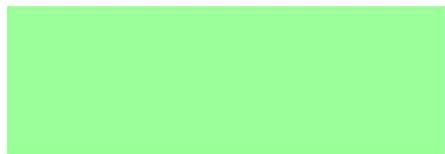


(b)(5)

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

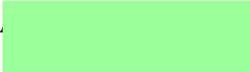


U.S. Citizenship
and Immigration
Services



DATE:

OFFICE: TEXAS SERVICE CENTER

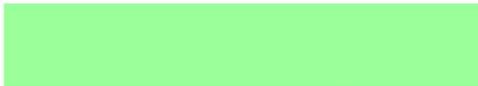
FILE: 

AUG 07 2012

IN RE:

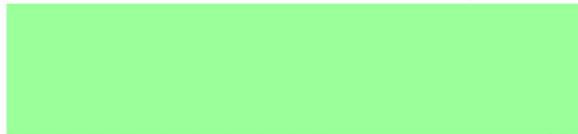
Petitioner:

Beneficiary:



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:



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 "Perry Rhew".

Perry Rhew
Chief, Administrative Appeals Office.

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition. 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 describes itself as a construction business. It seeks to permanently employ the beneficiary in the United States as a drywall installer. The petitioner requests classification of the beneficiary as a professional or skilled worker pursuant to section 203(b)(3)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A).

The Form I-290B, Notice of Appeal or Motion, does not state that the appeal is being filed by the petitioner. The Form I-290B was accompanied by a Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, for an entity other than the petitioner.

An appeal must be filed by the affected party. 8 C.F.R. § 103.3(a)(2)(i). The “affected party” is “the person or entity with legal standing in a proceeding. It does not include the beneficiary of the visa petition.” 8 C.F.R. § 103.3(a)(1)(iii)(B). An appeal filed by an entity that is not entitled to file it must be rejected as improperly filed. 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

If the appellant is a different entity than the petitioner, it must establish that it is a successor-in-interest to the petitioner in order to be considered an affected party. *See generally, Matter of Dial Auto Repair Shop, Inc.*, 19 I&N Dec. 481 (Comm’r 1986). An appellant may establish a valid successor relationship for immigration purposes if it satisfies three conditions. First, the successor must fully describe and document the transaction transferring ownership of all, or a relevant part of, the predecessor. Second, the successor must demonstrate that the job opportunity is the same as originally offered on the labor certification. Third, the successor must prove by a preponderance of the evidence that it is eligible for the immigrant visa in all respects.

The record contains a July 17, 2009 letter of [redacted] Vice-President of [redacted] Inc., which states:

[The petitioner] was closed as of March 31, 2008 and another corporation named [redacted] was established. [redacted] has assumed all of the construction operations of [redacted] at that time and I [redacted] is now working as a drywall installer for I [redacted]

This letter is not sufficient to establish that a successor-in-interest transaction has taken place. The evidence in the record does not fully describe and document the transaction transferring ownership of all, or a relevant part of, the petitioner.

Since the appellant has failed to establish that it is a successor-in-interest to the petitioner, it cannot be considered an affected party in this proceeding. As the evidence in the record does not establish that the appeal was filed by an affected party, it must be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

(b)(6)

ORDER: The appeal is rejected.