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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: **MAY 04 2012**

Office: VERMONT SERVICE CENTER

FILE: 

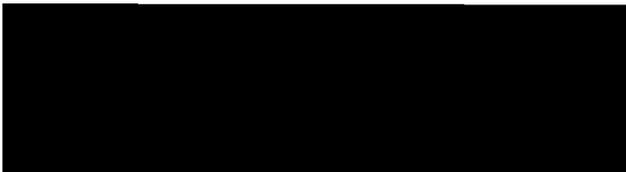
IN RE:

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:



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 initially approved by the Director, Vermont Service Center. In connection with an administrative site visit conducted on October 6, 2009, the director served the petitioner with notice of intent to revoke the approval of the petition (NOIR). The director ultimately revoked the approval of the nonimmigrant petition. A subsequent motion to reopen/reconsider (MTR) was filed by counsel for the petitioner. The director granted the motion to reopen the previous decision. However, upon reviewing and considering all evidence submitted on MTR, the director affirmed his previous decision to revoke the approval of the petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner describes itself as a corporation with 100 employees that is engaged in retrofits, renovations, and alterations of new and existing commercial air conditioning systems. It seeks to employ the beneficiary as a market research analyst. 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).

On January 20, 2010, the director revoked the approval of the petition because the evidence submitted in response to the director's NOIR did not overcome the grounds of revocation. Specifically, the petitioner's response did not demonstrate that it is employing the beneficiary in the capacity specified in the approved petition and that it is paying the beneficiary the required wage in accordance with the terms and conditions of the approved petition. On February 22, 2010, counsel for the petitioner filed a Form I-290B, Notice of Appeal or Motion, clearly marking box F in Part 2, requesting a motion to reopen and a motion to reconsider. On April 13, 2010, the director made a new decision on the motion affirming his previous decision of revocation concluding that the evidence submitted with the motion does not overcome the grounds for revocation. Counsel for the petitioner has now filed an appeal to the AAO from the director's decision on the motion.

Therefore, the issue before the AAO is whether the director's decision dated April 13, 2010 was proper.

Counsel filed the instant appeal on May 17, 2010. On the Form I-290B, counsel indicates that he is filing an appeal and will submit his brief and/or additional evidence to the AAO within 30 days. In Part 3. Basis for the Appeal or Motion, counsel merely stated "[p]lease see attached."

Counsel dated the appeal May 14, 2010. The regulation requires that any brief shall be submitted directly to the AAO. 8 C.F.R. § 103.3(a)(2)(vii) and (viii). As of this date, the AAO has received nothing further, and the record shall be considered complete as currently constituted.

It is noted that counsel attached the director's April 13, 2010 decision, the U.S. Citizenship and Immigration Services receipt notice on the MTR filed on February 22, 2010 and a copy of his brief in support of the MTR dated February 20, 2010. The record does not contain any documents or statements specifically identifying any erroneous conclusion of law or statement of fact in the director's April 13, 2010 decision.

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.

The appellant has not specifically identified any erroneous conclusion of law or statement of fact in the director's decision from which the instant appeal is submitted. Therefore, the appeal must be summarily dismissed.

ORDER: The appeal is summarily dismissed.