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FILE: [Redacted]
WAC 99 051 50057

Office: CALIFORNIA SERVICE CENTER

Date: **AUG 10 2005**

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

PETITION: Immigrant Petition for Alien Worker as a Multinational Executive or Manager Pursuant to Section 203(b)(1)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(C)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, initially approved the employment-based petition. Upon subsequent review, the director issued a notice of intent to revoke and ultimately revoked approval of the petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

In accordance with 8 C.F.R. § 103.2(a)(7)(i), an application received in a Citizenship and Immigration Services (CIS) office shall be stamped to show the time and date of actual receipt, if it is properly signed, executed, and accompanied by the correct fee. For calculating the date of filing, the appeal shall be regarded as properly filed on the date that it is so stamped by the service center or district office.

The regulation at 8 C.F.R. § 205.2(d) indicates that revocations of approvals must be appealed within 15 days after the service of the Notice of Revocation. The record indicates that the Notice of Revocation was mailed on December 14, 2004. The Form I-290B, Notice of Appeal was filed on January 24, 2005, 41 days after the decision was mailed. It is noted that the director erroneously allowed the petitioner 30 days to file the appeal (33 days if the notice was delivered by mail). The director's error does not, and cannot, supersede the regulation regarding the time allotted to appeal a revocation. The record shows that the appeal was untimely filed.

As the appeal was untimely filed, the appeal must be rejected.

Without addressing the merits of the petitioner's claim, the AAO notes that the beneficiary cites to a recent opinion, *Firstland Int'l, Inc. v. Ashcroft*, 377 F.3d 127 (2d Cir. 2004), issued by the United States Court of Appeals for the Second Circuit on August 2, 2004. However, according to the record of proceeding, the petitioner is located in California; thus this matter did not arise in the Second Circuit. *Firstland* was never a binding precedent for this matter. Moreover, even as a merely persuasive precedent, *Firstland* is no longer good law. See the Intelligence Reform and Terrorism Prevention Act of 2004 (S. 2845) signed into law December 17, 2004. See Pub. L. No. 108-458, __ Stat. __ (2004) and section 5304(d) of Public Law 108-458.

ORDER: The appeal is rejected.