U.S. Department of Homeland Security
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Washington, DC 20536

U.S. Citizenship and Immigration Services

[redacted]

FILE: WAC 02 151 51269 Office: CALIFORNIA SERVICE CENTER Date: JUN 15 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: 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.

for Robert P. Wiemann, Director
Administrative Appeals Office

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

The petitioner seeks to classify the beneficiary as an employment based immigrant pursuant to section 203(b)(3) of the Immigration and Nationality Act, (the Act), 8 U.S.C. § 1153(b)(3) as a skilled worker. The petitioner is a staffing firm. It seeks to employ the beneficiary permanently in the United States as a tile installation supervisor. As required by statute, the petition is accompanied by certification from the Department of Labor. The director determined that the petitioner had not established that it had the continuing financial ability to pay the proffered wage as of the visa priority date.

The record shows that an individual bearing the name of Judi Miller, identifying herself as a representative, has filed the appeal on behalf of the beneficiary. The record further indicates that there is no entry of appearance executed on Form G-28 showing that the petitioner has representation. The record reflects that the petitioner represented itself in the proceedings before the director.

The regulation at 8 C.F.R. § 103.2(a)(3) provides in pertinent part:

> *Representation.* An applicant or petitioner may be represented by an attorney in the United States as defined in § 1.1(f) of this chapter, by an attorney outside the United States as defined in § 292.1(a)(6) of this chapter, or by an accredited representative as defined in § 292.1(a)(4) of this chapter.

The regulation at 8 C.F.R. § 292.1(a)(4) also provides that an accredited representative is a person "representing an organization described in § 292.2 of this chapter who has been accredited by the Board." The record indicates that the Ms. Miller does not represent any organization. It is noted that the regulation at 8 C.F.R. § 292.1(3) allows a reputable individual to appear on behalf of a petitioner if that individual has a pre-existing relationship with the petitioner such as that of a friend or clergyman, appears without direct or indirect remuneration and files a written declaration to that effect, does not regularly engage in immigration practice or preparation, and receives permission by the official before whom he or she wishes to appear.

The record fails to establish that the individual who filed the appeal on behalf of the beneficiary falls within any of the relevant categories of representatives authorized by immigration regulations to file an appeal on behalf of the petitioner.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(2) states in pertinent part:

> *Appeal by attorney or representative without proper Form G-28- (i) General.* If an appeal is filed by an attorney or representative without a properly executed Notice of Entry of Appearance as Attorney or Representative (Form G-28) entitling that person to file the appeal, the appeal is considered improperly filed. In such case, any filing fee [CIS] has accepted will not be refunded regardless of the action taken. (Original emphasis).

The regulation at 8 C.F.R. § 103.3(a)(2)(v) further states in relevant part:

> *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 [CIS] has accepted will not be refunded. (Original emphasis).

Finally, the regulation at 8 C.F.R. § 103.3(a)(1)(iii) also states in pertinent part:

> *Meaning of Affected Party.* For purposes of this section and §§103.4 and 103.5 of this part, *affected party* (in addition to [CIS]) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition. (Original emphasis).

As noted above, the appeal was improperly filed on behalf of the beneficiary, who has no standing to file an appeal, by an individual who is not a properly authorized representative. The record contains no entry of appearance (Form G-28), signed by the current petitioner, designating anyone as its properly authorized representative or attorney.

ORDER: The appeal is rejected.