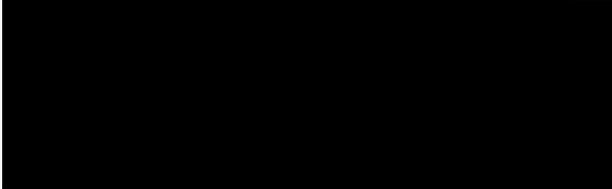




U.S. Citizenship
and Immigration
Services

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prevent clearly unwarranted
invasion of personal privacy

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FILE: EAC 07 259 52578 Office: VERMONT SERVICE CENTER

Date: JUL 02 2008

IN RE: Petitioner:
Beneficiaries:



PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(H)(ii)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(ii)(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 nonimmigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner is a full service car wash. It desires to employ the beneficiaries as car attendants pursuant to section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(ii)(b), and its implementing regulations at 8 C.F.R. § 214.2(h)(6) from October 1, 2007 to August 1, 2008. The Department of Labor determined that the petitioner had not established a temporary need for the beneficiaries' services. The director determined that the petitioner had failed to establish that its need for car attendants satisfied any of the H-2B temporary need categories defined at 8 C.F.R. § 214.2(h)(6).

As mandated by regulation, the AAO will reject the appeal because it was filed by a person not authorized to appear before Citizenship and Immigration Services (CIS) on behalf of any person or entity. The CIS regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(I) provides that an appeal filed with CIS by a person not entitled to file it "must be rejected as improperly filed."

The regulation at 8 C.F.R. § 103.2(a)(3) allows only three types of persons to file appeals with CIS as representatives of applicants or petitioners. These are: (1) attorneys in the United States, as defined at 8 C.F.R. § 1.1(f); (2) attorneys outside the United States, as defined at 8 C.F.R. § 292.1(a)(6); and (3) accredited representatives, as defined at 8 C.F.R. § 292.1(a)(4) of this chapter.

The Form I-290B (Notice of Appeal) was signed by [REDACTED].

A person appearing before CIS in a representative capacity must file a Form G-28 (Notice of Entry of Appearance as Attorney or Representative), signed by the petitioner, that identifies the provisions of 8 C.F.R. § 292.1 under which he or she is entitled to represent the petitioner before CIS. *See* 8 C.F.R. § 292.4(a).

The record of proceeding contains a Form G-28 signed by the petitioner. This form identifies the petitioner's representative as [REDACTED], who is the person who signed the Form I-290B and filed the appeal. The unchecked boxes on the Form G-28 indicate that [REDACTED] is neither an attorney nor an accredited representative of an organization recognized by the BIA. At section 4 of the Form G-28, [REDACTED] states:

We are the designated agent/representative for the petitioning company. We have been authorized by [the petitioner].

However, [REDACTED] does not identify any provision of 8 C.F.R. § 103.2(a)(3) under which he is entitled to represent the petitioner before CIS.

By letter dated May 23, 2008, the AAO provided [REDACTED] 15 days in which to (1) identify the provision(s) of 8 C.F.R. § 103.2(a)(3) under which he qualified to represent the petitioner, and (2) documentary proof of his qualification under whatever provision(s) of 8 C.F.R. § 103.2(a)(3) he cites as authorizing him to appear in a representative capacity on this appeal. The letter notified [REDACTED] that the AAO would reject the appeal

as improperly filed if, within fifteen 15 days, he failed to submit persuasive evidence of his entitlement to file an appeal for the petitioner. As of this date, the AAO has received no reply from [REDACTED].

The record fails to establish that the person who filed the appeal was authorized to appear as a representative in accordance with the provisions of 8 C.F.R. § 103.2(a)(3). Accordingly, the AAO will reject the appeal pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(I), which states:

An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed.
In such a case, any filing fee the Service accepted will not be refunded.

ORDER: The appeal is rejected.