

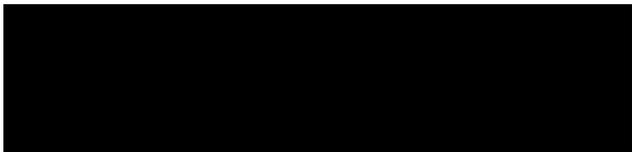
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W. MS 2090
Washington, DC 20529-2090
**U.S. Citizenship
and Immigration
Services**



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FILE:



Office: NEBRASKA SERVICE CENTER

Date: JAN 24 2011

IN RE:

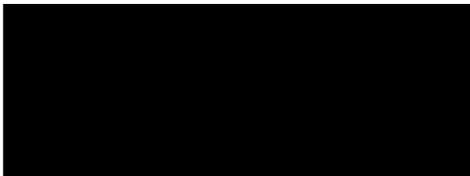
Petitioner:



Beneficiary:

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

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

The petitioner is a metal fabrication and powder coating business and seeks to employ the beneficiary permanently in the United States as a metal fabricator and powder coater. 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. Ms. [REDACTED] claimed to represent the petitioner as a designated agent/representative.

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.

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 December 16, 2010, this office issued a notice of derogatory information (NDI) quoting the above regulations and advising that Ms. [REDACTED], according to the checked box on the Form G-28 and a review of the most recent Roster of Recognized Organizations and Accredited Representatives maintained by the Executive Office for Immigration and Review, available on the Internet at [REDACTED] (accessed November 30, 2010), was not an attorney or an accredited representative of an organization recognized by the BIA. Ms. [REDACTED] was provided 15 days in which to reply and advised that failure to respond would result in the appeal being rejected as improperly filed. The AAO received no response from Ms. [REDACTED]

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.