



U.S. Department of Justice
Immigration and Naturalization Service

PH

OFFICE OF ADMINISTRATIVE APPEALS
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File: WAC 98 152 51098

Office: CALIFORNIA SERVICE CENTER

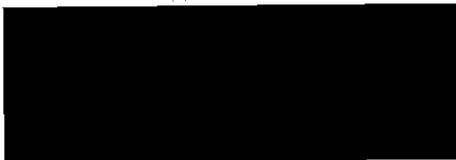
Date: JAN 30 2001

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 international trade and investment. It seeks to employ the beneficiary as its vice president and, therefore, endeavors to classify the beneficiary 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, counsel submits a brief.

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.

In the instant case, the petitioner claims that it is a wholly-owned subsidiary of the foreign entity, ADIC International, located in Sierra Leone. The director denied the petition because the petitioner could not document that the foreign entity remitted monies to the petitioner for the purchase of the petitioner's stock.

On appeal, counsel claims that due to the civil war in Sierra Leone, the petitioner is unable to obtain bank records from the Sierra Leone Bank that transferred funds to the petitioner's bank account. Counsel maintains that, as the petitioner submitted a stock certificate, which shows that the foreign entity owns 100% of the petitioner's stock and, as the evidence shows that the monies were transferred from a bank in Sierra Leone, the Service should

conclude that the foreign entity paid for the stock in the petitioner's company.

Counsel's argument is not persuasive, as evidence in the record is insufficient to support a finding that [REDACTED] International is the parent of the petitioner.

On its 1997 corporate income tax return, Schedule L (Line 21b), the petitioner claimed that it received \$325,000 for its common stock. The source of this claimed \$325,000 is the issue in dispute between the director and the petitioner. The director found that the petitioner failed to prove that it provided the monies. Counsel, on appeal, claims that "the parent company transferred into the United States a total of \$315,564, of which, \$225,000 was for the purchase of [REDACTED] .."

This statement by counsel does not clarify the source of the \$325,000 that the foreign entity allegedly paid for the petitioner's stock. Counsel is claiming that it transferred \$225,000 for the purchase of a company unrelated to the petitioner. Even if the remaining \$90,564 of the \$315,564 wire transfer was used to purchase the petitioner's stock, the record still lacks evidence of the source of the remaining \$234,436 for the purchase of the petitioner's stock.

Furthermore, on Line T(a) of the petitioner's 1997 corporate income tax return, the petitioner stated that [REDACTED] owned more than 50% of the voting stock in the petitioner. This information contradicts the petitioner's claim that the foreign entity, [REDACTED] International, owns 100% 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 relevant 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.

In the instant case, a copy of a stock certificate is insufficient to show that [REDACTED] International is the petitioner's parent company. As the petitioner failed to present persuasive evidence to establish that [REDACTED] International transferred \$325,000 for the purchase of the petitioner's stock, the Service must conclude that a qualifying relationship does not exist between the petitioner and the foreign entity. 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 the beneficiary is currently and will continue to be employed in an executive or managerial capacity for

the U.S. entity. As the appeal will be dismissed on another ground, this issue need not be addressed 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.