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U.S. Citizenship
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Services

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File: [REDACTED]
SRC 05 148 51104

Office: TEXAS SERVICE CENTER Date: OCT 02 2008

IN RE: Petitioner:
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)

IN BEHALF OF BENEFICIARY:

[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 preference visa petition was denied by the Director, Texas Service Center, on September 26, 2005. On February 27, 2007, a motion to reopen the matter was filed with the director. On April 23, 2007, the director dismissed the motion to reopen as untimely. On May 23, 2007, another motion to reopen was filed with the director. On July 30, 2007, the director granted the motion, reopened the matter, and requested additional evidence. On September 11, 2007, additional evidence was submitted and, on October 23, 2007, the director denied the petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(I).

The petitioner, a Florida corporation, endeavored to classify the beneficiary as an employment-based immigrant pursuant to section 203(b)(1)(C) of the Act as a multinational executive or manager. On October 23, 2007, the director denied the petition after concluding that the petitioner failed to establish (1) that it has the ability to pay the beneficiary the proffered wage; or (2) that it is the beneficiary's actual employer.

The record contains several Forms G-28, Entry of Appearance as Attorney or Representative, dated as follows: April 5, 2005; November 30, 2006; May 21, 2007; and November 21, 2007. The Form G-28 dated April 5, 2005 authorizes [REDACTED] to represent the petitioner. The other three Forms G-28 were signed by the beneficiary, with no indication that he signed them as an authorized representative of the petitioner or on behalf of the petitioner. Therefore, the attorney identified in the Forms G-28 dated November 30, 2006, May 21, 2007, and November 21, 2007, and who is not associated with [REDACTED], is counsel to the beneficiary, not counsel to the petitioner. The Form I-290B that was submitted in response to the October 23, 2007 decision was signed and filed by the attorney identified in the latter three Forms G-28 on behalf of the beneficiary. It is noted that the entire record of proceeding fails to contain a Form G-28 appointing the attorney who signed the Form I-290B as counsel to the petitioner.

Citizenship and Immigration Services 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 and his representative are not recognized parties, counsel is not authorized to file an appeal. 8 C.F.R. § 103.3(a)(1)(iii)(B).

As the appeal was not properly filed, it must be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(I).

ORDER: The appeal is rejected.