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

(b)(6)

U.S. Citizenship and Immigration Services

[redacted]

DATE: OCT 0 8 2013 OFFICE: VERMONT SERVICE CENTER FILE: [redacted]

IN RE: Petitioner: [redacted]
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 IN THE FORM I-129 PROCEEDING:

[redacted]

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,

Ron Rosenberg
Chief, Administrative Appeals Office

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

On the Form I-129 visa petition and supporting documents, the petitioner describes itself as a company, established in 2011, that cleans and repairs antique, silk, Persian/Oriental, and machine made rugs. In order to employ the beneficiary in what it designates as an assistant director of sales and marketing 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 denied the petition, finding that the petitioner failed to establish that the proffered position qualifies as a specialty occupation in accordance with the applicable statutory and regulatory provisions. Alleged counsel for the petitioner subsequently filed a Form I-290B, Notice of Appeal or Motion.

In accordance with the U.S. Citizenship and Immigration Services (USCIS) regulation at 8 C.F.R. § 292.4(a) as well as the instructions to the Form I-290B, a "new [Form G-28, Notice of Entry of Appearance as Attorney or Representative] must be filed with an appeal filed with the Administrative Appeals Office." Title 8 C.F.R. § 292.4(a) further requires that the Form G-28 "must be properly completed and signed by the petitioner, applicant, or respondent to authorize representation in order for the appearance to be recognized by DHS." This regulation applies to all appeals filed on or after March 4, 2010. *See* 75 Fed. Reg. 5225 (Feb. 2, 2010).

Moreover, the regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(*2*) states, in part, the following:

> If an appeal is filed by an attorney or representative without a properly executed Notice of Entry of Appearance as Attorney or Representative (Form G-28) entitling that person to file the appeal, the appeal is considered improperly filed.

The record, however, does not contain a new, properly executed Form G-28 personally signed by both counsel and by an authorized official of the petitioning entity.

On August 2, 2013, the AAO sent a Request for Additional and Missing Evidence to the petitioner and to counsel. The AAO asked the petitioner and counsel to provide: (1) a new and properly executed Form G-28 signed by both the petitioner and ; and (2) evidence demonstrating the petitioning company's corporate status.[1] The petitioner and counsel were afforded 30 days, plus three days for service by mail, to respond to the request.

The petitioner and counsel did not respond within the 33 day period allowed in the request, or any time thereafter.

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[1] During the preliminary review of the record of proceeding, the AAO was unable to determine that the petitioner is a corporation in good standing in the State of New Jersey.

Therefore, the AAO concludes that the appeal was improperly filed and must be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(*1*), which calls for rejection of an improperly filed appeal, where the person filing it is not entitled to do so.[2]

ORDER: The appeal is rejected.

[2] Moreover, the AAO notes that if a petitioner fails to respond to a request for evidence by the required date, the petition may be summarily denied as abandoned, denied based on the record, or denied for both reasons. *See* 8 C.F.R. § 103.2(b)(13)(i). As further provided in 8 C.F.R. § 103.2(b)(14), the failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition.