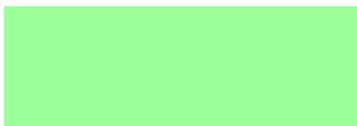
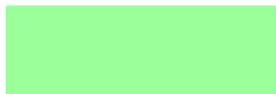


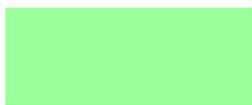
(b)(6)



U.S. Citizenship  
and Immigration  
Services



Date: **JUL 16 2014** Office: CALIFORNIA SERVICE CENTER FILE: 

IN RE: Petitioner:   
Beneficiary: 

PETITION: Petition for Alien Fiancé(e) Pursuant to § 101(a)(15)(K) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(K)

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. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center (the director), denied the nonimmigrant petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed. The petition will remain denied.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Vietnam, as the fiancée of a United States citizen pursuant to section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(K). The director denied the petition because the petitioner failed to submit a request for a waiver of the filing limitation, and evidence of the beneficiary's intent to marry the petitioner in the United States within 90 days of her admission into the United States in K-1 status.

*Applicable Law*

A "fiancé(e)" is defined at Section 101(a)(15)(K) of the Act as:

subject to subsections (d) and (p) of section 214, an alien who -

(i) is the fiancée or fiancé of a citizen of the United States . . . and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after admission[.]

Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1), states in pertinent part that a fiancé(e) petition:

shall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties have previously met in person within 2 years before the date of filing the petition, have a bona fide intention to marry, and are legally able and actually willing to conclude a valid marriage in the United States within a period of ninety days after the alien's arrival, except that the Secretary of Homeland Security in [her] discretion may waive the requirement that the parties have previously met in person. . . .

The statutory requirement of an in-person meeting between the petitioner and the beneficiary is further explained at 8 C.F.R. § 214.2(k)(2), which states, in pertinent part:

The petitioner shall establish to the satisfaction of the director that the petitioner and K-1 beneficiary have met in person within the two years immediately preceding the filing of the petition. As a matter of discretion, the director may exempt the petitioner from this requirement only if it is established that compliance would result in extreme hardship to the petitioner . . . .

On January 5, 2006, the President signed the Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005)<sup>1</sup>. Title VII of VAWA 2005 is entitled "Protection of Battered and Trafficked Immigrants." Title VII contains Subtitle D, "International Marriage Broker Regulation" (IMBRA), and is codified at section 214(d)(2) of the Act. Section 214(d)(2) of the Act states, in pertinent part:

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<sup>1</sup> Pub. L. 109-162, 119 Stat. 2960 (2006), 8 U.S.C. § 1375a.

(A) Subject to subparagraphs (B) and (C), a consular officer may not approve a petition under paragraph (1) unless the officer has verified that--

(i) the petitioner has not, previous to the pending petition, petitioned under paragraph (1) with respect to two or more applying aliens; and

(ii) if the petitioner has had such a petition previously approved, 2 years have elapsed since the filing of such previously approved petition.

(B) The Secretary of Homeland Security may, in the Secretary's discretion, waive the limitations in subparagraph (A) if justification exists for such a waiver. . . .

Thus, petitioners who have filed two or more K-1 visa petitions for two or more other beneficiaries at any time in the past, or previously had a K-1 visa petition approved within two years prior to the filing of the current petition, must request a waiver.

The regulation at 8 C.F.R. § 103.2(b)(8)(ii) states that if all required initial evidence is not submitted with the petition or does not demonstrate eligibility, U.S. Citizenship and Immigration Services (USCIS) may, in its discretion, deny the petition for lack of initial evidence. The specific requirements for filing a Petition for Alien Fiancé(e) (Form I-129F), including a description of the required initial evidence, may be found in the *Instructions* to the Form I-129F.

