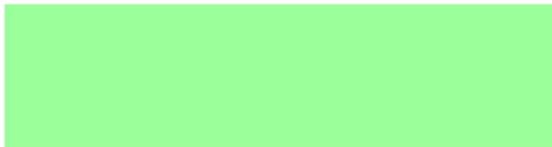




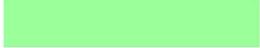
U.S. Citizenship
and Immigration
Services

(b)(6)

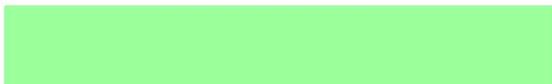


DATE: **AUG 16 2013**

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:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, revoked the nonimmigrant visa petition. The matter is now on appeal before the Administrative Appeals Office (AAO). The director's decision to revoke the petition is withdrawn. The appeal will be remanded to the service center director to consider the petitioner's response to the Notice of Intent to Revoke (NOIR).

The petitioner submitted a Petition for Nonimmigrant Worker (Form I-129) to the Vermont Service Center on April 5, 2011. In the Form I-129 visa petition, the petitioner describes itself as a retail and marketing business established in 2007. In order to continue to employ the beneficiary in what it designates as a computer systems analyst position, the petitioner seeks 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 approved the petition on April 18, 2011. Thereafter, on November 9, 2011, based on the results of an administrative site visit and a review of the record of proceeding, the director issued a Notice of Intent to Revoke (NOIR). The NOIR contained a detailed statement of the grounds for the revocation and the time period allowed for the petitioner's rebuttal. The petitioner was given thirty-three days to respond to the NOIR. On November 28, 2012, the director revoked the petition finding that the petitioner failed to submit a response on or before the due date. On appeal, the petitioner asserts that the director's basis for revocation of the petition was erroneous and contends that a response to the NOIR was timely filed. In support of this assertion, the petitioner submitted additional evidence, including tracking information for the petitioner's response to the NOIR.

The record of proceeding before the AAO contains: (1) the petitioner's Form I-129 and supporting documentation; (2) the approval notice for the Form I-129; (3) the NOIR; (4) the decision to revoke the approved petition; and (5) the Form I-290B and supporting documentation. In addition, the record of proceeding also now contains the petitioner's response to the NOIR. Moreover, upon review of the record, it appears that the petitioner filed a timely response to the NOIR.

The AAO observes that the petitioner's original timely filed response to the NOIR is now present in the physical record of proceeding. Accordingly, the petition is remanded to the director for consideration of this evidence and issuance of a new decision.

ORDER: The director's decision to revoke the petition is withdrawn. The petition is remanded to the director for further action in accordance with the foregoing and entry of a new decision.