

PUBLIC COPY

U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

D7

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



File: WAC 01 279 52890

Office: CALIFORNIA SERVICE CENTER

Date:

AUG 06 2005

IN RE: Petitioner:
Beneficiary:



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

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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

for 
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: the nonimmigrant visa petition was denied by the Acting Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The petitioner is described as an automobile wholesaler that seeks to employ the beneficiary temporarily in the United States as its president. The acting director determined that the petitioner had not established that a qualifying relationship exists between the United States and foreign entities.

It is noted that the record contains a signed Form G-28, Notice of Entry of Appearance as Attorney or Representative, for the beneficiary, [REDACTED] dated August 27, 2001. A second Form G-28 submitted with the appeal is dated April 11, 2002; however, the second G-28 is signed by a new representative and is for the beneficiary's spouse, [REDACTED]

The regulations at 8 C.F.R. § 292.4 state, in pertinent part:

During proceedings before the Service, substitution may be permitted upon the written withdrawal of the attorney or representative of record, or upon notification of the new attorney or representative.

No written withdrawal of the first attorney is included in the record.

On appeal, counsel for the beneficiary's spouse states:

Applicant, [REDACTED] filed an L2 Application to Change Non-Immigrant Status based on the L1 Petition filed for non-immigrant worker, [REDACTED] (applicant's spouse) by the Petitioner, [REDACTED] Inc. (WAC 01 279 52890). On March 21, 2002 the L1 Petition for non-immigrant worker was denied by the California Service Center and Appeal is being filed concurrently with this Notice of Appeal. The L2 Application to Change Non-Immigrant Status was denied pursuant 8 C.F.R. 214.1(a)(3).

This appeal is being filed, pending a decision on the principal alien's Notice of Appeal being filed concurrently with this Notice of Appeal.

The regulations at 8 C.F.R. § 103.3(a)(2)(i) state, in pertinent part: "The affected party shall file an appeal on Form I-290B."

The regulations at 8 C.F.R. § 103.3(a)(2)(v) state:

Improperly filed appeal--(A) Appeal filed by person or entity not entitled to file it--(1) Rejection without

refund of filing fee. 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 has accepted will not be refunded.

The appeal has not been filed by the petitioner, nor by any entity with legal standing in the proceeding, but rather, by counsel for the beneficiary and the beneficiary's spouse. Therefore, the appeal has not been properly filed and must be rejected.

ORDER: The appeal is rejected.