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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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File: [Redacted] Office: TEXAS SERVICE CENTER Date: **APR 03 2008**
SRC 02 156 50853

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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)

IN BEHALF OF BENEFICIARY:



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.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: On May 6, 2005, the Director, Texas Service Center, initially approved the petition under section 203(b)(1)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(C), as a multinational executive or manager. Upon further review, the director determined that the beneficiary was not eligible for the benefit sought. Accordingly, on December 19, 2007, the director ordered that the approval be revoked. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

The petitioner is a Florida corporation allegedly engaged in business in the State of Illinois.¹ As noted above, the petitioner endeavored to classify the beneficiary as an employment-based immigrant pursuant to section 203(b)(1)(C) of the Act as a multinational executive or manager. On December 19, 2007, the director revoked the petition after concluding that the petitioner failed to establish (1) that the foreign entity was or is "doing business;" (2) that the petitioner was "doing business" for at least one year when the instant petition was filed; (3) that the petitioner was or is "doing business;" (4) that the petitioner and the foreign entity are qualifying organizations; (5) that the beneficiary was employed abroad for at least one year in a primarily managerial or executive capacity; or (6) that the beneficiary will be employed in the United States in a primarily managerial or executive capacity.

The Form G-28, Entry of Appearance as Attorney or Representative, dated September 14, 2006 and which was submitted with the current appeal, was signed by the beneficiary (identified in the Form G-28 as "applicant"), not by an authorized representative of the petitioner and not on behalf of the petitioner. Therefore, the attorney identified in the Form G-28 is counsel to the beneficiary, not counsel to the petitioner. The Form I-290B that was submitted in response to the December 19, 2007 decision was signed and filed by the attorney identified in the above Form G-28. It is noted that the entire record of proceeding fails to contain a Form G-28 appointing the attorney who signed the Form I-290B as counsel to the petitioner.

Citizenship and Immigration Services regulations specifically prohibit a beneficiary of a visa petition, or a representative acting on a beneficiary's behalf, from filing a petition; the beneficiary of a visa petition is not a recognized party in a proceeding. 8 C.F.R. § 103.2(a)(3). As the beneficiary and his representative are not recognized parties, counsel is not authorized to file an appeal. 8 C.F.R. § 103.3(a)(1)(iii)(B).

¹It is noted that, according to the corporate records of the State of Illinois, the petitioner is not in "good standing" as a foreign business corporation. Accordingly, this would call into question the petitioner's continued eligibility for the benefit sought if the appeal were not being rejected.

As the appeal was not properly filed, it must be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(1).²

ORDER: The appeal is rejected.

²It must also be noted that, in the beneficiary's Form I-290B, no specific erroneous conclusion of law or statement of act was identified for the appeal. Counsel to the beneficiary states as follows:

The Service made errors of fact in its revocation of the Petitioner's I-140 Petition for Immigrant Worker. The Petitioner submitted ample evidence that it was doing business in Lithuania as of April 23, 2002, and through the present. The Service failed to consider the 36 exhibits submitted with the Response to the Notice of Intent to Revoke properly. A separate brief will be submitted within 30 days demonstrating the ongoing validity of the petition.

While counsel to the beneficiary asserts in the Form I-290B that she would be submitting a brief within 30 days of the filing of the appeal, counsel has failed to submit a brief. Since 8 C.F.R. § 103.3(a)(1)(v) requires the AAO to summarily dismiss an appeal when the appellant fails to identify specifically any erroneous conclusion of law or statement of fact, the AAO would be obligated to summarily dismiss the current appeal if the appeal were not being rejected. No erroneous conclusion of law or statement of fact was identified for the appeal.