

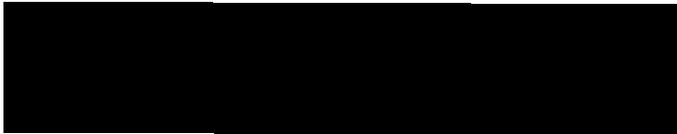


U.S. Citizenship
and Immigration
Services

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FILE: EAC 05 104 53569 Office: VERMONT SERVICE CENTER Date: SEP 08 2006

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

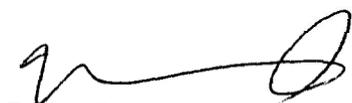
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF BENEFICIARY:

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, Chief
Administrative Appeals Office

DISCUSSION: The director, Vermont Service Center, denied the petition for a nonimmigrant visa. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner claims that it is operating as a manufacturer and distributor of textiles. It filed this nonimmigrant new office petition seeking authorization to employ the beneficiary temporarily in the United States as its president, 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 based on the following independent conclusions: (1) the petitioner had not established that the beneficiary was employed abroad in a primarily managerial or executive capacity; and (2) the petitioner failed to establish that it would be able to support a primarily managerial or executive position within one year of the approval of the petition.

The claimed counsel for the petitioner, _____, filed the I-290B in this matter. Although it was timely filed and accompanied by the required fee, the Entry of Appearance as Attorney or Representative (Form G-28) that was submitted for the record does not provide a basis for counsel to enter his appearance as an authorized representative of the petitioner.¹ Specifically, while counsel claims on the Form G-28 that he is a member of the New York State Bar Association, the New York State Office of Court Administration, Attorney Registration Unit has no record of counsel's admission. In addition, the American Bar Association (ABA) indicates that counsel's membership is not that of a lawyer but is that of an associate. According to the ABA, while lawyer membership is limited to attorneys licensed to practice in the United States, associate membership is available to any individual with an interest in the law. Based on the foregoing, counsel has failed to demonstrate that he is authorized under 8 C.F.R. § 292.1 to enter his appearance on behalf of the petitioner and file the present appeal.²

Citizenship and Immigration Services regulations specifically prohibit the filing of an appeal by a person or entity not entitled to file it. 8 C.F.R. § 103.3(a)(2)(v)(A)(I). As counsel is not an authorized representative, counsel is not authorized to file an appeal, and it must therefore be rejected as improperly filed. 8 C.F.R. § 103.3(a)(2)(v)(A)(I); 8 C.F.R. § 103.3(a)(2)(v)(A)(2)(i).

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.

¹ It is noted for the record that the AAO considers the appeal timely filed due to the several day delay by the service center in mailing the initial rejection notice to the petitioner. But for this delay, it appears that counsel would have returned the signed appeal to the service center before the director's stated deadline of June 7, 2005.

² Pursuant to 8 C.F.R. § 292.4(a), the AAO sent a fax to counsel on August 24, 2006, requesting that he submit evidence of his admission to practice law within five business days. As of the date of this decision, no response has been received from counsel.