#### *Factual and Procedural History*

On the Form I-129F, the petitioner indicated that he previously filed fiancée petitions for two other women that were approved. The petitioner filed the instant fiancé(e) petition with USCIS on September 17, 2013. The petitioner and the beneficiary were required to have met in person between September 17, 2011 and September 17, 2013. The director denied the nonimmigrant visa petition because the petitioner failed to submit a request for a waiver of the filing limitation, and evidence from the beneficiary of her intent to marry in the United States within 90 days of her admission into the United States in K-1 status.

The record contains: evidence of the petitioner's U.S. citizenship; the petitioner's travel itinerary; the petitioner's airline boarding passes; an invoice that does not have an English language translation; copies of photographs of the petitioner and beneficiary together; divorce judgments for the petitioner's two prior marriages; one passport-style photograph of the petitioner and one of the beneficiary; and a letter from the petitioner requesting waiver of the IMBRA bar against filing multiple fiancée petitions.

In response to the AAO's Request for Evidence (RFE), the petitioner submits original statements from the petitioner and the beneficiary of their mutual intent to marry in the United States within 90 days of the beneficiary's admission into the United States in K-1 status.

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### Analysis

The RFE sought original statements from the petitioner and the beneficiary of their mutual intent to marry in the United States within 90 days of the beneficiary's admission into the United States in K-1 status, and a signed written consent form that the International Marriage Broker obtained from the beneficiary that authorized the release of her personal contact information to the petitioner. In response to the RFE, the petitioner submits all of the requested evidence except for the signed written consent form that [REDACTED] obtained from the beneficiary that authorized the release of her personal contact information to the petitioner. In his letter dated April 10, 2014, the petitioner states that [REDACTED] is not a marriage broker because he and the beneficiary "do not have to pay them any fund or fees to get married."

IMBRA defines the term "international marriage as a business that charges fees for providing dating, matrimonial, matchmaking services, or social referrals between United States citizens or nationals or lawful permanent residents in the United States and foreign national clients. VAWA 2006, § 833(e)(4) International marriage brokers provide personal contact information or otherwise facilitate communication between individuals. *Id.* As described by the petitioner, [REDACTED] meets the definition of an international marriage broker. [REDACTED] provides dating and social referrals between United States citizens or nationals or lawful permanent residents in the United States and foreign national clients, and charges fees to men who seek to contact the women who are posted on [REDACTED] website. The petitioner states that he contacted [REDACTED] and requested the beneficiary's signed written consent form, but could not obtain the form because [REDACTED] did not understand his request.

[REDACTED] is an international marriage broker, and the petitioner has not provided any documentation from [REDACTED] in which to demonstrate that the business is not an international marriage broker, as that term is defined by IMBRA, codified at 8 U.S.C. § 1375A(e)(4). IMBRA contains an informed consent provision which limits international marriage brokers from sharing information about their foreign national clients. IMBRA specifically states that international marriage brokers cannot provide any United States client with the personal contact information of any foreign national client without having first received from the foreign national client a signed, written consent, in the foreign national client's primary language, to release the foreign national client's personal contact information to the specific United States client. 8 U.S.C. § 1375a(d)(3)(A)(iv). The record, therefore, lacks the signed written consent form that [REDACTED] obtained from the beneficiary that authorized the release of her personal contact information to the petitioner. The regulation at 8 C.F.R. § 103.2(b)(8)(ii) states that if all required initial evidence is not submitted with the petition or does not demonstrate eligibility, USCIS may, in its discretion, deny the petition for lack of initial evidence. The petitioner failed to submit the statutorily required documentation on appeal. Consequently, the beneficiary may not benefit from the instant petition and it must remain denied. The appeal is dismissed. The denial of this petition is without prejudice to the filing of a new petition. 8 C.F.R. § 214.2(k)(2).

### Conclusion

The appeal will be dismissed for the above stated reason. The burden of proof in fiancé(e) visa petition proceedings rests solely with the petitioner. Section 214(d)(1) of the Act, 8 U.S.C. §

(b)(6)

*NON-PRECEDENT DECISION*

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1184(d)(1); *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

**ORDER:** The appeal is dismissed.