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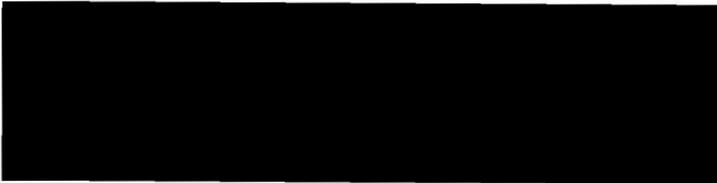
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FILE: WAC 07 131 52614 Office: CALIFORNIA SERVICE CENTER Date: JUL 10 2008

IN RE: Petitioner: [Redacted]  
Beneficiary: [Redacted]

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

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.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center, denied the nonimmigrant visa petition. The matter is now before the AAO. The appeal will be sustained. The petition will be approved.

The petitioner operates a 25,000 square foot commercial bakery facility. It seeks to employ the beneficiary as an industrial engineer. Accordingly the petitioner endeavors to classify the beneficiary as a nonimmigrant pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b).

On May 29, 2007, the director determined that the petitioner had not provided sufficient evidence to justify its need for the beneficiary's services as the petitioner had not provided supporting documentation. In a motion to reopen and reconsider, the petitioner provided additional documentation regarding its business. On July 16, 2007, the director dismissed the motion determining that the petitioner had not submitted new information. The petitioner filed this appeal.

On appeal, counsel for the petitioner asserts that the petitioner has supplied the supporting documentation justifying its need for the beneficiary's services. Counsel observes that the petitioner submitted new information addressing every issue raised in the director's denial. Counsel requests a review of the matter.

The record of proceeding before the AAO contains: (1) the Form I-129 filed on April 2, 2007 with supporting documentation; (2) the director's April 16, 2007 request for further evidence (RFE); (3) the petitioner's April 25, 2007 response to the director's RFE; (4) the director's May 29, 2007 denial letter; (5) counsel's timely filed motion to reopen or in the alternative appeal and supporting documentation; (6) the director's dismissal of the motion; and (7) the petitioner's appeal and supporting documentation. The AAO reviewed the record in its entirety before issuing its decision.

The AAO has reviewed the extensive description of the duties of the proffered position as those duties relate specifically to the petitioner's business. The duties described are the duties of an industrial engineer as reported in the Department of Labor's 2008-2009 edition of the *Occupational Outlook Handbook (Handbook)*, an occupation that normally requires a bachelor's degree in engineering. The beneficiary holds a bachelor's of science degree in industrial engineering issued by the California State Polytechnic University Pomona. Thus, the record reflects that the beneficiary will be performing the duties of a specialty occupation and is qualified to perform the duties of the proffered position.

The burden of proof in these proceedings rests solely with the petitioner. *See* Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has sustained that burden.

**ORDER:** The appeal is sustained. The director's decision is withdrawn and the petition is approved.