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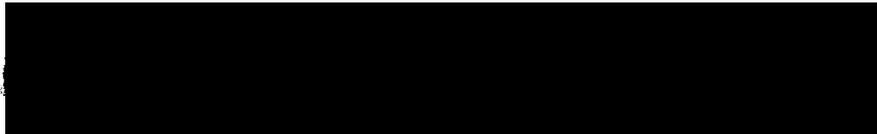
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



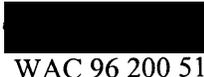
U.S. Citizenship
and Immigration
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

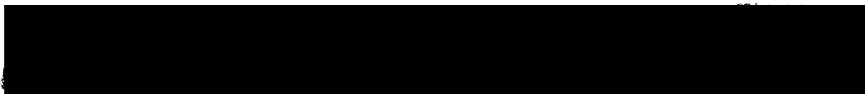
JUN 02 2005

WAC 96 200 51703

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 of the Administrative Appeals Office 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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The preference visa petition was initially approved by the Director, California Service Center. On further review of the record, the director determined that the petitioner was not eligible for the benefit sought. Accordingly, the director properly served the petitioner with a notice, dated November 12, 2004, informing it of his intention to revoke the approval of the preference visa petition and the reasons therefore. After reviewing the petitioner's response to the intent notice, the director issued an Addendum to the Intent to Revoke, dated April 16, 2004. The director ultimately revoked the approval of the petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a California corporation that imports and exports computer software and hardware products. It seeks to employ the beneficiary as its vice president in charge of the research 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 revoked the petition based on the determination that the petitioner failed to respond to the Addendum to Intent to Revoke, which addressed the evidence that was submitted up to that point and requested additional evidence.

On appeal, the petitioner disputes the director's conclusions and submits a brief statement in support of the appeal.

Section 205 of the Act, 8 U.S.C. § 1155, states: "The Attorney General may, at any time, for what he deems to be good and sufficient cause, revoke the approval of any petition approved by him under section 204."

Regarding the revocation on notice of an immigrant petition under section 205 of the Act, the Board of Immigration Appeals has stated:

In Matter of Estime, . . . this Board stated that a notice of intention to revoke a visa petition is properly issued for "good and sufficient cause" where the evidence of record at the time the notice is issued, if unexplained and un rebutted, would warrant a denial of the visa petition based upon the petitioner's failure to meet his burden of proof. The decision to revoke will be sustained where the evidence of record at the time the decision is rendered, including any evidence or explanation submitted by the petitioner in rebuttal to the notice of intention to revoke, would warrant such denial.

Matter of Ho, 19 I&N Dec. 582, 590 (BIA 1988)(citing *Matter of Estime*, 19 I&N 450 (BIA 1987)).

In the present matter, the petitioner only responded to the director's initial request for additional evidence, which was incorporated into the November 12, 2004 Notice of Intent to Revoke. The director addressed the petitioner's submissions in response to the initial intent notice and subsequently issued an addendum to the intent to revoke citing the petitioner's evidence and pointing out further insufficiencies. The petitioner was instructed to submit further evidence to establish the following factors: 1) the beneficiary would be employed in a managerial or executive capacity; 2) the petitioner has a qualifying relationship with the beneficiary's foreign employer; 3) the petitioner has the ability to pay the beneficiary's proffered wage; and 4) the petitioner has been and continues to do business on a regular, continuous, and systematic basis.

The record shows that the petitioner failed to respond to the director's second request for evidence.

Accordingly, the director revoked the approval of the petition in a decision dated June 2, 2004, citing the petitioner's failure to respond to the Notice of Intent to Revoke. As indicated, while the record shows that the petitioner responded to the initial notice of intent and request for evidence, the same is not true with regard to the second intent notice, which was entitled Addendum to the Intent to Revoke. The director's error in referring to the addendum as the Intent to Revoke does not warrant overturning the revocation. The fact remains that the director clearly mapped out the deficiencies in the record and specified the documents the petitioner should submit in order to cure such deficiencies. The petitioner failed to respond to the director's request and instead submits an appeal, vaguely addressing the director's concerns. However, as a general matter, the director's decision to revoke the approval of a petition will be affirmed, notwithstanding the submission of evidence on appeal, where a petitioner fails to offer a timely explanation or rebuttal to a properly issued notice of intention to revoke. *See Matter of Arias*, 19 I&N Dec. 568, 569 (BIA 1988). Consequently, the petitioner's appeal will not be considered. The director's decision revoking approval of the petition will stand.

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. The petitioner has not sustained that burden.

ORDER: The appeal is dismissed.