

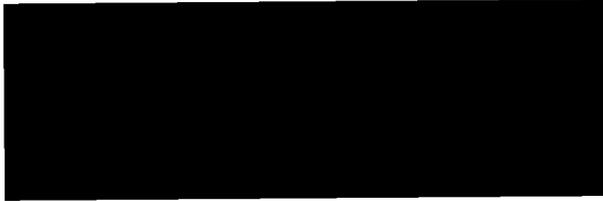
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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



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FILE: WAC 03 180 50902 Office: CALIFORNIA SERVICE CENTER

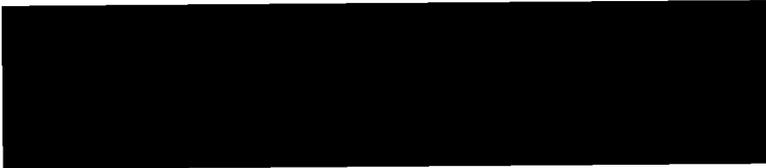
Date: **MAR 11 2010**

IN RE: Petitioner:
Beneficiary:



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:



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).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, California Service Center, and now the matter is before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner is a care facility and seeks to employ the beneficiary permanently in the United States as a cook. The director denied the petition finding the petitioner had not established its continuing ability to pay the proffered wage as of the priority date of the petition.

The appeal was filed by [REDACTED] who submitted a Form G-28, Notice of Entry of Appearance as Attorney or Representative signed by the petitioner's administrator, [REDACTED]. Mr. [REDACTED] claimed to represent the petitioner as an attorney and as a member of the California Supreme Court bar.

The regulation governing representation in filing immigration petitions and/or applications with U.S. 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.

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)

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

On November 23, 2009, this office issued a notice of derogatory information (NDI). The NDI noted that, as of January 7, 2008, [REDACTED] was not eligible to practice law and was therefore not eligible to represent the petitioner in these proceedings. The petitioner was provided 15 days in which to reply to the NDI, but never responded.

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 person. Therefore, the appeal has not been properly filed and must be rejected. 8 C.F.R. § 103.2(a)(2)(v)(A)(i).

ORDER: The appeal is rejected.