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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

[Redacted]

FILE: LIN 03 078 50380 Office: NEBRASKA SERVICE CENTER

NOV 20 2004
Date:

IN RE: Petitioner:
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:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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

Robert P. Wiemann, Director
Administrative Appeals Office

CC:

[Redacted]

PHOTOCOPY

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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

The petitioner is a Dunkin Donuts franchise that seeks to continue the beneficiary's employment as its manager. The petitioner, therefore, endeavors to classify the beneficiary as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b). The director denied the petition because the petitioner had not established it was entitled to an exemption of the additional \$1,000 filing fee. He also denied the petition because the position is not a specialty occupation.

The regulation at 8 C.F.R. § 103.2(a)(3) specifies that a petitioner may be represented "by an attorney in the United States, as defined in § 1.1 of this chapter, by an attorney outside the United States as defined in § 292.1(a)(6) of this chapter, or by an accredited representative as defined in § 292.1(a)(4) of this chapter." The individual who submitted Form I-290B stated on the form that he is an attorney or representative; the letterhead submitted with the petition, however, does not indicate that such individual is an attorney. As such, the individual does not appear to be an attorney or accredited representative who may properly represent the petitioner.

Further, the individual who filed Form I-290B failed to submit Form G-28, Notice of Entry of Appearance, authorizing his appearance or representation by the petitioner, and the appeal was thus improperly filed under 8 C.F.R. § 103.3(v)(2)(i).

The individual who filed the appeal was not qualified to do so under the regulations. As the appeal was not properly filed, it will be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

ORDER: The appeal is rejected.