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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
SRC 04 101 50414

Office: TEXAS SERVICE CENTER

Date: NOV 07 2006

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:

[REDACTED]

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 immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal.¹ The appeal will be rejected as improperly filed pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(I).

The petitioner is a Florida corporation that seeks to employ the beneficiary as its president and chief executive officer. Accordingly, the petitioner endeavors to classify the beneficiary as an employment-based immigrant pursuant to section 203(b)(1)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(C), as a multinational executive or manager. After reviewing the evidence submitted, the director denied the petition based on three independent grounds for ineligibility: 1) the petitioner failed to establish that it would employ the beneficiary in a managerial or executive capacity; 2) the petitioner failed to establish that the beneficiary was employed abroad in a qualifying managerial or executive capacity; and 3) the petitioner failed to provide sufficient documentation establishing that it has a qualifying relationship with the beneficiary's claimed foreign employer.

On April 27, 2006, the beneficiary filed a Form I-290B with the service center² on her own behalf purporting to appeal the decision of the director dated March 22, 2006.³ The beneficiary did not indicate that she was signing the Form I-290B on behalf of the petitioner. Moreover, the beneficiary used her home address, and not the business address of the petitioner, in completing the Form I-290B. Therefore, it must be concluded that the beneficiary filed the Form I-290B, and not the petitioner. Citizenship and Immigration Services (CIS) regulations specifically prohibit a beneficiary of a visa petition, or a representative acting on a beneficiary's behalf, from filing a petition; the beneficiary of a visa petition is not a recognized party in a proceeding. 8 C.F.R. § 103.2(a)(3). As the beneficiary is not a recognized party, she is not authorized to file an appeal. 8 C.F.R. § 103.3(a)(1)(iii)(B).⁴

As the appeal was improperly filed, it will be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(I).

ORDER: The appeal is rejected as improperly filed.

¹ Although the beneficiary refers to the denials of the Form I-140 and Form I-485 in her appeal statement dated May 26, 2006, it is noted that the denial of the Form I-485 is not subject to appeal. See 8 C.F.R. § 245.2(a)(5)(ii).

² The beneficiary apparently attempted to file the Form I-290B on April 20, 2006. However, as the beneficiary improperly sent the form directly to the AAO it was returned to her with an explanation that the AAO does not process applications or fees.

³ The AAO notes that the record has been supplemented with a recent Form G-28, Notice of Entry of Appearance as Attorney or Representative. However, the Form G-28 clearly indicates that [REDACTED] entered his appearance only as the beneficiary's representative. Neither the petitioner's name nor any information pertaining to the petitioner has been included in the recently filed Form G-28. As such, [REDACTED] cannot be deemed attorney for the petitioner in this proceeding.

⁴ It is noted that in her appellate brief, the beneficiary provides a personal narrative of her arrival to the United States and subsequent experiences thereafter. Since 8 C.F.R. § 103.3(a)(1)(v) requires the AAO to summarily dismiss an appeal when the appellant fails to identify specifically any erroneous conclusion of law or statement of fact, the AAO would be obligated to summarily dismiss the current appeal if the appeal were not being rejected. The beneficiary did not identify any erroneous conclusion of law or statement of fact for the appeal.