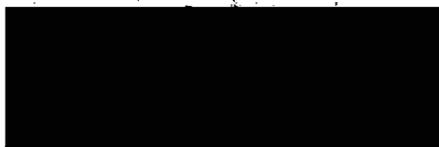




U.S. Department of Justice  
Immigration and Naturalization Service

B4

OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536



**PUBLIC COPY**

File: WAC 98 080 50041

Office: CALIFORNIA SERVICE CENTER

Date: FEB 1 2001

IN RE: Petitioner:  
Beneficiary:



Petition: Immigrant Petition for Alien Worker as a Multinational Executive or Manager Pursuant to Section 203(b)(1)(C) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(1)(C)

IN BEHALF OF PETITIONER:



Identification data deleted to prevent clearly unwarranted invasion of personal privacy

**INSTRUCTIONS:**

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

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Mary C. Mulrean, Acting Director  
Administrative Appeals Office

**DISCUSSION:** The preference visa petition was denied by the Director, California Service Center. The matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a California corporation that claims to engage in the purchase and export of raw materials for its alleged parent company, Shanghai Dong Chang, located in the People's Republic of China. It seeks to employ the beneficiary as its general manager and, therefore, endeavors to classify him as a multinational manager or executive pursuant to section 203(b)(1)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(1)(C).

The director of the California Service Center denied the petition because the petitioner failed to establish that a qualifying relationship exists between the U.S. and foreign entities.

On appeal, the petitioner submits evidence that relates to the alleged transfer of monies from the foreign entity to the petitioner for the purchase of the petitioner's stock.

Section 203(b) of the Act states, in pertinent part:

(1) Priority Workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

\* \* \*

(C) Certain Multinational Executives and Managers. -- An alien is described in this subparagraph if the alien, in the 3 years preceding the time of the alien's application for classification and admission into the United States under this subparagraph, has been employed for at least 1 year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof and who seeks to enter the United States in order to continue to render services to the same employer or to a subsidiary or affiliate thereof in a capacity that is managerial or executive.

The issue to be examined is the director's finding that a qualifying relationship did not exist between the petitioner and the foreign entity, [REDACTED]. In the instant I-140 petition, the petitioner claimed that it is a subsidiary of the foreign entity, as Shanghai Dong Chang owns 60% of the issued shares of stock.

8 C.F.R. 204.5(j)(2) states in pertinent part:

*Subsidiary* means a firm, corporation, or other legal entity of

which a parent owns, directly or indirectly, more than half of the entity and controls the entity; or owns, directly or indirectly, half of the entity and controls the entity; or owns, directly or indirectly, 50 percent of a 50-50 joint venture and has equal control and veto power over the entity; or owns, directly or indirectly, less than half of the entity, but in fact controls the entity.

On June 8, 1998, the director specifically requested the original wire transfer of funds to show that the foreign entity transferred funds to the petitioner for the purchase of stock. In response, the petitioner submitted its original bank statements, which showed that monies were transferred to the petitioner's bank account through a wire transfer. The petitioner also submitted stock certificate #1, stock certification #2, and the corporate stock ledger to show that the foreign entity held the majority of the outstanding stocks. The petitioner failed to submit the original wire transfer that the director specifically requested and, therefore, the director denied the petition for that reason.

On appeal, the petitioner submits documents, which it maintains proves that the foreign entity, Shanghai Dong Chang, paid for 600 shares of the petitioner's stock. The evidence that the petitioner submits includes a letter from an Australian company, which states that it wired monies to the petitioner on behalf of the foreign entity; an agreement on entrustment payment between the foreign entity and a trustee company, Shanghai Dongqi International Co., Ltd.; and copies of remittance slips from banks in Shanghai, China.

The evidence that the petitioner submits on appeal is not persuasive, as the documents presented do not clearly establish that the foreign entity, Shanghai Dong Chang, paid for 600 shares of the petitioner's stock.

The regulation at 8 C.F.R. 204.5(j)(3)(ii) specifically allows the director to request additional evidence in appropriate cases, as the Service may reasonably inquire beyond the issuance of paper stock certificates into the means by which stock ownership was acquired. This is particularly true if evidence the petitioner submits as part of the petition, such as copies of its corporate tax return, shows that it received monies for the stocks. According to Schedule L of the petitioner's 1996 corporate income tax return, it received \$10,000 for the purchase of its common stock. Therefore, the director's request for the original wire transfer in order to confirm that the foreign entity, Shanghai Dong Chang, paid the petitioner monies for its common stock was reasonable.

On appeal, the petitioner submits a letter from Golden Ocean Import & Export (Aust) Pty. Ltd., which states that it remitted \$50,000 to the petitioner in July 1995 and \$50,000 to the petitioner on an undisclosed date on behalf of the foreign entity. This letter,

however, is insufficient. First, the letter only states that Golden Ocean Import & Export allegedly transferred monies to the petitioner. The Service does not know the reason for the alleged money transfer, particularly whether it related to the purchase of stock. Second, simply going on record without supporting documentary evidence to show that the foreign entity, Shanghai Dong Chang, gave money to Golden Ocean Import & Export for the specific purpose of purchasing the petitioner's stock, is not sufficient for the purpose of meeting the burden of proof in these proceedings. Matter of Treasure Craft of California, 14 I&N Dec. 190 (Reg. Comm. 1972).

The petitioner's submission of an agreement on entrustment of payment and copies of remittance slips from banks in Shanghai are also insufficient. The agreement and the copies of remittance slips only show that monies were allegedly wired into the petitioner's bank account. None of the documents clearly establish that the monies came from the foreign entity. In the instant case, without the original wire transfers, which contain the transaction numbers that are listed on the petitioner's bank account statement, the Service cannot conclude that the foreign entity, Shanghai Dong Chang, actually paid for the petitioner's stock. Absent this proof, the Service cannot find that a qualifying parent-subsidary relationship exists. Therefore, the director's decision on this issue is affirmed.

Additionally, while not addressed by the director, the record does not support a finding that (1) the beneficiary was employed in an executive or managerial capacity for at least one year in the three years immediately preceding the beneficiary's entry into the U.S. in L-1A status; (2) the beneficiary is currently and will continue to be employed in a primarily executive or managerial capacity; and (3) the petitioner had been doing business for at least one year at the time it filed the initial I-140 petition. As the appeal will be dismissed on the ground discussed, these issues need not be examined further.

The burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. The petitioner has not sustained that burden.

**ORDER:**           The appeal is dismissed.