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

U.S. Citizenship and Immigration Services

FILE: SRC 03 036 50128 Office: TEXAS SERVICE CENTER Date: OCT 2 0 2004

IN RE: Petitioner:
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

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.

Mari Johnson

Robert P. Wiemann, Director
Administrative Appeals Office

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prevent [illegible]
invasion of personal privacy

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DISCUSSION: The employment based immigrant visa petition was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as improperly filed.

The petitioner seeks to classify the beneficiary pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as an alien of extraordinary ability in business. The director determined the petitioner had not established that the beneficiary qualifies for classification as an alien of extraordinary ability.

It is noted that the appeal was not filed on the proper form (the beneficiary submitted Form EOIR-29 rather than Form I-290B). In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party must file an appeal on Form I-290B within 30 days after service of the unfavorable decision. The regulation at 8 C.F.R. § 103.3(a)(1)(iii)(B) states that the "'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."

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 the beneficiary. Therefore, as the appeal has not been properly filed, it must be rejected.

ORDER: The appeal is rejected.