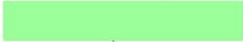


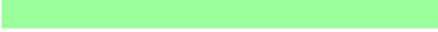


U.S. Citizenship
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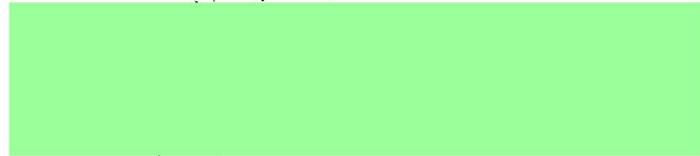


Date: **JAN 28 2013** Office: CALIFORNIA SERVICE CENTER FILE: 

IN RE: Petitioner: 
Beneficiary: 

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER IN THE FORM I-129 PROCEEDING:



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 *for*

Acting Chief, Administrative Appeals Office

DISCUSSION: The director of the California Service Center denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner, which claims to be engaged in property management, seeks to employ the beneficiary as a property manager. Accordingly, the petitioner endeavors to classify the beneficiary as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b). The director denied the petition, finding that the petitioner failed to establish that the proffered position was a specialty occupation.

Effective March 4, 2010, the regulation at 8 C.F.R. § 292.4(a) requires that a “new [Form G-28] must be filed with an appeal filed with the [AAO].” Title 8 C.F.R. § 292.4(a) further requires that the Form G-28 “must be properly completed and signed by the petitioner, applicant, or respondent to authorize representation in order for the appearance to be recognized by DHS.” Although prior counsel in this matter previously entered his appearance prior to the instant Form I-129’s adjudication on October 26, 2011, the record does not contain a new, properly executed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, personally signed by both counsel and by an authorized official of the petitioning entity for the Form I-290B filed with the AAO.

On November 13, 2012, the AAO sent a request for a new Form G-28 to prior counsel via facsimile transmission. Specifically, the AAO advised that without a new, valid, and fully executed Form G-28, signed by an official of the petitioning entity authorizing him to represent the petitioner, the AAO would not consider the appeal to have been properly filed. Pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(2) and its subclauses, prior counsel was instructed to submit a duly executed Form G-28 by fax within fifteen calendar days. Prior counsel was further advised that failure to timely respond to the AAO’s request would result in the rejection of the appeal. As of the date of this decision, no correspondence from prior counsel has been received.

Absent a new and properly executed Form G-28, prior counsel cannot be considered the petitioner’s attorney of record with regard to the appeal currently before the AAO. U.S. Citizenship and Immigration Services regulations specifically prohibit the filing of an appeal by an attorney or representative without a properly executed Form G-28 entitling that person to file the appeal. 8 C.F.R. § 103.3(a)(2)(v)(A)(2)(i).

An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. 8 C.F.R. § 103.3(a)(2)(v)(A)(I). As prior counsel is not a recognized party in the Form I-290B proceeding, he counsel is not authorized to file an appeal. *Id.*; 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)(I).

ORDER: The appeal is rejected. The petition is denied.