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

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street, N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, DC 20536

File: WAC-01-129-56178 Office: CALIFORNIA SERVICE CENTER

Date **MAY 19 2003**

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.

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 petition will be remanded to the director for entry of a new decision.

The petitioner is a computer wholesale and retail business with 200 employees and a gross annual income of \$69 million. It seeks to employ the beneficiary as an auditor for an approximate period of three years. The director denied the petition because the petitioner had not responded to his request for additional information to establish that the proffered position is a specialty occupation.

On appeal, counsel states that she submitted a timely response to the director's request and submits a copy of such documentation. Counsel, however, does not submit any evidence to support her assertion, such as a postmarked envelope.

Pursuant to 8 C.F.R. § 103.2(b)(15), a denial due to abandonment may not be appealed. A motion to reopen in accordance with 8 C.F.R. § 103.5(a)(2), however, may be filed by the petitioning entity.

The AAO lacks jurisdiction over a motion to reopen. The jurisdiction here rests with the director, California Service Center. 8 C.F.R. § 103.5(a)(1)(ii). Therefore, this case will be remanded to the director for consideration of the material submitted by the petitioner, to determine whether it meets the requirements of a motion.

ORDER: The petition is remanded to the director in accordance with the foregoing.