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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
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FILE: EAC 09 118 50071 Office: VERMONT SERVICE CENTER Date: OCT 08 2009

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

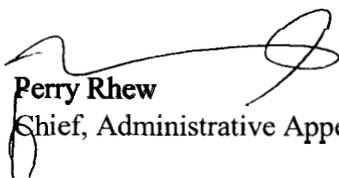
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(ii)(b)

IN BEHALF OF PETITIONER: Self-represented.

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director of the Vermont Service Center denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(I).

The petitioner is a hotel. It seeks to employ Paul Brown and 10 other beneficiaries as housekeepers and has petitioned to classify the beneficiaries as H-2B temporary workers pursuant to section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(ii)(b). The director denied the petition after determining that the petitioner failed to establish that its need for peak load workers meets the regulatory definition of temporary services or labor as described in to 8 C.F.R. § 214.2(H)(6)(ii).

The AAO will reject the appeal because it was filed by a person not authorized to appear before U.S. Citizenship and Immigration Services (USCIS) on behalf of any person or entity. The USCIS regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(I) provides that an appeal filed with USCIS by a person not entitled to file it “must be rejected as improperly filed.”

The regulation at 8 C.F.R. § 103.2(a)(3) allows three categories of persons to file appeals with CIS as representatives of applicants or petitioners: (1) attorneys in the United States, as defined at 8 C.F.R. § 1.1(f); (2) attorneys outside of the United States, as defined at 8 C.F.R. § 292.1(a)(6); and (3) accredited representatives, as defined at 8 C.F.R. § 292.1(a)(4) of this chapter. A person appearing before CIS in a representative capacity must file a Form G-28 (Notice of Entry of Appearance as Attorney or Representative), signed by the petitioner, that identifies the provisions of 8 C.F.R. § 292.1 under which he or she is entitled to represent the petitioner before USCIS. *See* 8 C.F.R. § 292.4(a).

The record of proceeding contains a Form G-28, Notice of Entry of Appearance as Attorney or Representative, signed by the petitioner. This form identifies the petitioner's representative as [REDACTED] who signed the Form I-129, the Form I-290B, and filed the appeal. By facsimile dated September 8, 2009, the AAO provided [REDACTED] five days in which to demonstrate her authority to represent the petitioner in this matter pursuant to 8 C.F.R. § 292.1. The letter notified [REDACTED] that the AAO would reject the appeal if, within five days, she failed to submit evidence of her authorization to represent the petitioner. The AAO received a facsimile from the petitioner on September 14, 2009 requesting that the G-28 listing [REDACTED] be withdrawn. No documentation was submitted to demonstrate that [REDACTED] has the authority to represent the petitioner. Therefore, the AAO finds that [REDACTED] does not have the authority to represent the petitioner.

Because Form I-290B was signed by [REDACTED], and not the petitioner or an authorized representative, it must be deemed an improperly filed appeal under 8 C.F.R. § 103.3(a)(2)(v). The withdrawal of Form G-28 by the petitioner does not change the fact that Form I-290B was improperly filed as it was not signed by the petitioner or an authorized representative. As [REDACTED] is not a recognized party, she is not authorized to file an appeal. 8 C.F.R. § 103.3(a)(1)(iii)(B).

As the appeal was not properly filed, it will be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(I).

ORDER: The appeal is rejected.