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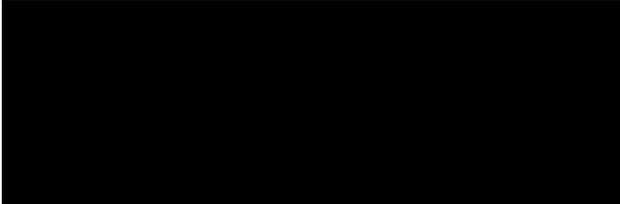
U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: SRC 06 039 51465 Office: TEXAS SERVICE CENTER Date: JAN 31 2008

IN RE: Petitioner:
Beneficiaries:



PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(H)(ii)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(ii)(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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected, although the petition is moot due to the passage of time.

The petitioner is a freight trucking company that filed this petition in order to continue to employ 23 aliens as tractor trailer truck drivers from November 26, 2005 to August 15, 2006, in accordance with the provisions for H-2B temporary nonagricultural workers at Section 101(a)(15)(H)(ii)(b) of the *Immigration and Nationality Act*, 8 U.S.C. § 1101(a)(15)(H)(ii)(b), and its implementing regulations at 8 C.F.R. § 214.2(h)(6).

The Department of Labor denied the petitioner's application for a temporary employment certification, based upon its findings that the petitioner (1) had not established an H-2B temporary need as defined at 8 C.F.R. § 214.2(h)(6), and (2) appeared to have unlawfully rejected qualified and available U.S. workers that had applied for the position in question. The service center director denied the petition on the basis that the petitioner had failed to establish that its need for truck drivers satisfied any of the H-2B temporary need categories defined at 8 C.F.R. § 214.2(h)(6)(B).

As mandated by regulation, the AAO will reject the appeal because it was filed by a person not authorized to appear before Citizenship and Immigration Services (CIS) on behalf of any person or entity. The CIS regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(1) provides that an appeal filed with CIS by a person not entitled to file it "must be rejected as improperly filed."

The regulation at 8 C.F.R. § 292.1 identifies the classes of persons entitled to appear before CIS in a representative capacity.

The Form I-290B (Notice of Appeal) was signed by an [REDACTED]

A person appearing before USCIS in a representative capacity must file a Form G-28 (Notice of Entry of Appearance as Attorney or Representative), signed by the petitioner, that identifies the provisions of 8 C.F.R. § 292.1 under which he or she is entitled to represent the petitioner before CIS. *See* 8 C.F.R. § 292.4(a).

The record of proceeding contains a Form G-28 signed by the petitioner. The Form G-28 identifies the petitioner's representative as [REDACTED] who is the person who signed the Form I-290B and filed the appeal. The unchecked boxes on the form indicate that [REDACTED] is neither an attorney nor an accredited representative of an organization recognized by the Board of Immigration Appeals. At section 4 of the form, [REDACTED] states: "I am the authorized representative in this matter." However, she does not identify any provision of 8 C.F.R. § 292.1 under which she is entitled to represent the petitioner before CIS.¹

¹ Further, the AAO's November 8, 2007 [Google.com](http://www.google.com) search for Internet sites associated with Ms. [REDACTED]'s phone number on the Form I-290B and the Form G-28 [REDACTED] produced <http://www.greencardsforamerica.net>, an Internet site advertising immigration services for U.S. trucking companies that sponsor 1 to 100 aliens for truck driver jobs. According to the site, the sponsored aliens are charged for the services. The site specifically identifies the petitioner as providing job opportunities; and

By letter dated November 15, 2007, the AAO provided [REDACTED] 15 days in which to (1) identify the provision(s) of 8 C.F.R. § 292.1 under which she qualified to represent the petitioner, and (2) documentary proof of her qualification under whatever provision(s) of 8 C.F.R. § 292.1 she cites as authorizing her to appear in a representative capacity on this appeal. The letter notified [REDACTED] that the AAO would reject the appeal as improperly filed if, within fifteen 15 days, she failed to submit persuasive evidence of her entitlement to file an appeal for the petitioner. As of this date, the AAO has received no reply from Ms. [REDACTED]

The record fails to establish that the person who filed the appeal was authorized to appear as a representative in accordance with the provisions of 8 C.F.R. § 292.1. Accordingly, the AAO will reject the appeal pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(I), which states:

An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee the Service accepted will not be refunded.

As an administrative matter, the AAO notes that the appeal is moot, due to the passage of time, as the period of intended employment has already lapsed.

ORDER: The appeal is rejected, although the petition is moot due to the passage of time.

[REDACTED] work is noted in the site's testimonial section. The provisions of 8 C.F.R. § 292.1 do not include such a company or its employees.