

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

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



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

D1



FILE: SRC 05 156 51273 Office: TEXAS SERVICE CENTER Date: **AUG 06 2007**

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(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 approved by the service center director. Based upon information obtained from the beneficiary during her visa issuance process at the U.S. Embassy, the director determined that the beneficiary was not clearly eligible for the benefit sought. Accordingly, the director properly served the petitioner with notice of her intent to revoke the approval of the visa petition and her reasons therefore, and ultimately revoked the approval of the petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The decision of the director will be withdrawn and the matter will be remanded for further consideration.

The petitioner is a restaurant and store that seeks to employ the beneficiary as an "importing and trading – food manager." The petitioner, therefore, endeavors to classify the beneficiary as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b). The director determined that the petitioner had not responded to the Notice of Intent to Revoke and thus had not established the proffered position as a specialty occupation.

On appeal, the petitioner's owner states: "If evidence presented to you on April 5, 2006 (before cut-off date April 8, 2006) is not sufficient to support my petition for [the beneficiary], please refer to my letter."

The record contains evidence that the petitioner's response to the director's March 8, 2006 Notice of Intent to Revoke was received by the service center on April 4, 2006, which is within the 30 days specified on the notice. In view of the foregoing, the matter will be remanded for the director to consider the petitioner's response to the Notice of Intent to Revoke in accordance with 8 C.F.R. 214.2(h)(11)(iii)(B). The director may request any additional evidence she deems necessary. The petitioner may also provide additional documentation within a reasonable period to be determined by the director. Upon receipt of all evidence and representations, the director will enter a new decision.

ORDER: The decision of the director is withdrawn. The matter is remanded to her for further action and consideration consistent with the above discussion and entry of a new decision that, if adverse to the petitioner, is to be certified to the AAO for review.