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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

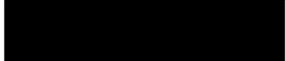
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U.S. Citizenship
and Immigration
Services



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Date: NOV 01 2011 Office: CALIFORNIA SERVICE CENTER FILE: 

IN RE: Petitioner: 
Beneficiary: 

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:

SELF-REPRESENTED

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

The petitioner describes itself as a hospitality/restaurant corporation that seeks to employ the beneficiary as an accountant. The petitioner, therefore, endeavors to classify the beneficiary 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 on October 27, 2009, because she determined that the petitioner failed to demonstrate that it would employ the beneficiary in a specialty occupation position. On appeal, counsel for the petitioner submits a brief and additional evidence.

A Form I-290B, Notice of Appeal or Motion, was filed timely with a signature of the petitioner's authorized official. However, comparing the signatures in the record, the signature on the Form I-290B is so visibly different from signatures on other forms in the record of proceeding that it is concluded that the signature on the Form I-290B is not from the petitioner's authorized official. Moreover, the AAO notes that the Form I-290B uses the address of

No evidence suggests that the petitioner consented to the filing of the appeal. With a forged signature of the petitioner's authorized official, the AAO cannot find that the Form I-290B was filed by the affected party or its representative. As the appeal was not filed by the affected party or its representative, it must be rejected as improperly filed. 8 C.F.R. § 103.3(a)(1)(iii)(B); 8 C.F.R. § 103.3(a)(2)(v)(A)(1); 8 C.F.R. § 103.3(a)(2)(v)(A)(2)(i).

Moreover, even if the appeal were not being rejected for the reasons explained above, it would be summarily dismissed. The regulations at 8 C.F.R. § 103.3(a)(1)(v) state, in pertinent part:

Summary dismissal. An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

claims on appeal that the petitioner has four locations in operation and will open "an escrow" in and by the end of 2010. It therefore strongly believes that an accountant with the petitioner is a business necessity and a specialty occupation. The appellant, however, has not specifically identified any erroneous conclusion of law or statement of fact in the director's decision

¹ While the petitioner uses a different address on its Fictitious Business Name Statement filed with the California Secretary of State and on its federal tax returns, the petition and the underlying labor condition application indicate that the petitioner is located and offers a job to the beneficiary at The business database maintained by the California Secretary of State at (accessed on October 17, 2011) confirms this address of the petitioner.

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denying the petition. The appeal would therefore have to be summarily dismissed even if it had been properly filed.

As the appeal was not properly filed, it will be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(I).

ORDER: The appeal is rejected.