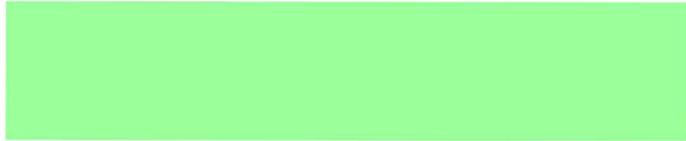


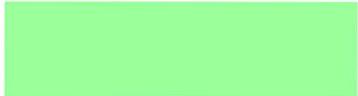


U.S. Citizenship
and Immigration
Services

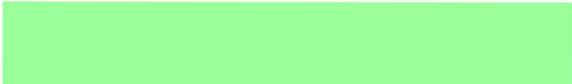
(b)(6)



DATE: JUN 17 2013 OFFICE: NEBRASKA SERVICE CENTER



IN RE: Petitioner:
Beneficiary:



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

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,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center (director), denied the employment-based immigrant visa petition. The petitioner appealed the decision to the Administrative Appeals Office (AAO). The appeal will be rejected as improperly filed.

The petitioner¹ provides information technology services, specializing in cross-enterprise application development and integration. It sought to permanently employ the beneficiary in the United States as a software engineer. The petitioner requested 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 petition was accompanied by a Form ETA 750, Application for Alien Employment Certification (labor certification), certified by the U.S. Department of Labor (DOL). The priority date of the petition is November 11, 2003, the date an office in the DOL's employment service system accepted the labor certification for processing. *See* 8 C.F.R. § 204.5(d).

The director's decision denying the petition concludes that the petitioner failed to demonstrate that the beneficiary satisfied the minimum level of education required for professional classification and stated on the labor certification.

Purported counsel for the petitioner timely filed this appeal of the director's decision. However, the record does not establish that the petitioner authorized its filing.

Attorneys or accredited representatives must file appearances on the appropriate forms in each case for which they represent a party before the U.S. Department of Homeland Security (DHS). *See* 8 C.F.R. § 292.4(a) and instructions to Form G-28, which are incorporated into the regulations pursuant to 8 C.F.R. § 103.2(a). The forms must be properly completed and signed by the petitioners, applicants, or respondents. *Id.* Otherwise, the appearances will not be recognized in the relevant matters. *Id.*

In the instant case, purported counsel signed the Form I-290B, Notice of Appeal or Motion, but failed to submit a Form G-28, Notice of Entry of Appearance as Attorney or Representative, in accordance with the regulation at 8 C.F.R. § 292.4(a).

¹ According to online information from the Florida Department of State, Division of Corporations, the petitioning corporation was voluntarily dissolved on April 11, 2012. *See* <http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail/EntityName> (accessed June 6, 2013). As the AAO has no jurisdiction over this improperly filed appeal, it has not sought to confirm the reported corporate dissolution with the petitioner, which would render the appeal moot, nor has it inquired as to whether a "successor-in-interest" of the petitioner seeks to continue to offer the job opportunity stated on the accompanying labor certification. *See Matter of Dial Auto Repair Shop, Inc.*, 19 I&N Dec. 481, 482 (Comm'r 1986) (employers that seek to continue to offer a job opportunity for immigration purposes must demonstrate that they have acquired the essential rights and obligations necessary to carry on the business of the petitioner).

The AAO sent purported counsel a facsimile on January 4, 2013, notifying him that a properly executed Form G-28, signed by both himself and the petitioner's authorized agent, must be submitted to the AAO. As of this date, counsel has not responded to the request. *See* 8 C.F.R. § 103.3(a)(2)(v)(A)(2)(iii) (requiring notice to counsel of a defective Form G-28 on appeal). There is no evidence in the record that the petitioner consented to the filing of the appeal.

Because there is no indication that the petitioner authorized the filing of this appeal, the AAO concludes that the appeal was improperly filed and must be rejected. *See* 8 C.F.R. § 103.3(a)(2)(v)(A)(1) (the AAO must reject an improperly filed appeal).

ORDER: The appeal is rejected.