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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



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



D7

DATE: **FEB 17 2012** OFFICE: CALIFORNIA SERVICE CENTER FILE 

IN RE: Petitioner: 
Beneficiary: 

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

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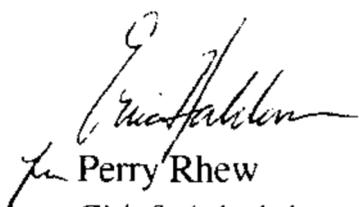


INSTRUCTIONS:

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 law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must 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, California Service Center, denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will reject the appeal.

The petitioner filed this nonimmigrant petition seeking to extend the beneficiary's employment as a nonimmigrant intracompany transferee pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner, a California corporation, states that it is engaged in the retail sale of art objects. The petitioner claims to be an affiliate of [REDACTED] located in Alberta, Canada. The beneficiary was previously granted L-1A status for a period of almost three years, from June 2006 to March 2009, and the petitioner now seeks to extend his status so that he may continue to serve in the position of manager/owner.

On June 12, 2009, the director denied the petition on two alternative grounds, concluding that (1) the petitioner failed to establish that the beneficiary's services are to be used for a temporary period and that the beneficiary will be transferred to an assignment abroad upon completion of the temporary assignment in the United States; and (2) the petitioner failed to establish that the beneficiary will be employed in the United States in a primarily managerial or executive capacity.

On July 2, 2009, counsel for the petitioner submitted the Form I-290B, Notice of Appeal or Motion, to appeal the denial of the underlying petition. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review.

U.S. Citizenship and Immigration Services (USCIS) regulations specifically limit the filing of an appeal to an affected party (the person or entity with legal standing) and/or to the party's attorney or representative authorized pursuant to 8 C.F.R. § 292. See 8 C.F.R. § 103.3(a)(1)(iii)(B). In this matter, although the petition is accompanied by a Form G-28, Notice of Entry of Appearance by an Attorney or Representative, counsel has not established that he or she is a qualifying United States or foreign attorney or an accredited representative authorized to undertake representations on the petitioner's behalf. See 8 C.F.R. § 292.1.

The regulation governing representation in filing immigration petitions and/or applications with United States Citizenship and Immigration Services (USCIS) is found at 8 C.F.R. § 103.2(a)(3), which provides in pertinent part that:

(3) *Representation.* An applicant or 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.

The regulation at 8 C.F.R. § 1.1(f) states:

The term attorney means any person who is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth, or the District of Columbia, and is not under any order of any court suspending, enjoining, restraining, disbaring, or otherwise restricting him in the practice of law.

The regulation at 8 C.F.R. § 292.1(a)(6) encompasses the following type of foreign attorneys:

Attorneys outside the United States. An attorney other than one described in Sec. 1.1(f) of this chapter who is licensed to practice law and is in good standing in a court of general jurisdiction of the country in which he/she resides and who is engaged in such practice. Provided that he/she represents persons only in matters outside the geographical confines of the United States as defined in section 101(a)(38) of the Act, and that the Service official before whom he/she wishes to appear allows such representation as a matter of discretion.

Here, the Form I-290B was signed and filed by an attorney who indicates that he is "a member in good standing of the Law Society of the province of Alberta, Canada." Counsel is not a qualifying United States attorney pursuant to 8 C.F.R. § 1.1(f), nor is he a qualifying foreign attorney who represents the petitioner only in matters outside the geographical confines of the United States pursuant to 8 C.F.R. § 292.1(a)(6).

Accordingly, the appeal has not been filed by the petitioner, an authorized representative or any entity with legal standing in the proceeding, but rather by an unauthorized foreign attorney. Therefore, the appeal has not been properly filed and must be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(i).

The AAO notes for the record that even if the appeal had been properly filed, it would be summarily dismissed.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) provides that 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.

On appeal, the beneficiary submits a letter indicating that his business has suffered in the economic recession and that he plans on closing the business after the fall season. The petitioner requests that the petition be approved and L-1A status extended to facilitate the beneficiary's employment through the end of the fall season in order to close the business properly. The petitioner has not identified an erroneous conclusion of law or statement of fact on the part of the director as a basis for the appeal.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not met that burden.

ORDER: The appeal is rejected.