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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



DEC 23 2003

File: [Redacted]

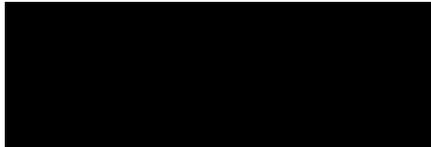
Office: CALIFORNIA SERVICE CENTER

Date:

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:



identifying data deleted to
prevent disclosure of unclassified
information and to prevent
invasion of personal privacy

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 (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 Director, California Service Center initially approved the employment-based visa petition. Upon subsequent review of the record, including an investigative report, the director issued a notice of intent to revoke and ultimately revoked approval of the petition. Counsel for the petitioner submitted an appeal to the Administrative Appeals Office (AAO) but the appeal was rejected as untimely filed. The AAO found that the appeal met the requirements of a motion and ordered that the matter be remanded to the director and that if the director's new decision was adverse to the petitioner, the matter be certified to the AAO for review.

The director issued a Service Motion to Reopen and Reconsider and Intent to Revoke on October 9, 2002. The director raises four issues in the notice of intent to revoke and requests evidence in rebuttal on the four issues. On December 11, 2002 the director, having not received a rebuttal to the notice of intent to revoke, issued a Notice of Revocation decision.

In the notice of intent to revoke, the director raised significant concerns regarding the beneficiary's assignment for the petitioner and whether the beneficiary had been or would be employed in a managerial or executive capacity. The director also correctly questioned the lack of independent documentary evidence establishing the petitioner's qualifying relationship with the beneficiary's foreign employer. The director further stated doubts regarding the petitioner's doing business. Beyond the concerns raised by the director, the record does not establish that the beneficiary's assignment for the foreign entity was in a managerial or executive capacity for one year prior to entering the United States as a nonimmigrant.

The petitioner has not provided adequate evidence to establish eligibility. The record is deficient on the above issues. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The director's decision is affirmed. The application is denied.