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U.S. Citizenship
and Immigration
Services

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DA



FILE: WAC 04 006 53577 Office: CALIFORNIA SERVICE CENTER Date: APR 29 2005

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

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:
[Redacted]

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

Robert P. Wiemann, Director
Administrative Appeals Office

CC: [Redacted]

DISCUSSION: The Director, California Center, denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner is a corporation engaged in the hotel and travel services business. In order to continue employing the beneficiary as its marketing director, the petitioner endeavors to extend the beneficiary's status as a nonimmigrant worker in a specialty occupation that was granted by approval of a previous visa petition under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b). The director denied the petition on the basis that the petitioner had failed to establish that the proffered position meets the definition of a specialty occupation as set forth at 8 C.F.R. § 214.2(h)(4)(iii)(A).

The record reflects that the petitioner was previously represented by an attorney at a law firm in San Francisco, California, who, with the Form I-129, filed a Form G-28 (Entry of Appearance as Attorney or Representative) signed by the petitioner in October, 2003. There were no further filings from this attorney after the director issued his decision on August 3, 2004. A different attorney filed the Form I-290B (Notice of Appeal) and, with it, a Form G-28 that was signed by the beneficiary alone. On the Form I-290B, this new attorney identified the beneficiary alone as his client.

Citizenship and Immigration Services (CIS) regulations specifically state that a beneficiary of a visa petition is not recognized as an affected party in a proceeding. 8 C.F.R. § 103.2(a)(3). As the beneficiary is not an affected party, her attorney is not authorized to file an appeal. 8 C.F.R. § 103.3(a)(1)(iii)(B). Accordingly, the AAO will reject the appeal pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

ORDER: The appeal is rejected.