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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



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



B6

FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date: **APR 28 2009**
LIN 06 253 53372

IN RE: Petitioner: [redacted]
Beneficiary: [redacted]

PETITION: Immigrant petition for Alien Worker as a Skilled Worker or Professional pursuant to section 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. 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 \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the third preference visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A).

The petitioner is an employment placement agency. It seeks to employ the beneficiary permanently in the United States as a pharmacist. As required by statute, a labor certification approved by the Department of Labor accompanied the petition. The director determined that the petitioner had not demonstrated its continuing ability to pay the proffered wage beginning on the priority date of the visa petition and denied the petition accordingly.

The record of proceeding contains a Form G-28 (Form G-28), Notice of Entry of Appearance as Attorney or Representative, for the beneficiary's representative, [REDACTED] of Immigration Specialties. Additionally, the Form I-290B appellate form was filed and signed by [REDACTED] of Immigration Specialties on behalf of the beneficiary. United States Citizenship and Immigration Services' (USCIS) regulations specifically prohibit a beneficiary of a visa petition, or a representative acting on a beneficiary's behalf, from filing an appeal. 8 C.F.R. § 103.3(a)(1)(iii)(B). As the appeal was not properly filed, it will be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(I).

Further, the 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."¹ The Form G-28 indicates that [REDACTED] of Immigration Specialties

¹ 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.

The regulation at 8 C.F.R. § 292.1(a)(4) defines an accredited representative as a person representing an organization described in 8 C.F.R. § 292.2 who has been accredited by the Board of Immigration Appeals (BIA). The regulation at 8 C.F.R. § 292.2 describes the processes by which the BIA (1)

(1) is an attorney and member in good standing of the Oklahoma Supreme Court; and (2) that Immigration Specialties is not a law firm, that owners and staff are non-attorneys, and that Immigration Specialties does not give legal advice and does not “attempt to represent foreign nationals, their employers or family members in any way.” The record of proceeding suggests that [REDACTED] filed the appeal as part of his employment by Immigration Specialties, the firm that the beneficiary engaged as its agent/representative for the present petition. [REDACTED] is not listed as an attorney in good standing in the State of Oklahoma.² Further, neither [REDACTED] nor Immigration Specialties is listed on the most recent Roster of Recognized Organizations and Accredited Representatives maintained by the Executive Office for Immigration and Review, available on the Internet at <http://www.usdoj.gov/eoir/statspub/recognitionaccreditationroster.pdf> (accessed on April 14, 2009). The record of proceedings contains no documentation establishing that [REDACTED] of Immigration Specialties belongs to any category of persons identified at 8 C.F.R. § 103.2(a)(3) as authorized to appear in a representational capacity before USCIS. In this case, the person listed on the G-28 is not an authorized representative. The regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(I) provides that an appeal filed with USCIS by a person not entitled to file it “must be rejected as improperly filed.”

ORDER: The appeal is rejected as improperly filed.

recognizes an organization as authorized to provide accredited representatives, and (2) accredits a person as a representative of a recognized organization.

² <http://www.oklahomafindalawyer.com/FindALawyer> (accessed April 14, 2009).