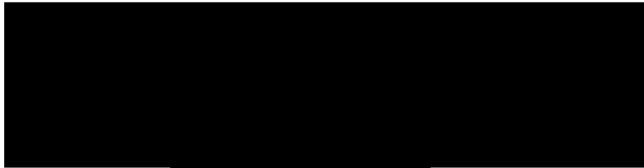


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B5

FILE: [REDACTED]  
EAC 05 137 53029

Office: VERMONT SERVICE CENTER

Date: **AUG 28 2007**

IN RE: Petitioner: [REDACTED]  
Beneficiary: [REDACTED]

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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.

  
for Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center, denied the employment-based immigrant visa petition, which is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The petitioner seeks to classify the beneficiary pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as an alien of exceptional ability. The petitioner asserts that an exemption from the requirement of a job offer, and thus of an alien employment certification, is in the national interest of the United States. The director did not reach a conclusion as to whether the petitioner qualifies for classification as an alien of exceptional ability, but concluded that the petitioner had not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

The regulation at 8 C.F.R. § 103.3(a)(1)(iii) states, in pertinent part:

*(B) Meaning of affected party.* For purposes of this section and sections 103.4 and 103.5 of this part, *affected party* (in addition to the Service) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

The regulation at 8 C.F.R. § 103.3(a)(2)(v) states:

*Improperly filed appeal -- (A) Appeal filed by person or entity not entitled to file it -- (1) Rejection without refund of filing fee.* An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

The appeal has not been filed by the petitioner, nor by any entity with legal standing in the proceeding, but rather by an attorney.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(2) provides, in pertinent part:

*Appeal by attorney or representative without proper Form G-28 – (i) General.* If an appeal is filed by an attorney or representative without a properly executed Notice of Entry of Appearance as Attorney or Representative (Form G-28) entitling that person to file the appeal, the appeal is considered improperly filed. In such a case, any filing fee the Service has accepted will not be refunded regardless of the action taken.

The Form G-28 in the record was not signed by the petitioner. On July 25, 2007, this office advised the attorney by facsimile that the record lacked a properly executed Form G-28 signed by the petitioner. Pursuant to the regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(2), this office afforded the attorney 15 days in which to submit a properly executed Form G-28. We advised that failure to respond could result in rejection of the appeal. As of this date, more than four weeks later, this office has received no response. Therefore, the appeal has not been properly filed, and must be rejected.

**ORDER:** The appeal is rejected.