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U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: MAR 24 2004

IN RE: Petitioner: [redacted]
Beneficiary:

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

ON BEHALF OF PETITIONER:

[redacted]

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.

Helen E. Crawford for

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment based immigrant visa petition was denied by the Director, California 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 garment manufacturer. It seeks to employ the beneficiary permanently in the United States as an accountant. As required by statute, the petition is accompanied by an individual labor certification approved by the Department of Labor. The director determined that the petitioner had not established that the beneficiary possessed the qualifications required by the terms of the labor certification.

The record shows that that an attorney or representative has filed the appeal without a proper entry of appearance executed on Form G-28 showing that he represents the petitioner. The record also shows that a different attorney currently represents the petitioner.[1]

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(2) states in pertinent part:

> *Appeal by attorney or representative without proper Form G-28-(i)General.* If an appeal is filed by an attorney or representative without a properly executed Notice of Entry of Appearance as Attorney or Representative (Form G-28) entitling that person to file the appeal, the appeal is considered improperly filed. In such case, any filing fee [CIS] has accepted will not be refunded regardless of the action taken. (Original emphasis).

The regulation at 8 C.F.R. § 103.3(a)(2)(v) further provides in relevant part:

> *Improperly filed appeal- (A) Appeal filed by person or entity not entitled to file it- (1) Rejection without refund of filing fee.* An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee [CIS] has accepted will not be refunded. (Original emphasis).

Although the attorney filing the appeal has represented the beneficiary in previous proceedings, as noted above, the record contains no entry of appearance (Form G-28), signed by the current petitioner, designating this attorney as its representative. Therefore, an appeal filed on its behalf, by this attorney, must be rejected as improperly filed.

ORDER: The appeal is rejected.

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[1] As no withdrawal from the attorney currently representing the petitioner (documented by a properly filed G-28) is contained in the record, a copy of this decision will be provided to him.