

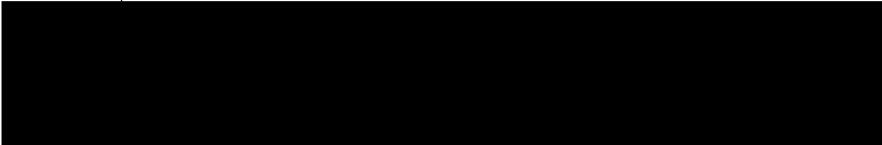
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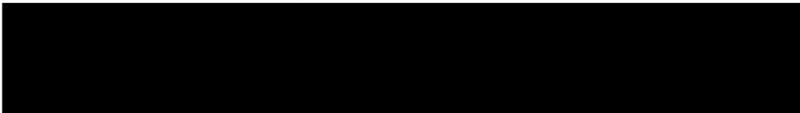
**U.S. Citizenship
and Immigration
Services**

97



File: EAC 07 018 51041 Office: VERMONT SERVICE CENTER Date: DEC 04 2007

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)

COPY TO:



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: The Director, Vermont Service Center, denied the petition for a nonimmigrant visa. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(I).

The petitioner is a corporation formed under the laws of the State of Florida. The petitioner's business is described in the Form I-129 as "roofing contractor and related services." The petition seeks the extension of the beneficiary's employment as the petitioner's general manager 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 after concluding that the petitioner failed to establish that the beneficiary will be employed primarily in a managerial capacity.

An appeal was subsequently filed on January 3, 2007. The Form I-290B was signed by [REDACTED]. Mr. [REDACTED] also signed a letter dated December 26, 2006 appended to the Form I-290B in which he identifies himself as "corporate officer." [REDACTED] is described as the "president" of the petitioner in both the Form I-907 and in the letter dated October 18, 2006, which was appended to the initial petition. However, upon a review of the corporate records of the State of Florida, specifically the Articles of Amendment to Articles of Incorporation and the petitioner's 2006 and 2007 annual reports, Mr. [REDACTED] ceased to be the "president" of the petitioner on February 28, 2006.

Because it appeared that Mr. [REDACTED] no longer had the authority to file the instant appeal, the AAO issued a Notice of Consideration of Derogatory Information pursuant to 8 C.F.R. § 103.2(a)(16)(i). This Notice states in part that the AAO intends to reject the instant appeal because it "does not appear that Mr. [REDACTED] was an attorney or authorized representative of the petitioner as defined by the regulations" and, thus, lacked the power to sign and file the Form I-290B on behalf of the petitioner. The Notice gave the petitioner 30 days to rebut this information and present information in support of this rebuttal.

A response was received by the AAO on October 30, 2007. In the response, counsel asserts that, while Mr. [REDACTED] ceased acting as "president" of the petitioner on or about February 6, 2006, he remained an "authorized representative" of the petitioner.¹ In support of this assertion, counsel submits a document titled "Notice and Minutes of Annual Meeting of Shareholders of [the petitioner]." Paragraph 2 of this document states that "Mr. [REDACTED] will review all documentation pertaining to the company and is authorized to sign on the company's behalf." The document was signed by [REDACTED] as "president" of the petitioner.

¹It is noted that the Form G-28 dated October 19, 2007 purportedly authorizing counsel to represent the petitioner is signed by [REDACTED] on behalf of the petitioner. As the AAO concludes that [REDACTED] is not authorized to represent the petitioner (*see infra*), he, consequently, lacks the authority to appoint counsel. Therefore, it would be appropriate for the AAO to reject counsel's response to the Notice of Consideration of Derogatory Information just as it is rejecting the underlying appeal. However, in order to fully consider whether Mr. [REDACTED] is an authorized representative of the petitioner, the AAO will consider counsel's reply to the Notice and will copy her on the AAO's decision in this matter. These acts should not be construed as the AAO's acknowledgment of Mr. [REDACTED] authority to sign the Form G-28 appointing counsel on the petitioner's behalf or the AAO's recognition of counsel as counsel to the petitioner.

Upon review, counsel's response to the Notice of Consideration of Derogatory Information is not persuasive in establishing that [REDACTED] had the authority as an "authorized representative" to file the instant appeal. The regulation at 8 C.F.R. § 103.2(a)(3) specifies that a petitioner may be represented "by an attorney in the United States, as defined in § 1.1(f) of this chapter, by an attorney outside the United States as defined in § 292.1(a)(6) of this chapter, or by an accredited representative as defined in § 292.1(a)(4) of this chapter." Title 8 C.F.R. § 292.1(a)(3) also permits reputable individuals to represent a petitioner in certain circumstances. An accredited representative is defined in 8 C.F.R. § 292.1(a)(4) as a representative of an organization described in 8 C.F.R. § 292.2, which, in turn, states that only non-profit religious, charitable, social service, or similar organizations recognized by the Board of Immigration Appeals may be so classified.

In this matter, the record fails to establish that Mr. [REDACTED] falls within any of the categories of representatives authorized by the regulations to file an appeal on behalf of the petitioner. He is not an attorney, a law student, a "reputable individual" (as defined in the regulations), or an "accredited representative." A petitioner may not circumvent the regulations governing representation in immigration proceedings by appointing third parties as "authorized representatives." As Mr. [REDACTED] is not a recognized party and is not a representative entitled to represent the petitioner, he was not authorized to file the appeal. 8 C.F.R. § 103.3(a)(1)(iii)(B).

As the appeal was filed by a person not entitled to file it, it must be rejected as improperly filed. 8 C.F.R. § 103.3(a)(2)(v)(A)(I).

ORDER: The appeal is rejected.