



IN THE MATTER OF:

KEVIN M. TRACY, Esq.
Law Office of Kevin M. Tracy,

and

SUSAN M. JEANNETTE,
Representative
North County Legalization Services, Inc.

ARB CASE NO. 2019-0075

ALJ CASE NO. 2017-MIS-00001

DATE: August 15, 2019

ORDER DENYING PETITION FOR REVIEW

This matter arises out of a Judicial Inquiry and Hearing regarding the qualifications of Mr. Kevin Tracy and Ms. Susan Jeannette (Petitioner) to continue representing clients before the Board of Alien Labor Certification Appeals (BALCA). On June 11, 2019, the Chief Administrative Law Judge (CALJ), U.S. Department of Labor, in his capacity as the Chair of BALCA, barred Ms. Jeanette from appearing before the BALCA and ordered her to cease using letterhead that is similar to that used by the Office of Administrative Law Judges (OALJ) when drafting documents. On July 9, 2019, Petitioner requested the Administrative Review Board review the decision of the CALJ “pursuant to 20 C.F.R. Section 655.1245.”¹ On July 25, 2019, Mr. Tracy objected to Petitioner’s filing as untimely and for using the letterhead prohibited in the order by the CALJ.

¹ *Petition to Request Review of Decision by Chief Administrative Law Judge*, at 1.

The Secretary of Labor has delegated authority to this Board to conduct appellate review of dozens of types of ALJ decisions.² However, the Secretary did not provide for appellate review of OALJ debarment proceedings in the order creating the Board, and there is no other authority for such review in either the Code of Federal Regulations or United States Code. The single basis for review cited by Petitioner, i.e., 20 C.F.R. § 655.1245, applies only to certain types of employer appeals under the H-1C nonimmigrant visa program that provides qualified nursing professionals for narrowly defined health professional shortage areas; the cited section does not authorize appellate review of attorney debarment decisions by the CALJ based upon Petitioner's apparent misconduct in proceedings involving a completely different program, i.e., the labor certification process for permanent employment of aliens in the United States under 29 C.F.R. Part 656.

In the absence of any authority to review the decision by the CALJ, the Board hereby **DENIES** Ms. Jeanette's petition for review.

SO ORDERED FOR THE BOARD.

William T. Barto
Chief Administrative Appeals Judge

Questions regarding any case pending before the Board should be directed to the Board's Paralegal Specialists: Telephone: (202) 693-6200, Facsimile: (202) 693-6220

² Secretary's Order No. 1-2019 (Delegation of Authority and Assignment of Responsibility to the Administrative Review Board), 84 Fed. Reg. 13072 (April 3, 2019).