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**U.S. Citizenship
and Immigration
Services**

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File: [Redacted] Office: CALIFORNIA SERVICE CENTER Date: JUN 01 2005

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

Petition: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

IN BEHALF OF PETITIONER:



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 Director of the California Service Center denied the nonimmigrant 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 indicates that it operates as an importer and wholesaler. It seeks to employ the beneficiary as its President, and has petitioned to classify the beneficiary as an L-1A nonimmigrant intracompany transferee pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The director denied the petition after determining that the petitioner failed to establish that the beneficiary will be employed in a primarily managerial or executive capacity.

The Form G-28, Entry of Appearance as Attorney or Representative, that was submitted for the record was signed by the beneficiary. The beneficiary did not indicate that he was signing as a representative of the petitioner. An address was given for the beneficiary on the form that differs from the petitioner's address as presented on the petitioner's 2003 IRS Form 1120, U.S. Corporation Income Tax Return, and other official documents. In the section of the Form G-28 that states "I hereby enter my appearance as attorney for (or representative of), and at the request of the following named person(s)," counsel listed the beneficiary's name and checked the box for "Applicant," not "Petitioner." In fact, the petitioner's name or other identifying information appears nowhere on the form. Further, counsel's cover letter of May 21, 2004 and counsel's brief both provide that he is "the attorney representing the above identified." The only party identified above this statement in both documents is the beneficiary, not the petitioner. Thus, the Form G-28 and counsel's cover letter and brief clearly reflect that counsel represents the beneficiary only, 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 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 will be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

ORDER: The appeal is rejected.