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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.
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Washington, D.C. 20536



File: [Redacted]

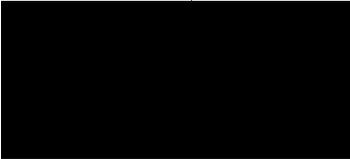
Office: VERMONT SERVICE CENTER

Date: NOV - 6 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 employment-based visa petition was initially approved by the Director, Vermont Service Center. Upon subsequent review, the director properly issued a notice of intent to revoke, and ultimately revoked the approval of the petition. The petitioner appealed the decision to the Associate Commissioner for Examinations and the Associate Commissioner dismissed the appeal. The matter is now before the Associate Commissioner on a motion to reconsider. The motion will be dismissed.

The petitioner is engaged in the business of exporting and marine transportation. It seeks to employ the beneficiary as its vice-president. Accordingly, it seeks classification of the beneficiary as an employment-based immigrant pursuant to section 203(b)(1)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(1)(C), as a multinational executive or manager. The director determined that the petitioner had not established that the beneficiary would be employed in a primarily managerial or executive capacity. The Associate Commissioner affirmed this decision on appeal.

On motion for reconsideration, counsel for the petitioner states that the motion is being filed to request additional time for the beneficiary to dissolve the petitioning corporation. Counsel provides no other reasons for the reconsideration of the decisions.

8 C.F.R. 103.5(a)(2) states, in pertinent part:

A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision.

Counsel has not provided any pertinent precedent decisions to establish that the previous decisions were based on an incorrect application of law or Service policy. Moreover, the Administrative Appeals Office is without authority to authorize the extension of stay of an individual who is not eligible for the benefit sought. Finally, it should be noted for the record that, unless the Service directs otherwise, the filing of a motion to reopen or reconsider does not stay the execution of any decision in a case or extend a previously set departure date. 8 C.F.R. 103.5(a)(1)(iv).

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. The petitioner has not sustained that burden. 8 C.F.R. 103.5(a)(4) states that "[a] motion that does not meet applicable requirements shall be dismissed." Accordingly, the motion will be dismissed,



the proceedings will not be reopened, and the previous decisions of the director and the Associate Commissioner will not be disturbed.

ORDER: The appeal is summarily dismissed.