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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529

U.S. Citizenship and Immigration Services

PUBLIC COPY

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[redacted]

FILE: [redacted] Office: TEXAS SERVICE CENTER Date: SEP 06 2007

SRC 03 031 50118

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: Immigrant Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

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, Chief
Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office on appeal. The appeal will be rejected. The AAO will return the matter for further action by the director.

The petitioner is a Buddhist Temple. It seeks to classify the beneficiary as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), to perform services as an assistant priest. The director determined that the petitioner had not established: (1) that the beneficiary had the requisite two years of continuous work experience as an assistant immediately preceding the filing date of the petition; (2) that the beneficiary's intended position qualifies as a religious vocation or occupation; (3) the petitioner's ability to remunerate the beneficiary; (4) the petitioner's status as a qualifying, tax-exempt non-profit organization; or (5) that the beneficiary entered the United States in order to perform qualifying religious work.

8 C.F.R. § 103.3(a)(1)(iii)(B) states that, for purposes of appeals, certifications, and reopening or reconsideration, "affected party" (in addition to Citizenship and Immigration Services (CIS)) means the person or entity with legal standing in a proceeding. 8 C.F.R. § 103.3(a)(2)(v) states that 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.

Here, the party that filed the appeal was not the petitioner, nor any attorney or accredited representative of the petitioner, but rather [redacted] of [redacted] On the Form I-290B Notice of Appeal, [redacted] checked a box indicating that he is "an attorney or representative" representing the petitioner. On Form G-28 Notice of Entry of Appearance as Attorney or Representative, however, [redacted] does not identify himself as an attorney or an accredited representative of a Board-recognized organization. Rather, he states that [redacted] is an "Immigration Consulting Firm."

The Form G-28 submitted with the petition does not establish [redacted] eligibility to appear as an attorney as defined in 8 C.F.R. § 1.1(f), or as an accredited representative as defined in 8 C.F.R. § 1.1(j), as required in 8 C.F.R. §§ 103.2(a)(3), 292.1. The applicable regulations do not permit "immigration consulting firms" to formally represent petitioners, or to file appeals on their behalf.

Therefore, [redacted] has no standing to file an appeal on the petitioner's behalf. We must, therefore, reject the appeal as improperly filed, pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(*1*), because the appeal was not filed by an affected party as 8 C.F.R. § 103.3(a)(1)(iii) defines that term.

We note, at the same time, that the director had heretofore treated [redacted] like a recognized attorney or representative. The director sent the request for evidence and the notice of decision not to the petitioner, but to [redacted] at [redacted] Thus, the director has never issued any relevant notices to the petitioner itself. 8 C.F.R. § 103.5a(a)(1) defines "routine service" as mailing a copy by ordinary mail addressed to a person at his last known address. 8 C.F.R. § 103.5a(b) states that service by mail is complete upon mailing. Here, because the director addressed the notices to the attention of an unrecognized, unaffected party, rather than to the petitioner itself, the director has arguably never served the notice of denial. By addressing correspondence exclusively to [redacted] at [redacted], the director created the false impression that [redacted] is a

recognized party in this proceeding, entitled to file an appeal on the petitioner's behalf. It appears that the petitioner relied on this false impression when it entrusted the filing of the appeal to [redacted] The director must reissue the denial notice in order to give the petitioner an opportunity to file a proper and timely appeal.

Because there is, as yet, no valid appeal in the record, we examine, here, neither the basis of the denial nor the merits of the appeal submitted by [redacted] We will duly consider those factors if and when the self-petitioning alien files a proper and timely appeal.

The appeal has not been filed by the petitioner, or by any entity with legal standing in the proceeding, but rather by an unrecognized consultant. Therefore, the appeal has not been properly filed, and must be rejected. The director must serve a newly dated copy of the decision, properly addressed to the petitioner.

ORDER: The appeal is rejected. The matter is returned to the director for the limited purpose of the reissuance of the decision.