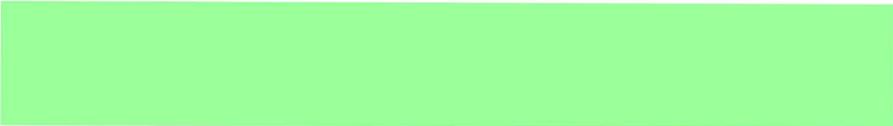


(b)(6)

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

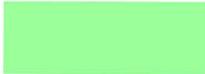


U.S. Citizenship
and Immigration
Services

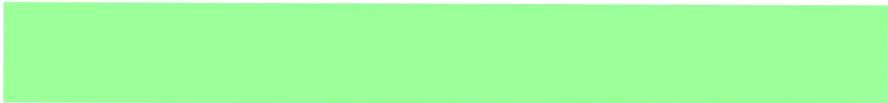


DATE: **JAN 14 2013**

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:

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 that reads "Elizabeth H. McCormack".

Ron Rosenberg
Acting Chief, Administrative Appeals Office

(b)(6)

DISCUSSION: The Director, Texas Service Center, revoked the employment-based immigrant visa petition on July 31, 2007. The beneficiary and his new employer filed an appeal with the Administrative Appeals Office (AAO) on August 14, 2007. The AAO rejected the appeal noting that the appeal was improperly filed because it was not filed by the affected party, in this case, the petitioner or its authorized representative. The beneficiary filed a motion to reconsider the AAO's decision and the director dismissed the motion as untimely.¹ The matter is now before the Administrative Appeals Office (AAO) on motion. The motion will be dismissed pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(I).²

The petitioner describes itself as a commercial cleaning company. It seeks to permanently employ the beneficiary in the United States as a supervisor janitorial services. 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 revoking the immigrant visa concludes that the beneficiary conspired to enter into a fraudulent marriage for the purpose of evading immigration laws.

The record of proceeding contains a properly executed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, for the beneficiary's representative. Additionally, the Form I-290B, Notice of Appeal or Motion, was signed by the beneficiary's representative. The regulation at 8 C.F.R. § 103.3(a)(1)(iii)(B) specifically prohibits a beneficiary of a visa petition, or a representative acting on a beneficiary's behalf, from filing an appeal. There is no evidence in the record that the petitioner consented to the filing of the appeal.

As the motion was not properly filed, and it is unclear whether or not the petitioner consented to having a motion filed on its behalf, it will be dismissed. 8 C.F.R. § 103.3(a)(2)(v)(A)(I).

ORDER: The motion is dismissed.

¹ The director wrongfully assumed jurisdiction over this motion, as it was filed following a decision by the AAO. See 8 C.F.R. § 103.3(a)(2)(iv), indicating that the official who made the unfavorable decision has jurisdiction over any motion. The director's decision is correct, and the current motion is again filed by an unaffected party. The AAO will not disturb the decision.

² According to a review of the list of licensed attorneys by the District of Columbia Bar Association, available on the internet at <http://www.dcbar.org>, Ms. [REDACTED] was suspended from the practice of law. Also, Ms. [REDACTED] is not listed as a member of the D.C. Bar. Ms. [REDACTED] is not listed as a member of the Maryland State Bar on the Client Protection Fund Attorney Listing website available on the internet at <http://www.courts.state.md.us> under either name. The Form G-28 dated December 19, 2001 states that Ms. [REDACTED] was a member of the D.C. Bar and the Maryland State Bar. Because the petitioner is represented by a suspended attorney, the AAO will not recognize the petitioner's counsel in this proceeding.