



U.S. Citizenship
and Immigration
Services

D2



DATE: NOV 03 2012

OFFICE: CALIFORNIA SERVICE CENTER

FILE: 

IN RE:

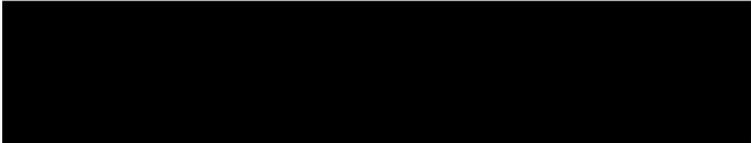
Petitioner:

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:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you.

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The director denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed. The petition will be summarily denied as abandoned.

In the Petition for a Nonimmigrant Worker (Form I-129), the petitioner describes itself as a "Brand Development and Fashion Marketing" business established in 2009. In order to employ the beneficiary in what it designates as a "Fashion Marketing Manager" position, the petitioner seeks to classify her 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 on the ground that the petitioner failed to establish that the proffered position qualifies for classification as a specialty occupation.

The AAO sent a request for evidence (RFE) to the petitioner dated September 7, 2012, noting that the evidence provided fails to demonstrate that the petitioner is formed as a business entity in any state. Thus, the AAO requested the following additional evidence:

1. That the petitioner was incorporated or formed as a business entity other than a corporation on or before October 8, 2010, the date the visa petition was submitted, and that it has remained, and now remains a business entity in good standing;
2. If the petitioner was incorporated or formed outside of the State of California, that the petitioner is registered as a "foreign" business entity with the California Secretary of State;
3. That the petitioner has the requisite licenses and permits from all levels of government;
4. Any other evidence that the petitioner is qualified to transact business in the State of California; and
5. Evidence, including invoices, banking statements, and Federal income tax returns for 2010 and 2011, showing that the petitioner has done business since October 8, 2010 and continues to do business in the United States.

The AAO also informed the petitioner it could not be determined that the Federal Employer Identification Number (FEIN) listed on page one of the Form I-129, i.e., [REDACTED] was actually issued to the petitioner. Thus, the AAO requested documentary evidence that the Internal Revenue Service issued the FEIN listed above to the petitioner.

On September 13, 2012, the RFE sent to the petitioner was returned to the AAO by the United States Postal Service. It is noted that the RFE was sent to the last address provided by the petitioner as well as to the petitioner's counsel; however, neither the petitioner nor counsel responded to the AAO's request.¹

A petition may be summarily denied as abandoned, denied based on the record, or denied for both reasons if a petitioner or applicant fails to respond to a request for evidence or a notice of intent to deny by the required date. 8 C.F.R. § 103.2(b)(13)(i). In the RFE, the AAO specifically alerted the petitioner that failure to respond to the RFE would result in dismissal since the AAO could not

¹ The copy of the RFE sent to counsel was not returned to the AAO.

substantively adjudicate the appeal without the information requested due to the numerous credibility issues with the evidence in the current record of proceeding. The failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. *See* 8 C.F.R. § 103.2(b)(14).

Because the petitioner failed to respond to the RFE, the AAO is dismissing the appeal and summarily denying the petition as abandoned. The remaining issues in this proceeding are thereby moot.

ORDER: The appeal is dismissed. The petition is summarily denied as abandoned.