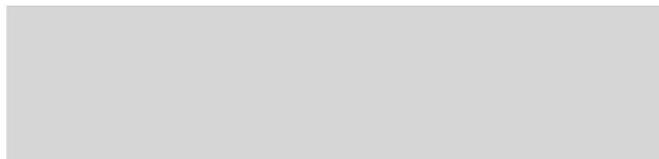




U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: JUL 16 2015

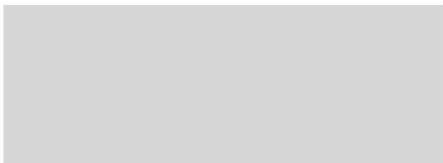
PETITION RECEIPT #: 

IN RE: Petitioner: 

Beneficiary: 

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(H)(15)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:



Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, initially approved the nonimmigrant visa petition. Upon subsequent review of the record, the Director issued a notice of intent to revoke, and ultimately revoked the approval of the petition. The matter is now before the Administrative Appeals Office on appeal. The appeal will be summarily dismissed.

On the Petition for a Nonimmigrant Worker (Form I-129), the petitioner describes itself as a 6-employee "Authorized Cell Phone Dealer" established in [REDACTED]. In order to continue to employ the beneficiary in a position it designates as a part-time "Financial Manager," 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 revoked the approval of the petition determining that the petitioner had violated the terms and conditions of the approved petition. More specifically, the Director determined that: (1) the beneficiary was performing non-qualifying duties; and (2) it could not be verified that the beneficiary was earning wages consistent with the terms and conditions of the petition.

On appeal, the petitioner requests that it be considered for favorable discretion as it has shown recognition of its "wrongdoing," "poor judgment," and "remorse in [its] admission of fault."

The regulations at 8 C.F.R. § 103.3(a)(1)(v) state, in pertinent part:

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.

Upon review, the petitioner has failed to specifically identify any erroneous conclusion of law or statement of fact as a basis for the appeal. The petitioner's appeal makes no objection to the specific findings set forth in the Director's decision. Rather, the petitioner concedes that it has violated the scope of the beneficiary's H-1B employment and requests forgiveness. Consistent with 8 C.F.R. § 103.3(a)(1)(v), the appeal will be summarily dismissed.¹

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is summarily dismissed.

¹ With respect to the petitioner's request for "another chance," we note that the denial of the instant appeal would not prohibit the petitioner from submitting a new H-1B petition, with the appropriate fee(s) and a valid LCA, in accordance with the applicable statutory and regulatory provisions, for U.S. Citizenship and Immigration Services to consider.