



U.S. Citizenship
and Immigration
Services

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FILE: LIN-04-125-52861 Office: NEBRASKA SERVICE CENTER Date: **MAR 03 2006**

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)

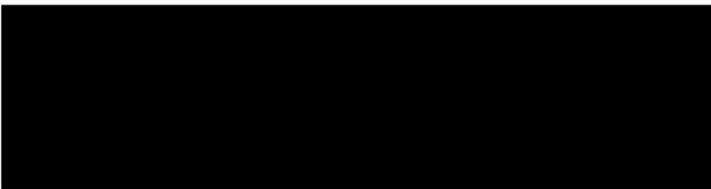
ON BEHALF OF PETITIONER:

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.

Robert P. Wiemann, Director
Administrative Appeals Office



DISCUSSION: The preference visa petition was denied by the Director, Nebraska Service Center, 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 horse breeding ranch. It seeks to employ the beneficiary as a barn boss under Section 203(b)(3)(A)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A)(i), which provides for the granting of preference classification to qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing skilled labor (requiring at least two years training or experience), not of a temporary nature, for which qualified workers are not available in the United States. The director denied the petition because the petitioner failed to demonstrate its continuing ability to pay the proffered wage beginning on the priority date as required by 8 C.F.R. § 204.5(g)(2).

The Form G-28, Entry of Appearance as Attorney or Representative, submitted in conjunction with the Form I-290B, indicates that the beneficiary retained counsel to file the appeal. 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 an appeal. 8 C.F.R. § 103.3(a)(1)(iii)(B). Counsel also states on the Form I-290B that it represents the beneficiary and does not reference the petitioner on that form. Although counsel makes assertions on the petitioner's behalf in an accompanying motion, the record of proceeding does not contain a Form G-28 signed by both counsel and the petitioner's authorized representative so it is unclear the petitioner has consented to be represented by counsel. 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.