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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. A3042  
Washington, DC 20529

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U.S. Citizenship  
and Immigration  
Services

*Redacted signature*

[Redacted]

FILE: WAC-03-146-51284 Office: CALIFORNIA SERVICE CENTER Date: **NOV 03 2004**

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

PETITION: Immigrant petition for Alien Worker as a Skilled Worker or Professional pursuant to section 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

ON BEHALF OF PETITIONER:

N/A

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*

*For*  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The Director of the California Service Center denied the preference visa petition and 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).

The petitioner is a restaurant that employs four people and has a gross annual income of \$284,500. It seeks to employ the beneficiary as a cook. The director denied the petition on the basis that the petitioner failed to establish its ability to pay the proffered wage.

The only Form G-28, Entry of Appearance as Attorney or Representative, in the record of proceeding was submitted by [REDACTED] an "immigration consultant." Ms. [REDACTED] is apparently not an attorney. The Form G-28 is unsigned. The Form G-28 was submitted prior to the filing of the instant appeal.

An individual named [REDACTED] filed the Form I-290B. No Form G-28 accompanies the appeal. The appellate form and accompanying letters and documentation indicate that [REDACTED] is a relative of the beneficiary. He states that the petitioner's owner has died and there is a new owner [REDACTED] states that he can ensure the beneficiary will not become a public charge if admitted into the United States. [REDACTED] states that he is disabled and retired, so he is apparently not affiliated with the petitioner at all. Nothing is provided from the petitioner's owner concerning the appeal.

Citizenship & Immigration Services (CIS) regulations specifically prohibit a beneficiary of a visa petition, or a representative acting on a beneficiary's behalf, from filing an appeal. 8 C.F.R. § 103.3(a)(1)(iii)(B). As the appeal was not properly filed, it will be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

**ORDER:** The appeal is rejected as improperly filed.