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U.S. Department of Homeland Security  
Citizenship and Immigration Services

**B4**

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



File:  Office: NEBRASKA SERVICE CENTER Date: **NOV 21 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:

SELF-REPRESENTED

**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, Nebraska 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 1993 in the State of California. It operates a computer store. It seeks to employ the beneficiary as its operations 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 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 petitioner subsequently submitted a motion to reconsider and the director reopened the proceedings. Upon review of the motion and evidence accompanying the motion, the director determined that the grounds for denial had not been overcome.

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.

The petitioner submitted a Notice of Appeal, Form I-290B that was received by CIS on July 26, 2002. The petitioner indicated that it 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 states:

[The beneficiary] is truly acting in the capacity of a manager of our Federal Way, Washington computer store. Please refer to my letter dated December 4, 2001, copy attached, for details about the duties of [the beneficiary]. In regard to the relationship between the U.S. company - at the present time the Taiwanese company, CyberBear Enterprises LTD. continues to own 51% of the U.S. company - [the petitioner].

The petitioner's assertion that the beneficiary performs 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). Moreover, the director has considered the petitioner's letter of December 4, 2001 and found the information insufficient

to support the beneficiary's eligibility for this visa classification. The petitioner 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.