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U.S. Department of Homeland Security
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Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

B6

FILE:

[REDACTED]
LIN 02 104 51774

Office: NEBRASKA SERVICE CENTER

Date: FEB 17 2009

IN RE:

Petitioner:
Beneficiary:

[REDACTED]

PETITION: Immigrant petition for Alien Worker as a Skilled Worker or Professional pursuant to section 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom, Acting Chief
Administrative Appeals Office

cc:

[REDACTED]

DISCUSSION: The Director, Nebraska Service Center, revoked approval of the preference visa petition. The petitioner appealed the decision to the Administrative Appeals Office (AAO) on appeal. On February 28, 2007, the AAO dismissed the appeal. Counsel, on the beneficiary's behalf, filed a Motion to Reopen and Reconsider. The motion will be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A).

The petitioner is a motel. It seeks to employ the beneficiary permanently in the United States as a facilities planner. As required by statute, the petition is accompanied by a Form ETA 750, Application for Alien Employment Certification, approved by the Department of Labor. The director determined that the beneficiary is ineligible for the benefit sought due to marriage fraud under section 204(c) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(c) and, therefore revoked the petition's approval accordingly.

The record of proceeding contains a properly executed Form G-28 (Form G-28), Notice of Entry of Appearance as Attorney or Representative for the beneficiary's representative. U.S. Citizenship and Immigration Services' (USCIS) regulations specifically prohibit a beneficiary of a visa petition, or a representative acting on a beneficiary's behalf, from filing an appeal. 8 C.F.R. § 103.3(a)(1)(iii)(B). No evidence suggests that the petitioner consented to the filing of a Motion to Reopen the AAO's appeal decision.

As the Motion to Reopen the AAO's prior decision was not properly filed, since it is unclear whether or not the petitioner consented to having the motion filed on its behalf, it will be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

ORDER: The Motion to Reopen is rejected as improperly filed.