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U.S. Citizenship
and Immigration
Services

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FILE: SFR 214F 1542 Office: SAN FRANCISCO, CALIFORNIA

JUN 16 2004
Date:

IN RE: Petitioner: 

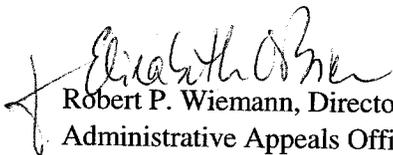
PETITION: Petition for Approval of School for Attendance by Nonimmigrant Student under Section 101(a)(15)(M)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(M)(i)

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.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Petition for Approval of School for Attendance by Nonimmigrant Student (Form I-17) was denied by the District Director, San Francisco, California. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The Form I-17 reflects that the petitioner in this matter, Palo Alto Flying Club, is a flight school established in February 1996. The petition at issue in this proceeding is the Student and Exchange Visitor Information System (SEVIS) Form I-17 filed on August 22, 2003.

The district director denied the petition after finding that the petitioner failed to establish that it is properly licensed, approved or accredited. The district director further found that the petitioner issued Forms I-20 to its students in violation of the regulations.

The first issue to be determined is whether the petitioner has been licensed, approved, or accredited in accordance with the regulations. 8 C.F.R. § 214.3(b) states:

Any other petitioning school shall submit a certification by the appropriate licensing, approving, or accrediting official who shall certify that he or she is authorized to do so to the effect that it is licensed, approved, or accredited.

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A school catalogue, if one is issued, shall also be submitted with each petition. If not included in the catalogue, or if a catalogue is not issued, the school shall furnish a written statement containing information concerning the size of its physical plant, nature of its facilities for study and training, educational, vocational or professional qualifications of the teaching staff, salaries of the teachers, attendance and scholastic grading policy, amount and character of supervisory and consultative services available to students and trainees, and finances (including a certified copy of accountant's last statement of school's net worth, income, and expenses).

In his decision, the district director noted that the petitioner indicated it had been approved by the Federal Aviation Administration (FAA) under 14 C.F.R. Parts 61 and 91. However, the district director then stated:

For institutions that provide flight instruction, the appropriate licensing, or approving authority is the Federal Aviation Administration in the form of an "air agency certificate" which certifies approval pursuant to 14 CFR Part 141.

We can find no basis in the regulations for the district director's requirement for specific approval of the FAA pursuant to 14 C.F.R. Part 141. The Citizenship and Immigration Services (CIS) regulation, as cited above, requires certification by the "appropriate licensing, approving, or accrediting official." In this instance, the FAA is the appropriate agency to approve a flight school to operate. The record does not support the district director's finding that the regulations require approval under Part 141 rather than Parts 61 and 91. As CIS regulations do not specify the exact FAA regulation under which a flight school must be approved, and absent

evidence in the record indicating otherwise, we find that FAA approval under Parts 61 and 91 satisfies the requirements of 8 C.F.R. § 214.3(b).

However, while we find that FAA approval under 14 C.F.R. Parts 61 and 91 satisfies 8 C.F.R. § 214.3(b), the petitioner has not demonstrated that it has received such approval.¹ On appeal, the petitioner states that it operates under FAA regulations at Parts 61 and 91, and not part 141. However, no evidence has been submitted on appeal to support the petitioner's statements. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

The remaining issue is whether the petitioner's previous approval had been automatically terminated such that the petitioner's subsequent issuance of Forms I-20s to its students was in violation of the regulations.

The record reflects that on February 28, 1989, CIS granted original approval for attendance by nonimmigrant M-1 students under the school code SFR 214F 1542 to the San Carlos Flight Center. At the time of approval the owner of the flight school was listed as Stanley G. Main.

On appeal, Suzanne Pfeffer, the owner of the petitioning school, indicates that she bought the petitioning school from Mr. Main. Ms. Pfeffer, however, does not indicate the date upon which the transaction took place. The date of the sale is significant in that the record contains an updated Form I-17, submitted to CIS on February 11, 1997, which lists Suzanne Pfeffer as the owner of ZP Aviation Inc./DBA as the Palo Alto Flying Club.² If the petition filed in February 1997 occurred within 60 days of the change in ownership from Mr. Main to Ms. Pfeffer, the petitioner remained in compliance with the regulations. If, however, the petition was filed more than 60 days after the change in ownership, the approval for the school to operate was automatically terminated in accordance with 8 C.F.R. § 214.4(a)(2).

In this instance, as we have already determined the record does not establish the petitioner has received approval in accordance with 8 C.F.R. 214.3(b), it is not necessary to make a determination on this issue at this time.

There are two remaining issues beyond those indicated in the decision of the district director which must also be noted. First, the petitioner failed to submit a catalogue or written statement in accordance with 8 C.F.R. § 214.3(b) which provides details relating to the petitioner's physical plant, facilities for study and training, qualifications and salaries of its teaching staff, attendance and scholastic grading policy, and the amount and character of supervisory and consultative services available to students and trainees. Second, the petitioner has not established that it would enable an M-1 nonimmigrant student to maintain a full course of study as required by 8 C.F.R. § 214.2(m)(9). For these reasons also, the petition cannot be approved.

As always, the burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. In this case the burden has not been met.

¹ The record does contain an "Air Agency Certificate" issued to San Carlos Flight Center, the previous owner of the petitioning school. The certificate expired November 30, 1988.

² It does not appear that CIS took any action upon this petition after its filing.

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ORDER: The appeal is dismissed.