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Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street, N.W.
Washington, DC 20536



File: WAC 02 032 57309

Office: CALIFORNIA SERVICE CENTER

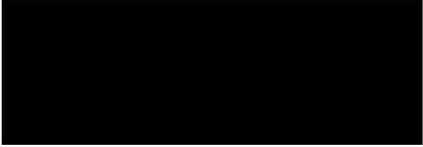
Date: DEC 9 - 2003

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:



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 Citizenship and Immigration Services (CIS) 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. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based visa petition was denied by the Director, California Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is a corporation organized in 1996 in the State of California. It imports and exports diamonds for wholesale. It seeks to employ the beneficiary as its president. Accordingly, it 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 determined that the petitioner had not established that the beneficiary had been or would be employed in a managerial or executive capacity for the petitioner. The director also determined that the petitioner had not established a qualifying relationship with the beneficiary's foreign employer.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part:

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.

Counsel for the petitioner submitted a Notice of Appeal, Form I-290B that was received by CIS on February 20, 2003. Counsel indicated he would send a brief and/or evidence to the AAO within 30 days. To date, more than eight months later, the AAO has not received a brief or other evidence in support of the petitioner's appeal. The I-290B states:

The decision of the Director is arbitrary and capricious in that the beneficiary is clearly statutorily eligible for the classification sought. The Director's conclusion that the beneficiary does not meet the definition of a multi-national executive or manager in accordance with section 203(1)(C) of the Immigration and Nationality Act is without merit. As President of [the petitioner], the beneficiary has the authority to make any and all of the executive decisions relating to the operation of the United States company including any decisions regarding the development and expansion of the company. Furthermore, the petitioner has shown with an abundance of evidence that the qualifying relationship does exist [sic] between the petitioner and the beneficiary's foreign employer.

Counsel's assertion that the beneficiary performs executive or managerial duties is not sufficient. The assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA

1980). Counsel does not specify any erroneous conclusion of law or statement of fact made by the director on either the issue of the beneficiary's managerial or executive capacity or the issue of qualifying relationship. Inasmuch as the basis for the appeal is not specifically delineated, the regulations mandate the summary dismissal of the appeal.

ORDER: The appeal is summarily dismissed.