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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



File: [Redacted] Office: CALIFORNIA SERVICE CENTER Date: JUN 13 2002

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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.

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

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The immigrant visa petition was approved by the Director, California Service Center. Subsequently, the beneficiary applied for adjustment of status at the Los Angeles District Office. On the basis of new information received and on 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 on December 30, 2000. The director ultimately revoked the approval of the petition on January 25, 2001. The matter is now before the Associate Commissioner for Examinations on appeal. The case will be remanded for further consideration.

The director in the notice of intent to revoke the approval of the petition set out her reasons for the revocation and accorded the petitioner thirty (30) days from the date of the notice to offer evidence in opposition to the proposed revocation. The petitioner, through its counsel, responded to the notice of intent to revoke on January 25, 2001. The opposition to the notice of intent to revoke is date stamped as received by the Service Center on January 29, 2001. As noted above, the director revoked approval of the petition on January 25, 2001.

The director revoked the approval of the petition without review of the evidence submitted by the petitioner within the time limits set out by the director in the notice of intent to revoke. For this reason, the case is remanded to the director for further consideration of the evidence timely submitted to the Service in response to the notice of intent to revoke.

Although the petition will be remanded, examination of the record reveals a number of issues that must be addressed by the director before entry of a new decision.

On the issue raised by the director in the notice of intent to revoke, the information provided by the petitioner in response to the notice of intent to revoke must be reviewed. The information provided by the petitioner raises questions regarding the accuracy of the overseas investigator's report. However, the documentation provided by the petitioner is not sufficient in and of itself to overcome the director's concern regarding the relationship between the petitioner and the overseas entity. Further documentation, including the petitioner's bank statements, annual reports and other correspondence between the two entities should be reviewed. Also within the discretion of the director, additional information including a follow-up overseas investigation may be required.

Review of the record discloses that the beneficiary of this petition was initially approved as a multinational executive. However, it is not clear from the record that the beneficiary's duties are primarily managerial or executive in nature. It is also not clear from the record that the petitioner has established its ability to pay the beneficiary the proffered salary.



As the record does not establish that the petitioner maintains a qualifying relationship with the overseas entity, or that the beneficiary will function in a managerial or executive capacity, or that the petitioner has the ability to pay the beneficiary the proffered wage, this petition may not be approved. Accordingly, this matter will be remanded for the purpose of a new decision. The director must afford the petitioner reasonable time to obtain the evidence described above, and any other evidence the director may deem necessary. The director shall then render a new decision based on the evidence of record as it relates to the regulatory requirements for eligibility.

ORDER: The director's decision of January 25, 2001 is withdrawn. The matter is remanded for further action and consideration consistent with the above discussion and entry of a new decision.