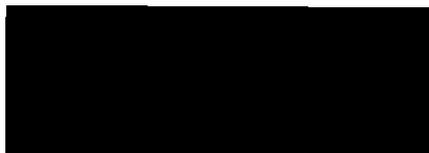




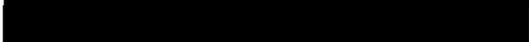
U.S. Citizenship
and Immigration
Services

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prevent disclosure of unclassified
information of personal privacy
PUBLIC COPY

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DATE: JUN 25 2012 Office: TEXAS SERVICE CENTER FILE: 

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. Please note that all documents
have been returned to the office that originally decided your case. Please also note that any further
inquiry must be made to that office.

Thank you,



 Perry Rhew
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 (AAO) on appeal. The appeal will be rejected.

The petitioner is a sculpture studio. It seeks to classify the beneficiary as an employment-based immigrant 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. The director determined the petitioner had not established that the beneficiary has the requisite extraordinary ability through extensive documentation and sustained national or international acclaim.

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

(v) 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.

(2) 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 a case, any filing fee the Service has accepted will not be refunded regardless of the action taken.

The regulation at 8 C.F.R. § 103.2(a)(1) states, in pertinent part:

Preparation and submission. Every benefit request or other document submitted to DHS must be executed and filed in accordance with the form instructions, notwithstanding any provision of 8 CFR chapter 1 to the contrary, and such instructions are incorporated into the regulations requiring its submission.

The instructions for the Form I-290B, Notice of Appeal or Motion, advise the appellant that:

If you wish, you may be represented at no expense to the U.S. Government by an attorney or other duly authorized representative. Your attorney or representative

must submit a Form G-28 with the appeal or motion. If the appeal or motion is filed without a properly executed Form G-28, it will be dismissed or rejected.

The regulation at 8 C.F.R. § 1.2 provides:

Attorney means any person who is eligible to practice law in, and is a member in good standing of the bar of, the highest court of any State, possession, territory, or Commonwealth of the United States, or of the District of Columbia, and is not under any order suspending, enjoining, restraining, disbaring, or otherwise restricting him or her in the practice of law.

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

(B) *Meaning of affected party.* For purposes of this section and §§ 103.4 and 103.5 of this part, *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.

The Form G-28 submitted on appeal was signed by attorney [REDACTED] on April 5, 2011. The record of proceedings indicates that Mr. [REDACTED] also filed the appeal in this case. Specifically, he signed the Form I-290B (Notice of Appeal) on April 5, 2011. The Form G-28 indicates that Mr. [REDACTED] is an attorney in good standing in Washington, DC. According to the District of Columbia Bar, http://www.dcbbar.org/find_a_member/index.cfm, however, his current status is "Inactive."¹ The District of Columbia Bar membership records indicate that Mr. [REDACTED] voluntarily changed his status to inactive as of June 17, 2008.

Only an *affected party*, a person or entity with legal standing, may file an appeal of an unfavorable decision. In this matter, the Form I-290B was signed by Mr. [REDACTED]. However, as Mr. [REDACTED] was not eligible to practice law in Washington, DC and was not a member in good standing of the bar of the District of Columbia at the time of filing the appeal on April 7, 2011, he cannot be considered as the petitioner's legal representative. Accordingly, the appeal has not been filed by the petitioner or by any entity with legal standing in the proceeding. Therefore, the appeal has not been properly filed and must be rejected.

ORDER: The appeal is rejected.

¹ See http://www.dcbbar.org/find_a_member/results.cfm, accessed on June 6, 2012, copy incorporated into the record of proceedings.