



U.S. Department of Justice

Immigration and Naturalization Service

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

[REDACTED]

PUBLIC COPY

File: [REDACTED]

Office: NEBRASKA SERVICE CENTER Date:

IN RE: Petitioner:

Beneficiary:

[REDACTED]

JAN 30 2001

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:

[REDACTED]

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.

identification data deleted to
prevent clearly unwarranted
invasion of personal privacy

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Mary C. Mulrean, Acting Director
Administrative Appeals Office

DISCUSSION: The preference visa petition was approved by the Director, Nebraska Service Center. Upon subsequent review, the director revoked the approval of the petition. The matter is now before the Associate Commissioner for Examinations on appeal. The decision of the director will be withdrawn and the petition will be remanded to the director for further action consistent with this decision.

The petitioner is an Illinois corporation that claims to be engaged in the import and export of electronic products, and a subsidiary of [REDACTED] located in Hungary. It seeks to employ the beneficiary as its president and, therefore, endeavors to classify him as a multinational manager pursuant to section 203(b)(1)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(1)(C).

Subsequent to the approval of the I-140 petition in 1998, the director reviewed an H-1B petition that the petitioner filed on behalf of another employee. Based upon evidence that was submitted with the H-1B petition, the director determined that the petitioner had not established that the beneficiary in the instant case was currently and would continue to be employed in an executive or managerial capacity, or that the petitioner had been doing business for at least one year at the time the petition was filed.

On September 14, 1999, the director served a letter to the petitioner and counsel at their addresses of record. According to the letter, the director was moving to reopen the approval of the petition, and was affording the petitioner thirty days to offer evidence in rebuttal to the Service motion. The director ultimately revoked the petition on December 29, 1999.

According to section 205 of the Act, the Attorney General may, at any time, for what he or she deems to be good and sufficient cause, revoke the approval of any petition approved by him or her under section 204. Pursuant to 8 C.F.R. 205.2(b), revocation of an approved petition can be made only on notice to the petitioner.

In the instant case, the director erred in issuing to the petitioner a motion to reopen the approval of the petition, as the only appropriate method to seek the revocation of a approved petition is to issue a notice of intent to revoke pursuant to 8 C.F.R. 205.2(b).

Therefore, this case will be remanded to the director, so that he may issue to both the petitioner and counsel of record, a notice of intent to revoke the petition. The director may request any additional evidence deemed necessary to assist him with his determination. As always in these proceedings, the burden of proof rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361.



ORDER:

The decision of the director, dated December 29, 1999, is withdrawn. The petition is remanded to the director for entry of a new decision in accordance with the foregoing.