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FILE: WAC 04 003 53728 Office: CALIFORNIA SERVICE CENTER Date: OCT 26 2005

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:
[Redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All materials 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 service center director denied the nonimmigrant visa petition. The matter is now on appeal before the Administrative Appeals Office (AAO). The appeal will be summarily dismissed. The petition will be denied.

The petitioner is a commercial and individual insurance agency. It seeks to employ the beneficiary as an insurance underwriter and to classify him as a nonimmigrant worker in a specialty occupation 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).

The director denied the petition on the grounds that the proffered position is not a specialty occupation and the record failed to show that the beneficiary has a baccalaureate degree in a specific specialty, or its equivalent, as required for him to be qualified to perform the services of a specialty occupation.

On appeal counsel asserts that the director's decision was arbitrary, capricious, and an abuse of discretion. Counsel asserts on the appeal form (Form I-290B) that the decision ignored documentation in the record – specifically, a report from a university professor evaluating the beneficiary's work experience – showing that the beneficiary has the equivalent of a baccalaureate degree. Counsel's assertion is incorrect. The decision referred specifically to the evidentiary shortcomings of the evaluation report, as well as the letters from the beneficiary's prior employers, before determining that the record failed to establish that the beneficiary's work experience was equivalent to a baccalaureate degree in a specific specialty, as required for him to be qualified to perform the services of a specialty occupation. Moreover, counsel did not address the director's other finding that the proffered position is not a specialty occupation.

On the appeal form, filed January 2, 2004, counsel indicated that a brief and/or evidence would be submitted to the AAO within 30 days. No such brief or evidence was filed in the next 30 days, however, or at any time up to the date of the instant decision. The AAO telephoned counsel on September 26, 2005 and left a voice mail message requesting information as to whether a brief or additional evidence had been filed, or confirmation that no such materials had been filed. The AAO has received no reply from counsel.

As specified in 8 C.F.R. § 103.3(a)(1)(v), “[a]n 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.” The petitioner has not specifically identified any erroneous conclusion of law or statement of fact in the decision. Accordingly, the appeal must be summarily dismissed.

ORDER: The appeal is dismissed. The petition is denied.