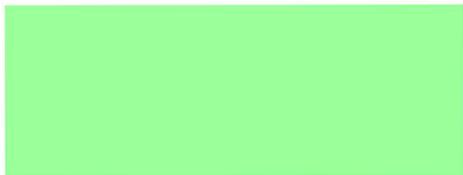


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U.S. Citizenship
and Immigration
Services



DATE: **JUN 13 2013**

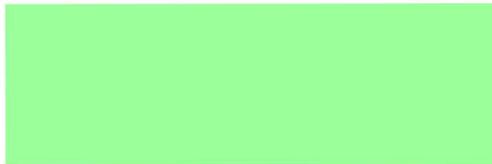
OFFICE: NEBRASKA SERVICE CENTER

FILE: 

IN RE: Petitioner: 
Beneficiary: 

PETITION: Immigrant Petition for Alien Worker as a Multinational Executive or Manager Pursuant to Section 203(b)(1)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(C)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,


Ron Rosenberg

Acting Chief, Administrative Appeals Office

DISCUSSION: The preference visa petition was initially approved by the Director, Nebraska Service Center. On further review, the director determined that the beneficiary was not eligible for the benefit sought. The director subsequently issued a notice of intent to revoke and ultimately revoked approval of the petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

The record indicates that the Immigrant Petition for Alien Worker (Form I-140) was filed on March 26, 2010. It was initially approved on July 6, 2010. On October 2, 2012, the director issued a notice of intent to revoke the approval of the petition. The petitioner was afforded thirty days to offer additional evidence or argument in opposition to the proposed revocation. Upon review of the petitioner's response to this request and other evidence contained in the record, the director revoked the petition's approval on November 9, 2012.

The regulation at 8 C.F.R. § 205.2(d) provides that a petitioner "may appeal the decision to revoke the approval within 15 days after the service of notice of the revocation." If the decision was mailed, the appeal must be filed within 18 days. 8 C.F.R. § 103.8(b). If the last day of the designated period falls on a Saturday, Sunday or a legal holiday, the period will run until the end of the next day, which is not a Saturday, Sunday, or legal holiday. *See* 8 C.F.R. § 1.1(h). The date of filing is not the date of mailing, but the date of actual receipt at the designated filing location. *See* 8 C.F.R. § 103.2(a)(7)(i).

The record indicates that the director issued the decision on November 9, 2012. It is noted that the director properly gave notice to the petitioner that it had 18 days to file the appeal. The deadline for filing an appeal from the director's decision fell on Tuesday, November 27, 2012. Neither the Act nor the pertinent regulations grant the AAO authority to extend the total 18-day time limit for filing an appeal.

Although the Form I-290B is dated November 21, 2012, it was mailed on November 27, 2012, and received at the designated filing location on November 28, 2012, or 19 days after the decision was issued. Accordingly, the appeal was untimely filed.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(2) states that, if an untimely appeal meets the requirements of a motion to reopen or a motion to reconsider, the appeal must be treated as a motion, and a decision must be made on the merits of the case. The official having jurisdiction over a motion is the official who made the last decision in the proceeding, in this case the Director of the Nebraska Service Center. *See* 8 C.F.R. § 103.5(a)(1)(ii). The director declined to treat the appeal as a motion and forwarded the matter to the AAO.

As the appeal was untimely filed, the appeal must be rejected.

ORDER: The appeal is rejected.