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U.S. Citizenship  
and Immigration  
Services

**B4**

FILE:

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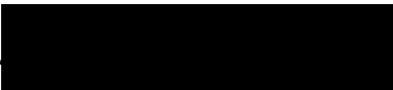
Office: TEXAS SERVICE CENTER

Date:

**APR 26 2006**

IN RE:

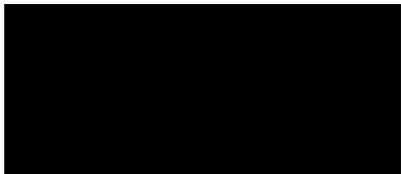
Petitioner:  
Beneficiary:



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:

COURTESY COPY TO:



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, Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, Texas Service Center, denied the employment-based petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party must file the complete appeal within 30 days of service of the unfavorable decision. 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.

In accordance with 8 C.F.R. § 103.3(a)(1)(iii)(B), "affected party" means (in addition to the Service) the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

In this matter the record contains a Form I-290B signed by an attorney whose Form G-28, Notice of Entry of Appearance as Attorney or Representative, does not indicate that she is representing an affected party. Inasmuch as neither the beneficiary nor his representative has standing to file an appeal in this matter, the appeal must be rejected as improperly filed. 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

Of note, the brief and documentation submitted with the Form I-290B provides a lengthy description of the beneficiary's duties for the United States petitioner and the foreign entity. However, the director specifically requested a detailed description of the beneficiary's duties for both the petitioner and the foreign entity in a request for further evidence. As the petitioner was put on notice of required evidence and given a reasonable opportunity to provide it for the record before the visa petition was adjudicated, the new iteration of the beneficiary's duties would not be considered on appeal, even if the appeal is not rejected. *See Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); *Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988). The appeal would have been adjudicated based on the record of proceeding before the director.

Further of note, the description of the beneficiary's duties on appeal and the documentation submitted in support of the appeal do not address the material deficiencies in the record. In this matter, the petitioner has failed to provide substantiating evidence that it or the foreign entity employed sufficient personnel to relieve the beneficiary from performing primarily non-qualifying duties. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

Inasmuch as neither the beneficiary nor his representative has standing to file an appeal in this matter, the appeal must be rejected as improperly filed.

ORDER:       The appeal is rejected.