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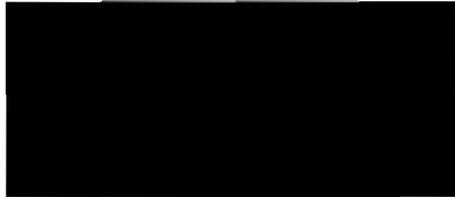


U.S. Department of Homeland Security  
U. S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090

U.S. Citizenship  
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FILE: [REDACTED]  
LIN 06 246 51709

Office: NEBRASKA SERVICE CENTER

Date: JUL 06 2009

IN RE: Petitioner: [REDACTED]  
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 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.

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, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Nebraska Service Center (director), denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office on appeal. The appeal will be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A).

The petitioner states that it is a distribution company. It seeks to employ the beneficiary permanently in the United States as a warehouse supervisor. As required by 8 C.F.R. § 204.5(l)(3), the petition is accompanied by an ETA Form 9089, Application for Permanent Employment Certification, approved by the Department of Labor.

As is set forth in the July 31, 2007 denial, the director determined that the petitioner had not established that it had the continuing ability to pay the beneficiary the proffered wage beginning on the priority date of the petition. The director denied the petition accordingly.

On appeal, counsel submitted a Form I-290B, Notice of Appeal or Motion, and a Form G-28, Notice of Entry of Appearance as Attorney or Representative. The Form I-290B was signed by counsel. The Form G-28 was signed by the beneficiary and by counsel. Neither form was signed by an authorized representative of the petitioner. Therefore, the attorney identified on Form I-290B and Form G-28 is counsel to the beneficiary, not the petitioner. There is no evidence in the record that suggests that the beneficiary was authorized to sign the Form G-28 on behalf of the petitioner or that the petitioner consented to the filing of the appeal.

The beneficiary of a petition is not a recognized party in the proceeding. 8 C.F.R. § 103.2(a)(3). U.S. Citizenship and Immigration Services regulations prohibit the beneficiary of a petition, or a representative acting on the beneficiary's behalf, from filing an appeal. 8 C.F.R. § 103.3(a)(1)(iii)(B).

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

**ORDER:** The appeal is rejected.