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U.S. Citizenship
and Immigration
Services

[redacted]

FILE: EAC 02 177 51966 Office: VERMONT SERVICE CENTER Date: APR 19 2004

IN RE: Petitioner:
Beneficiary: [redacted]

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:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment based immigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner seeks to classify the beneficiary as an employment based immigrant pursuant to section 203(b)(3) of the Immigration and Nationality Act, (the Act), 8 U.S.C. § 1153(b)(3), as a skilled worker. The petitioner is a restaurant. It seeks to employ the beneficiary permanently in the United States as a cook. As required by statute, the petition is accompanied by an individual labor certification approved by the Department of Labor. The director denied the petition, finding that the petitioner had not established its continuing financial ability to pay the proffered wage as of the visa priority date.

The record shows that [redacted] filed the appeal on behalf of the petitioner. Mr[redacted] submitted an entry of appearance (Form G-28) on behalf of the petitioner not as an attorney or accredited representative, but as the petitioner's "agent" who handled the labor certification.

The regulation at 8 C.F.R. § 103.2(a)(3) provides in pertinent part:

> *Representation.* An applicant or petitioner may be represented by an attorney in the United States as defined in § 1.1(f) of this chapter, by an attorney outside the United States as defined in § 292.1(a)(6) of this chapter, or by an accredited representative as defined in § 292.1(a)(4) of this chapter.

The regulation at 8 C.F.R. § 292.1(a)(4) also provides that an accredited representative is a person "representing an organization described in § 292.2 of this chapter who has been accredited by the Board." The record indicates that the Mr.[redacted] does not represent any organization. It is noted that the regulation at 8 C.F.R. § 292.1(3) allows a reputable individual to appear on behalf of a petitioner if that individual has a pre-existing relationship with the petitioner such as that of a friend or clergyman, appears without direct or indirect remuneration and files a written declaration to that effect, does not regularly engage in immigration practice or preparation, and receives permission by the official before whom he or she wishes to appear.

The record fails to establish that the Mr[redacted] falls within any of the relevant categories of representatives authorized by immigration regulations to file an appeal on behalf of the petitioner. "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).

As Mr.[redacted] is not entitled to represent the petitioner in this matter, then the appeal must be rejected as improperly filed.

ORDER: The appeal is rejected.