's appeal will be rejected.

ORDER: The appeal is rejected.