

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



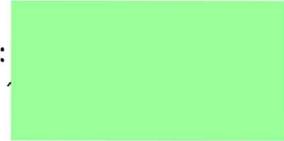
U.S. Citizenship  
and Immigration  
Services

(b)(6)

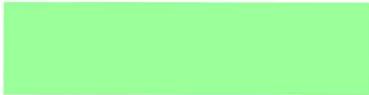


DATE: JUN 06 2012 OFFICE: TEXAS SERVICE CENTER

FILE:

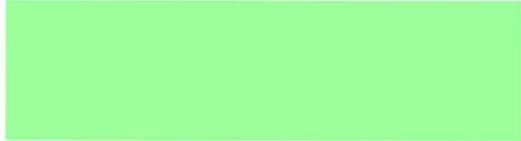


IN RE: Petitioner:  
Beneficiary:



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,

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 is a restaurant. It seeks to permanently employ the beneficiary in the United States as a cook. 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 director's decision denying the petition concludes that the petitioner failed to establish the ability to pay the proffered wage from the priority date.

Appeals to the AAO are filed on Form I-290B. The Form I-290B in the instant case was signed by attorney Frederic Rosengarten of Howard M. Rosengarten, P.C. A Form G-28 signed by attorney Rosengarten and the *beneficiary* of the petition accompanied the Form I-290B. Neither the Form I-290B nor the Form G-28 was signed by the petitioner.

The regulation at 8 C.F.R. § 103.3(a)(1)(iii)(B) prohibits a beneficiary of a petition, or a representative acting on a beneficiary's behalf, from filing an appeal.

On February 29, 2012, the AAO sent a fax to Howard M. Rosengarten, P.C. The fax requested that attorney Rosengarten submit a properly executed Form G-28 signed by the petitioner. As of the date of this letter, the AAO has not received a response.

As the appeal was not properly filed, and there is no evidence in the record that the petitioner consented to the filing of the appeal. Therefore the appeal will be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

**ORDER:** The appeal is rejected.