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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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File:



Office: VERMONT SERVICE CENTER

Date: OCT 05 2009

EAC 98 017 51626

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)

IN BEHALF OF PETITIONER:



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.

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, revoked approval of the nonimmigrant visa petition. The matter is currently before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

Pursuant to the regulation at 8 C.F.R. § 205.2(d), in order to properly file an appeal from a decision revoking approval of a petition it must be filed within 15 days after the service of the notice of the revocation with an additional three days given to petitioners served with the notice by mail. *See* 8 C.F.R. § 103.5a(b). Service is considered complete upon the mailing of the notice of revocation. *See id.*

In accordance with 8 C.F.R. § 103.2(a)(7)(i), an application received in a U.S. Citizenship and Immigration Services (USCIS) office shall be stamped to show the time and date of actual receipt, if it is properly signed, executed, and accompanied by the correct fee. *For calculating the date of filing, the appeal shall be regarded as properly filed on the date that it is so stamped by the service center or district office.*

The record indicates that the director issued the decision on February 19, 1999. The petitioner filed an appeal, which was received by the legacy Immigration and Naturalization Service (INS) on March 17, 1999, or 26 days after the decision was issued.¹ Therefore, the appeal was untimely filed. Although the AAO acknowledges that the revocation notice and the note on the Form I-290B improperly instructed the petitioner that it had longer than 18 days in which to file an appeal in the matter of a revocation, the above regulations are clear as to the filing deadline. There is no law or regulation that grants the director the authority to extend this deadline or the AAO the discretionary authority to overlook the prescribed time limit for filing the appeal.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(1) states that an appeal which is not filed within the time allowed must be rejected as improperly filed. Accordingly, the appeal in the instant case will be rejected as untimely filed.

ORDER: The appeal is rejected as untimely filed.

¹ It should be noted that, according to New York State corporate records, the petitioner's corporate status in New York as of July 27, 2009 is shown as "INACTIVE – dissolution." Therefore, as the petitioner has dissolved its business as a corporation, the company no longer exists and can no longer be considered a legal entity in the United States. As this clearly and unequivocally renders the petitioner ineligible for the classification sought, the petition could not be approved and, in fact, renders it subject to automatic revocation without prior notice even if the appeal had been properly filed and the stated grounds for revocation had been overcome on appeal. *See* 8 C.F.R. § 205.1(a)(3)(iii)(D).