



U.S. Department of Justice
Immigration and Naturalization Service

BY

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



PUBLIC COPY

File: WAC 96 100 51137

Office: CALIFORNIA SERVICE CENTER

Date: JAN 25 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 immigrant visa petition was approved by the Director, California Service Center. Upon further review of the record, the director determined that the petitioner was not eligible for the benefit sought. Accordingly, the director properly served the petitioner with notice of intent to revoke the approval of the preference visa petition, and her reasons therefore, and ultimately revoked the approval of the petition on December 6, 1999. The matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed pursuant to 8 C.F.R. 103.3(a)(1)(v).

The petitioner is a California corporation that claims to invest in real estate. It seeks to employ the beneficiary as its president and, therefore, endeavors to classify the beneficiary as a multinational executive or manager 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 revoked the petition because the petitioner failed to establish that it could pay the proffered wage and that it had been doing business for at least one year at the time it filed the I-140 petition on February 13, 1996.

Counsel submitted a timely Form I-290B on December 23, 1999 and indicated that a brief and/or evidence would be submitted to the Administrative Appeals Unit within 30 days. More than one year has passed since counsel made this statement, and no additional information has been provided in support of the appeal. Therefore, the record must be considered complete.

8 C.F.R. 103.3(a)(1)(v) states, in pertinent part:

Summary dismissal. An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

On the Form I-290B, counsel stated that the petitioner filed income tax returns for the years 1995, 1996, 1997 and 1998. Counsel also cited the petitioner's gross receipts for 1997 and 1998, and stated that evidence of the petitioner's business activities had been previously submitted in conjunction with two other petition filings.

These statements by counsel neither contain any argument in rebuttal to the director's reasons for denying the petition, nor specify any erroneous conclusion of law or statement of fact. As the petitioner has provided no additional evidence on appeal to overcome the decision of the director, the appeal will be summarily dismissed in accordance with 8 C.F.R. 103.3(a)(1)(v).

The burden of proof in this proceedings rests solely 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.