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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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Date: MAR 12 2012

Office: NEBRASKA SERVICE CENTER

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:

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.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The employment-based preference visa petition was initially approved by the Director, California Service Center. In a Notice of Revocation (NOR), the director ultimately revoked the approval of the Form I-140, Immigrant Petition for Alien Worker. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained, and the petition's approval reinstated.

The petitioner is a dental clinic. It seeks to employ the beneficiary permanently in the United States as a dental assistant. As required by statute, the petition is accompanied by a Form ETA 750, Application for Alien Employment Certification, approved by the United States Department of Labor (DOL).

The approval of this petition was revoked as a result of the beneficiary's other immigrant visa petition. A Form I-130 was filed on the beneficiary's behalf on July 29, 2002. Concurrent with the filing of Form I-130, the beneficiary also sought lawful permanent residence and employment authorization as the immediate relative of a U.S. citizen.

In connection with the Form I-130, a decision was issued by the Santa Ana district director of the USCIS office located in Santa Ana, California on October 18, 2007. The decision denied the Form I-130 because the marriage between the beneficiary and the petitioner [REDACTED] was non-existent, and that the beneficiary submitted a fraudulent marriage certificate.¹

On December 18, 2009, the director sent a NOIR to the petitioner stating that the marriage between the beneficiary and the petitioner [REDACTED] was non-existent and that the beneficiary submitted a fraudulent marriage certificate.

The beneficiary maintains that she had no knowledge of any documentation submitted to USCIS in her name.

There is substantial and probative evidence in the record of proceeding to support a reasonable inference that the beneficiary did not enter into a marriage for the purpose of evading immigration laws nor did she have knowledge of any documentation submitted to USCIS in her name. The USCIS office located in Santa Ana, California conducted an investigation which determined that the beneficiary was not a party to the misrepresentation. Specifically, a forensic analysis of the documents related to the misrepresentation by ICE/Forensic Document Laboratory (FDL) determined that the beneficiary's signatures were forged on the documentation submitted to USCIS.

Therefore, an independent review of the documentation in the record of proceeding presents substantial and probative evidence to support a reasonable inference that the beneficiary did not

¹ The Santa Ana district director of the USCIS office located in Santa Ana, California incorrectly cited Subsection (b) of Section 204 of the Immigration and Nationality Act (the Act) as the basis for the revocation. However, this section of the Act does not apply because the beneficiary never married the petitioner.

enter into a fraudulent marriage for the purpose of evading the immigration laws.

ORDER: The appeal is sustained, and the petition is approved.