



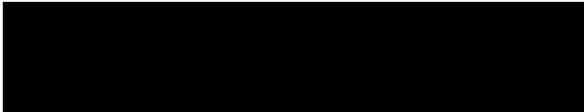
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U.S. Department of Justice

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: VERMONT SERVICE CENTER

Date: MAY 03 2002

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:

SELF-REPRESENTED

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

for Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Director of the Vermont Service Center approved the immigrant visa petition. After subsequent review, the director determined that the petitioner was not eligible for the benefit sought. Accordingly, the director served the petitioner with notice of his intent to revoke the approval of the preference visa petition, and ultimately revoked the approval of the petition on February 6, 2001. The matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a New York corporation that engages in trade. It seeks to employ the beneficiary as its vice 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 his approval of the petition because it appeared that the Service made an error in finding that the petitioner currently employs and would continue to employ the beneficiary in a primarily executive or managerial capacity.

On appeal, the petitioner states that it did not submit evidence in rebuttal to the director's Notice of Intent to Revoke the approval of the petition because it never received the director's notice. According to the petitioner, the address listed on the I-140 petition to which the director mailed its correspondence, was not a valid address. The petitioner states that on January 31, 2000, it moved out of the building in which it had been located so that the building could be renovated. The petitioner states that even though it was expected to move back into the building in September 2000, this did not occur due to a dispute over the building's ownership. The petitioner states that on February 16, 2001, it called the Vermont Service Center to update its address and to request that the director mail his prior correspondence to the petitioner's new address.¹

Pursuant to 8 C.F.R. 103.5a(a)(1), routine service of a decision, such as a Notice of Intent to Revoke, consists of mailing a copy by ordinary mail addressed to a person **at his last known address**.

(Emphasis added.) Here, the director's Notice of Intent to Revoke was mailed to the petitioner on October 20, 2000 at the petitioner's last known address. Although the petitioner was not

¹It is noted that the petitioner has not presented any evidence of the alleged dispute over the building's ownership. Additionally, the record of proceeding does not contain any evidence that the petitioner spoke with a Vermont Service Center employee on February 16, 2001, or that the Service Center agreed to reissue the Notice of Intent to Revoke.

residing at the address at the time the decision was served, the petitioner failed to notify the Service that the address of record was incorrect; not until February 16, 2001 did the petitioner take action to update its address with the Service. Therefore, the director's decision to revoke the petition because of the petitioner's failure to respond to the director's Notice of Intent to Revoke was reasonable, as the petitioner bears the burden of updating its address with the Service in a timely manner in order to ensure that it will receive correspondence from the Service.

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.

The petitioner's sole argument on appeal is that it never received the director's Notice of Intent to Revoke. However, as previously stated, this resulted from a failure of the petitioner to update its address with the Service; it was not a Service error. As the petitioner does not present 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).

ORDER: The appeal is dismissed.