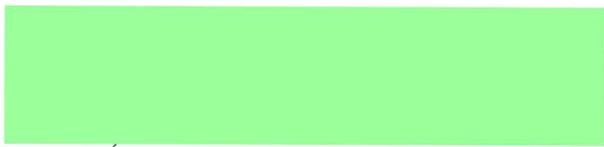
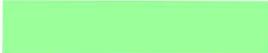


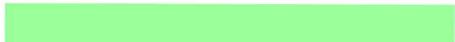


U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: **SEP 11 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 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.

The petitioner submitted a Petition for Nonimmigrant Worker (Form I-129) to the Vermont Service Center on May 27, 2010. In the Form I-129 visa petition, the petitioner describes itself as a wholesale trade business established in 1994. In order to employ the beneficiary in what it designates as a market research 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 denied the petition on July 1, 2010, 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 timely appeal on August 2, 2010.

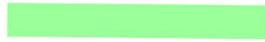
The regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(2) states, in part, the following:

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.

Effective March 4, 2010, the regulation at 8 C.F.R. § 292.4(a) requires that a "new [Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative] must be filed with an appeal filed with the [AAO]." Moreover, further proof of authority to act in a representative capacity may be required. *Id.* 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." 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.

In accordance with 8 C.F.R. § 103.3(a)(2)(v)(A)(2)(iii), the AAO sent a letter to the petitioner and counsel on June 21, 2013 notifying the parties that the record of proceeding does not contain a new and properly executed Form G-28. The parties were provided with an opportunity to respond to the request within thirty (30) days of the notice.¹ Thereafter, the AAO sent counsel a facsimile on August 15, 2013 notifying her that a properly executed Form G-28, signed by counsel and the consenting affected party, must be submitted to the AAO within fifteen (15) calendar days. However, the petitioner and counsel failed to respond to the notices. 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.

¹ The AAO sent the request for the Form G-28 by mail to the petitioner and counsel. The notice that was sent to counsel was returned to the AAO as "unclaimed." The notice that was sent to the petitioner was not returned to the AAO.



(b)(6)

NON-PRECEDENT DECISION

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ORDER: The appeal is rejected.