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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave. N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

DATE: **MAY 23 2013**

OFFICE: TEXAS SERVICE CENTER

FILE: [REDACTED]

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)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, ("the director") denied the preference visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

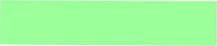
The petitioner is a Texas corporation organized in May 2002. The petitioner states on the Form I-140, Immigrant Petition for Alien Worker, that it is engaged in parking management, valet parking, and vending, employs 17 personnel, and reported a gross annual income of \$400,000 when the petition was filed. It seeks to employ the beneficiary as its president and chief executive officer. Accordingly, the petitioner endeavors to classify the beneficiary as an employment-based immigrant pursuant to 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.

On August 29, 2012, the director denied the petition determining that the petitioner failed to establish: (1) that the beneficiary had been employed in a managerial or executive capacity for at least one year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof prior to entering the United States; and (2) that the beneficiary's proposed employment with the U.S. entity would be within a qualifying managerial or executive capacity. On October 1, 2012, an attorney filed a Form I-290B, Notice of Appeal or Motion, to appeal the director's adverse decision. The attorney did not however, attach a Form G-28, Notice of Entry of Appearance as Attorney or Representative, along with the appeal filing.

Effective March 4, 2010, the regulation at 8 C.F.R. § 292.4(a) requires that a "new Form G-28 must be filed with an appeal filed with the [AAO]." Title 8 C.F.R. § 292.4(a) further requires that the Form G-28 "must be properly completed and signed by the petitioner, applicant, or respondent to authorize representation in order for the appearance to be recognized by DHS." Although counsel in this matter previously entered his appearance prior to the instant Form I-140's adjudication on August 29, 2012, the record does not contain a new, properly executed Form G-28, personally signed by both counsel and by an authorized official of the petitioning entity for the Form I-290B filed with the AAO.

On April 22, 2013, the AAO sent a request for a new Form G-28 to counsel via facsimile transmission. Specifically, the AAO advised that without a new, valid, and fully executed Form G-28, signed by an official of the petitioning entity authorizing counsel to represent the petitioner, the AAO would not consider the appeal to have been properly filed. Pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(2) and its subclauses, counsel was instructed to submit a duly executed Form G-28 by mail or fax within fifteen calendar days. Counsel was further advised that failure to timely respond to the AAO's request would result in the rejection of the appeal. As of the date of this decision, no correspondence from counsel has been received.

Absent a new and properly executed Form G-28, counsel cannot be considered the petitioner's attorney of record with regard to the appeal currently before the AAO. U.S. Citizenship and Immigration Services regulations specifically prohibit the filing of an appeal by an attorney or representative without a properly executed Form G-28 entitling that person to file the appeal. 8 C.F.R. § 103.3(a)(2)(v)(A)(2)(i). Accordingly, an appeal that is filed without a properly executed Form G-28 is considered an improperly filed appeal and it must be rejected.



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Pursuant to section 291 of the Immigration and Nationality Act, 8 U.S.C. § 1361, the burden of proof is upon the petitioner to establish eligibility for the benefit it is seeking. Here, the petitioner has not met its burden. Accordingly, the AAO rejects the appeal.

ORDER: The appeal is rejected.