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U.S. Department of Homeland Security

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

[REDACTED]

File: [REDACTED] Office: CALIFORNIA SERVICE CENTER

Date: **DEC 9 - 2003**

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)

ON BEHALF OF PETITIONER:

[REDACTED]

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

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Director, California Service Center initially approved the employment-based visa petition. Upon subsequent review, the director issued a notice of intent to revoke approval and ultimately revoked approval of the petition. 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 April 1997 in the State of California. It engages in international trade. It seeks to employ the beneficiary as its chief executive officer and general manager. 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 issued the notice of intent to revoke on the grounds that the petitioner had not established a qualifying relationship with the beneficiary's foreign employer. The director also determined that the record did not substantiate that the beneficiary would be performing in a managerial or executive capacity. The director revoked approval of the petition after review of evidence and argument received in rebuttal to the notice of intent to revoke. The director determined that the petitioner had not submitted sufficient evidence to overcome the grounds of revocation.

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 August 1, 2002. Counsel indicated he would send a brief and/or evidence to the AAO within 30 days. To date, more than one year later, the AAO has not received a brief or other evidence in support of the petitioner's appeal.

The I-290B contains counsel's assertions that:

[CIS] had ignored ample evidence establishing that a qualifying relationship existed between the petitioner and the Chinese parent company;

[CIS] had erred in finding that the beneficiary was not a multinational executive; and

[CIS'] finding reversed three previous adjudications where a parent/subsidiary relationship had been found

and where the beneficiary had been found to be an international businessperson.

Counsel has not specifically identified any erroneous conclusion of law or statements of fact made by the director on the issues of the lack of a qualifying relationship or lack of the beneficiary's managerial or executive capacity. 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). In addition, CIS is not required to approve applications or petitions where eligibility has not been demonstrated, merely because of prior approvals which may have been erroneous. See, e.g. *Matter of Church Scientology International*, 19 I&N Dec. 593, 597 (Comm. 1988). It would be absurd to suggest that CIS or any agency must treat acknowledged errors as binding precedent. *Sussex Engg. Ltd. v. Montgomery* 825 F.2d 1084, 1090 (6th Cir. 1987), cert. denied, 485 U.S. 1008 (1988).

The record contains the same deficiencies the director observed in the notice of intent to revoke and the notice of revocation. 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.