

U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass. Ave., 3rd Floor
Washington, D.C. 20536

AUG 18 2003

FILE: EAC 02 093 52746 Office: VERMONT 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)

ON BEHALF OF PETITIONER:

PUBLIC COPY

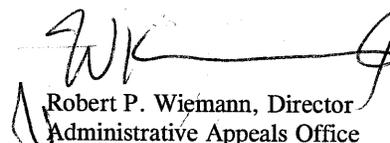
INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that 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 that 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 Bureau of Citizenship and Immigration Services (Bureau) 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 that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.


Robert P. Weimann, Director
Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, Vermont Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The matter will be remanded for further consideration.

The petitioner is a New Jersey corporation that was established in 1978 and is engaged in the business of wholesale tour operations. The petitioner seeks to employ the beneficiary as the operations manager of its incoming tours department. Accordingly, the petitioner endeavors to classify 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 denied the petition based on the determination that the petitioner had not established that the beneficiary was employed abroad in a managerial or executive capacity.

The director based the denial on his determination that the petitioner failed to clarify a response to the director's question regarding the number of employees employed at the petitioner's Montreal branch office where the beneficiary worked.

Upon a thorough review of the petitioner's response to the director's request for additional evidence, the AAO concludes that the basis for the director's denial was improper. The petitioner's response to the director's request clearly stated that the beneficiary served as the operations manager at the petitioner's Montreal branch office. Following a general description of the beneficiary's duties abroad the petitioner stated that the beneficiary supervised four employees, whose names and position titles were provided. The petitioner also named the beneficiary's immediate superior and stated that his position title was that of general manager. Although the petitioner did not specifically state that the beneficiary's four subordinates were also employed at the Montreal branch, based on statements that preceded and followed that information, the director could have easily made that inference on his own. Thus, the director's basis for concluding that the beneficiary was not employed in a qualifying capacity abroad was erroneous.

However, after reviewing the job descriptions provided by the petitioner for the beneficiary's duties abroad and in the United States, the AAO concludes that more information is needed before concluding that the beneficiary has been and would be employed

in a managerial or executive capacity. The petitioner's repeated use of terms such as "directed" and "managed" does not give proper insight as to the beneficiary's actual daily duties. The petitioner must provide more detailed and less broad descriptions of the beneficiary's past and present duties in order to allow the Bureau to conclude that the beneficiary has been and will be employed in a qualifying capacity.

Accordingly, the case will be remanded. The director shall request that the petitioner provide more detailed descriptions of the beneficiary's past and present job duties. The director shall then review the information submitted and draw a conclusion regarding the petitioner's eligibility for the immigration benefit sought.

ORDER: The decision of the director, dated September 11, 2002, is withdrawn. The matter is remanded for further action and consideration consistent with the above discussion and entry of a new decision.