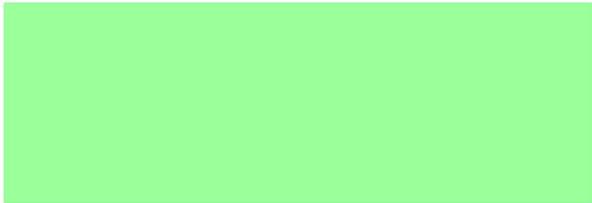
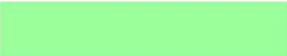


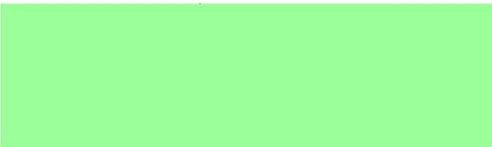


**U.S. Citizenship
and Immigration
Services**

(b)(6)



DATE: **JAN 02 2014** OFFICE: CALIFORNIA SERVICE CENTER FILE: 

IN RE: Petitioner: 

Beneficiary:

PETITION: Petition for a Commonwealth of the Northern Mariana Islands (CNMI) Only Nonimmigrant Transitional Worker Classification Pursuant to 48 U.S.C. § 1806(d)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The service center director denied the petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner submitted a Petition for a CNMI-Only Nonimmigrant Transitional Worker (Form I-129CW) to the California Service Center on November 30, 2011. In the Form I-129CW visa petition, the petitioner describes itself as a tea making business, with one employee, that was established in November 2011. In order to employ the beneficiary in what it designates as a [REDACTED] tea processor position, the petitioner seeks to classify him as a CNMI-Only Nonimmigrant Transitional Worker (CW-1) pursuant to 48 U.S.C. § 1806(d).

The petitioner provided documents in support of the Form I-129CW, including the following:

- A Form G-325, Biographic Information, signed by the beneficiary. For the entry "Applicant's employment last five years," the beneficiary stated "None."
- A Temporary Foreign National Worker Permit for the beneficiary.
- A copy of the biographic page of the beneficiary's passport.
- An entry permit for the beneficiary, stamped [REDACTED] 2008.
- A business license for the petitioner issued on [REDACTED] 2011.
- A form for placing a job vacancy announcement that was approved on November 14, 2011.
- A job vacancy announcement placed in the [REDACTED] on November 17, 2011.

The director found the initial evidence insufficient to establish eligibility for the benefit sought, and issued an RFE on July 4, 2012. The director outlined the specific evidence to be submitted.

The petitioner responded by providing copies of previously submitted documents, along with several new documents, including the following: (1) an employment contract signed by the petitioner's owner and the beneficiary on November 27, 2011; (2) a 2011 Form W-2CM Form issued to the petitioner's owner by the Public School System; (3) a Form 1040A-CM, Territorial Individual Income Tax Return, for the petitioner's owner (whose occupation is listed as "Teacher"); (4) a bank statement issued to the petitioner's owner on June 30, 2012, and indicating a balance of approximately \$776; (5) several Form OS-3105 (Business Gross Revenue Tax Monthly Return) for December 2011 to July 2012, with gross revenues varying from \$0 to \$20.

The director reviewed the response, and concluded that the petitioner failed to establish eligibility for the benefit sought and denied the petition on February 13, 2013. The director noted that there were numerous inconsistencies in the record of proceeding. On March 14, 2013, the petitioner submitted a Notice of Appeal or Motion (Form I-290B) and checked Box A in Part 2 of the form to indicate that it was filing an appeal and that a brief and/or additional evidence was attached. The petitioner did not provide a statement in Part 3 of the Form I-290B, but did submit a brief in support of the appeal. In the brief, the petitioner's owner stated that she is currently a [REDACTED]. In addition, she provided the following statement:

Now, I would like to explain my situation.

- In November 2011, I decided to start a [REDACTED] business (Explain what [REDACTED] is here).¹ I submitted my tax return in March 2011.
- On November [REDACTED] 2011, I obtained a business license, which was renewed on October [REDACTED] 2013.
- On November [REDACTED] 2011, I paid for an ad in the [REDACTED] to run for fifteen days, advertising the position, however, no one was interested.
- On November [REDACTED] 2011, I got a Certificate of Occupancy, which was renewed on November [REDACTED] 2012. That same day, my yard was inspected. My employee had built a screen around the area where the [REDACTED] are processed.
- On November [REDACTED], 2011, I got a Board of Health license, which was renewed on November [REDACTED] 2012.
- On October [REDACTED] 2012, I received a US barcode for my business merchandise.
- Eventually, I purchased containers to put the tea in and labels to mark the containers.

Now, the tea is being sold in stores in [REDACTED] including [REDACTED]. My son, who is a United States Army Veteran and a special education teacher aide at the local elementary school, delivers the [REDACTED] and collects payments. I have attached documents to prove this.

Now, about my employee, [beneficiary's name]. Thirty years ago, he came to [REDACTED] to work for my father-in-law, Mr. [REDACTED]. My four children have grown up knowing [the beneficiary], and he is a good friend, whom they love. When my father-in-law passed, he was hired by my mother-in-law, who has passed away as well. Now, [the beneficiary] is my employee. We have an ideal situation here; the employee is happy, and I, as the employer, am happy as well.

On appeal, the petitioner submitted several new documents along with copies of previously submitted evidence. More specifically, the petitioner submitted the following: (1) a business license issued to the petitioner on October [REDACTED], 2012; (2) GS1 company prefix certificate issued on October [REDACTED] 2012; (3) a certificate of occupancy; (3) sanitary permits; and (4) several Form OS-3105 (Monthly Business Gross Revenue Tax Return) for August 2012 to February 2013.

The AAO fully and in-detail reviewed the Form I-290B and the evidence submitted in support of the appeal. The AAO observes that the petitioner's statement on appeal does not identify any errors in the director's decision. The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part: "An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify *specifically* any erroneous conclusion of law or statement of fact for the appeal (emphasis added)." Further, the petitioner must establish eligibility at the time of filing the

¹ This text is in the original.

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nonimmigrant visa petition. 8 C.F.R. § 103.2(b)(1).² In the instant case, although the petitioner's owner requests that the petition be approved, she fails to identify specifically any erroneous conclusion of law or statement of fact as a basis for the appeal. Thus, the appeal must be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).³

ORDER: The appeal is summarily dismissed.

² It must be noted that U.S. Citizenship and Immigration Services does not have the discretion to disregard regulations, even if it would benefit a petitioner. *See Reuters Ltd. v. F.C.C.*, 781 F.2d 946 (C.A.D.C. 1986) (an agency must adhere to its own rules and regulations; ad hoc departures from those rules, even to achieve laudable aims, cannot be sanctioned).

³ The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). However, as the appeal is summarily dismissed, the AAO will not address the additional deficiencies and discrepancies that it observes in the record of proceeding.