



U.S. Citizenship
and Immigration
Services

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FILE: WAC 03 054 50159 Office: CALIFORNIA SERVICE CENTER Date: OCT 27 2004

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)

ON BEHALF OF PETITIONER:



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, Director
Administrative Appeals Office

identifying data deleted to
prevent disclosure of unwarranted
invasion of personal privacy

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

The petitioner is a real estate/mortgage company that seeks to employ the beneficiary as an accountant. The petitioner 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 proffered position was not a specialty occupation, and because the beneficiary did not qualify to perform the duties of a specialty occupation.

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. 8 C.F.R. § 103.3(a)(1)(v).

The petitioner filed its Form I-290B on September 15, 2003, accompanied by a statement in support of its appeal. That statement took issue with a comment made by the director in the denial letter indicating that the petitioner had filed a Labor Condition Application for twenty accountants. That was not, however, the basis of the director's denial. The petitioner states in its appeal that it had not filed petitions for twenty accountants, and had only filed three petitions with one of those being withdrawn. The director denied the petition because the proffered position was not a specialty occupation and because the beneficiary did not qualify to perform the duties of a specialty occupation. The petitioner does not address, in any manner, either of these issues and does not identify specifically any erroneous conclusion of law or statement of fact relative thereto, upon which the denial is based. As the petitioner fails to present additional evidence on appeal to overcome the decision of the director, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

The burden of proof in this proceeding rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

ORDER: The appeal is dismissed.