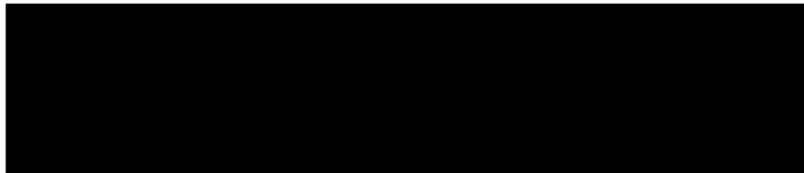




U.S. Citizenship
and Immigration
Services

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invasion of personal privacy

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: JUL 07 2010

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:

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 \$585. 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 nonimmigrant visa petition was denied by the service center director and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as the matter is now moot.

The petitioner is a wholly owned subsidiary of [REDACTED], which the petitioner describes as “the leading producer of wheels and frames for commercial vehicles and railway freight cars and castings.” To employ the beneficiary in what the petitioner identifies as its Business Analyst position, the petitioner filed this H-1B petition to classify him as a nonimmigrant worker in a specialty occupation 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).

The director denied the petition based upon her determinations (1) that the beneficiary’s bachelor’s degree in Business Administration did not qualify him to serve in the claimed specialty occupation, and (2) that that the record of proceeding does not contain “credible and sufficient evidence to establish that the petitioner has complied with the terms and conditions of employment.”

A review of U.S. Citizenship and Immigration Services (USCIS) records indicates that on December 9, 2009, a date subsequent to the filing of the instant petition, the petitioner submitted a new Form I-129 petition to classify the beneficiary as an H-1B nonimmigrant worker in a specialty occupation. USCIS records further indicate that this second petition was approved, granting the beneficiary H-1B status, on December 17, 2009. Because the beneficiary in the instant petition has been approved for employment with the petitioner based upon the filing of another petition, further pursuit of the matter at hand is moot.¹

ORDER: The appeal is dismissed. The petition is denied.

¹ Dismissal of this appeal as moot is not an affirmation of either the director’s decision to deny the petition or of any of the findings upon which the director based her decision.