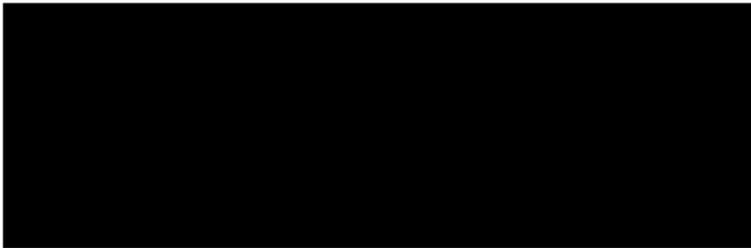


U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services



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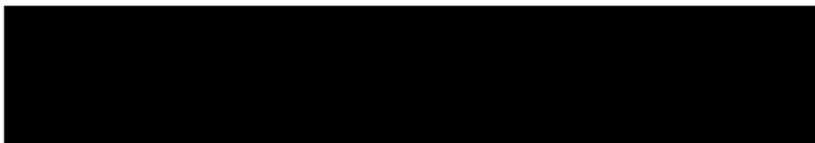
DEC 27 2012

Office: NEBRASKA SERVICE CENTER

FILE:

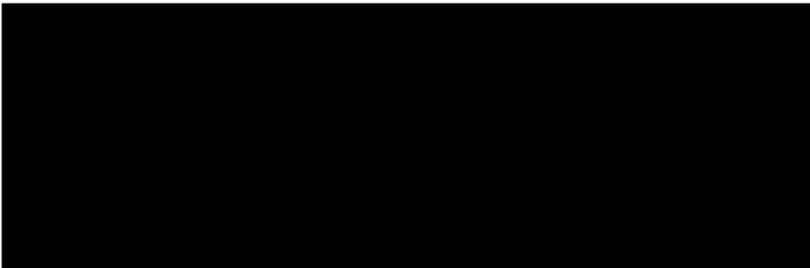


IN RE:



PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:



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DISCUSSION: The approval of the preference visa petition was revoked by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

In order to properly file an appeal from a revocation decision, the affected party or the attorney or representative of record must file the complete appeal within 15 days of service of the unfavorable decision. *See* 8 C.F.R. § 205.2. If the decision was mailed, the appeal must be filed within 18 days. 8 C.F.R. § 103.8(b). The date of filing is not the date of mailing, but the date of actual receipt. *See* 8 C.F.R. § 103.2(a)(7)(i).

The record indicates that the service center director issued the decision on December 29, 2011. Neither the Immigration and Nationality Act nor the pertinent regulations grant the AAO authority to extend this time limit.

Although counsel dated the Form I-290B January 23, 2012, it was not received by the service center until January 30, 2012. Accordingly, the appeal was untimely filed.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(2) states that, if an untimely appeal meets the requirements of a motion to reopen or a motion to reconsider, the appeal must be treated as a motion, and a decision must be made on the merits of the case. The official having jurisdiction over a motion is the official who made the last decision in the proceeding, in this case the Director of the Nebraska Service Center. *See* 8 C.F.R. § 103.5(a)(1)(ii). As required by 8 C.F.R. § 103.3(a)(2)(ii)-(iv), the director reviewed the appeal prior to forwarding it to the AAO, and did not conclude that it met the requirements of a motion or otherwise warrant favorable action.

As the appeal was untimely filed, the appeal must be rejected.

ORDER: The appeal is rejected.