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U.S. Citizenship
and Immigration
Services

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FILE: EAC 07 164 53793 Office: VERMONT SERVICE CENTER Date: DEC 22 2008

IN RE: Petitioner:
Beneficiary



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.


Robert P. Wiemann, Chief
Administrative Appeals Office

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

The petitioner is a multi-media communications company that seeks to employ the beneficiary as a director of media production. The petitioner 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 denied the petition because the petitioner failed to file a Labor Condition Application (LCA) for the proffered position which was properly certified prior to the filing of the Form I-129.

The Form G-28 (Entry of Appearance as Attorney or Representative) that was submitted in conjunction with the appeal designates [REDACTED], YGA Services of Cumming, GA, as the petitioner's legal representative in these proceedings. The Form G-28 notes that YGA Services has been retained to assist the petitioner with the filing of the H-1B extension petition. The Form I-290B indicates that the person[s] representing the petitioner appear not as attorneys in these proceedings, but as a "representative" of the petitioner. The Form I-290B and the Form I-129 were both prepared by YGA Services.

On November 24, 2008, the AAO sent a notice to [REDACTED] requesting the submission of evidence to show that he was authorized to represent the petitioner. As of this date, no evidence has been submitted.

The US Citizenship and Immigration Services (USCIS) 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." Pursuant to 8 C.F.R. §§ 292.1(a)(4) and 292.2(a) and (d), an accredited representative is a person that the Board of Immigration Appeals (BIA) has accredited to represent a particular "non-profit religious, charitable, social service, or similar organization established in the United States" that the BIA has recognized as an organization which may provide accredited representatives. The record does not establish that the person listed on the G-28 is an authorized representative.

USCIS regulations specifically state that an appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. 8 C.F.R. § 103.3(a)(2)(v)(A)(1). Here, the person who filed the appeal was not entitled to do so. 8 C.F.R. § 103.2(a)(3). Accordingly, the AAO will reject the appeal.

ORDER: The appeal is rejected.