



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



JAN 30 2001

File: WAC 95 047 51135 Office: CALIFORNIA SERVICE CENTER Date:

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:



PUBLIC COPY

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.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Mary C. Mulrean, Acting Director
Administrative Appeals Office

Identification data deleted to
prevent clearly unwarranted
invasion of personal privacy

DISCUSSION: The preference visa petition was approved by the Director, California Service Center. Pursuant to an investigation that was conducted by the Service in Taiwan, the director automatically revoked approval of the petition. The matter is now before the Associate Commissioner for Examinations on appeal. The case will be remanded to the director for further action consistent with this decision.

The petitioner, [REDACTED], claims to design and process embroidery products. It seeks to employ the beneficiary as its general manager and, therefore, endeavors to classify the beneficiary 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).

The director revoked the approved petition pursuant to 8 C.F.R. 205.1(a)(3)(iii)(D) because an investigation conducted in Taiwan revealed that the foreign entity had not been in business at the time the petition was approved or anytime thereafter. On August 11, 1998, the director sent an automatic revocation notice to the petitioner and to counsel at their addresses of record.

The petitioner subsequently filed a Form I-290B with an attached motion to reconsider. The director forwarded the appeal form with the attached motion to the Administrative Appeals Office (AAO) for adjudication.

8 C.F.R. 205.1(a) does not specifically allow a petitioner to appeal an automatic revocation of an approved petition. Therefore, the AAO does not have jurisdiction to consider the appeal. As § 205.1(a) does not specifically prohibit the filing of a motion to reconsider, this case will be remanded to the director to consider the petitioner's appeal as a motion.

The director may request any additional evidence deemed necessary to assist her with the 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 petition is remanded to the director for entry of a new decision in accordance with the foregoing.