



U.S. Citizenship  
and Immigration  
Services

(b)(6)

[Redacted]

DATE: JUN 03 2013

OFFICE: VERMONT SERVICE CENTER

FILE: [Redacted]

IN RE:

Petitioner:

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:

[Redacted]

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

*Ra Michael T. Kelly*  
Ron Rosenberg

Acting Chief, Administrative Appeals Office

**DISCUSSION:** The service center director denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

On the Form I-129 visa petition, the petitioner describes itself as a real estate management company<sup>1</sup> established in 2004. In order to employ the beneficiary in what it designates as a Controller position,<sup>2</sup> the petitioner seeks to classify her 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 April 25, 2012, and counsel filed a timely appeal. Counsel marked the box at section two of the Form I-290B, Notice of Appeal, to indicate that a brief and/or additional evidence would be sent within 30 days. However, the AAO did not receive a brief and/or additional evidence within the allotted timeframe (or thereafter). Accordingly, the record of proceeding is deemed complete as currently constituted.

The only comment submitted regarding the appeal is counsel's statement made at Part 3 of the Form I-290B that "[a] supporting Brief will follow with [sic] 30 days." However, this statement contains no specific assignment of error. Furthermore, an offer to provide further information in the future is an insufficient basis for an appeal.<sup>3</sup> The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part, the following: "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 (emphasis added)."

As counsel did not provide examples of any factual errors or otherwise identify any specific, erroneous conclusion of law or statement of fact in the director's decision, the appeal must be summarily dismissed pursuant to 8 C.F.R. § 103.3(a)(1)(v).

**ORDER:** The appeal is summarily dismissed.

---

<sup>1</sup> The petitioner provided an invalid North American Industry Classification System (NAICS) Code of 531000. U.S. Dep't of Commerce, U.S. Census Bureau, North American Industry Classification System, 2012 NAICS Definition, <http://www.census.gov/cgi-bin/sssd/naics/naicsrch> (accessed May 6, 2013).

<sup>2</sup> The Labor Condition Application (LCA) submitted by the petitioner in support of the petition was certified for the SOC (O\*NET/OES) Code 11-3031.00, the associated Occupational Classification of "Treasurers, Controllers, and Chief Financial Officers," and a Level I (entry-level) prevailing wage rate.

<sup>3</sup> The AAO notes that a petitioner must establish eligibility at the time of filing the nonimmigrant visa petition. 8 C.F.R. § 103.2(b)(1).