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**U.S. Citizenship
and Immigration
Services**

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File: EAC 03 150 53620 Office: VERMONT SERVICE CENTER

Date: **OCT 23 2006**

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)

IN 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, Chief
Administrative Appeals Office

DISCUSSION: On July 17, 2003, the Director of the Vermont Service Center denied the nonimmigrant visa petition. The petitioner appealed this denial to the Administrative Appeals Office (AAO), and, on May 4, 2005, the AAO dismissed the appeal. On June 6, 2005, the Vermont Service Center received a letter dated May 2, 2005 from Lolita J. Semidey purporting to move for reconsideration of the AAO's decision. The motion will be dismissed pursuant to 8 C.F.R. §§ 103.5(a)(1)(iii)(A) and (D), and § 103.5(a)(4).

The petitioner is a Puerto Rico corporation allegedly engaged in the manufacture and sale of vertical blinds. The petitioner seeks to employ the beneficiary as its general manager to open a new office in the United States as an L-1A nonimmigrant intracompany transferee pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The director denied the petition concluding that the petitioner failed to establish that (1) the beneficiary has been employed abroad primarily in a managerial or executive capacity; and (2) the beneficiary will be employed in the United States in a primarily managerial or executive capacity within one year. The AAO subsequently dismissed the appeal.

The Form G-28, Entry of Appearance as Attorney or Representative, dated August 11, 2003, which was submitted for the record, entered the appearance [REDACTED] and not for the petitioner. While [REDACTED] is identified in the Form G-28 as the president of the board of directors, the petitioner is not identified in the Form G-28 as the party being represented by counsel in this proceeding. In view of the above, counsel is only authorized to represent and act on behalf of [REDACTED] not the petitioner. The letter purporting to serve as a motion to reconsider was signed by counsel to [REDACTED] Citizenship and Immigration Services (CIS) regulations only permit an "affected party," or a representative acting on an affected party's behalf, to file a motion to reconsider. 8 C.F.R. § 103.5(a)(1)(iii)(A). [REDACTED] is not an affected party in this proceeding. 8 C.F.R. §§ 103.2(a)(3) and 103.3(a)(1)(iii)(B). **Therefore,** [REDACTED] counsel is not authorized to file a motion, and the motion must be dismissed for this reason. 8 C.F.R. § 103.5(a)(4).¹

Moreover, the letter purporting to serve as a motion to reconsider was addressed to the Vermont Service Center. CIS regulations specifically require that motions to reconsider be addressed to the official having jurisdiction. 8 C.F.R. § 103.5(a)(1)(iii)(D). In this case, the official having jurisdiction is the AAO, not the Vermont Service Center, since the AAO is the official who made the latest decision in the proceeding. 8 C.F.R. § 103.5(a)(1)(ii). **Therefore,** the motion must also be dismissed for this reason. 8 C.F.R. § 103.5(a)(4).

Finally, CIS regulations require that motions to reconsider (1) be supported by pertinent precedent decisions establishing that the decision was based on an incorrect application of law or CIS policy; and (2) must

¹It is acknowledged that the AAO adjudicated the underlying appeal on May 4, 2005 even though the Form I-290B giving rise to that appeal was signed by counsel to Mr. Luque. The AAO, however, is not obligated to repeat this error here. *See, e.g. Matter of Church Scientology International*, 19 I&N Dec. 593, 597 (Comm. 1988). It would be absurd to suggest that CIS or any agency must treat acknowledged errors as binding precedent. *Sussex Engr. Ltd. v. Montgomery*, 825 F.2d 1084, 1090 (6th Cir. 1987), *cert. denied*, 485 U.S. 1008 (1988).

establish that the decision was incorrect based on the evidence of record at the time of the initial decision. *See* 8 C.F.R. § 103.5(a)(3). In this matter, the letter purporting to move for reconsideration is not supported by any precedent establishing that there was an error of law and does not establish that the decision was contrary to the evidence in the record. Therefore, as the motion fails to meet the requirements of a motion to reconsider, the motion must also be dismissed for this reason. 8 C.F.R. § 103.5(a)(4).

As the motion did not meet the applicable requirements, it will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion is dismissed.