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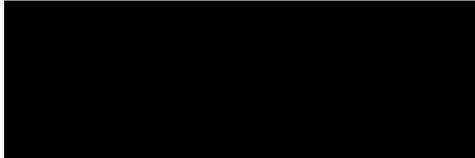
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

B4



FILE:



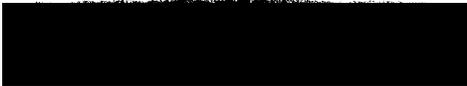
Office: CALIFORNIA SERVICE CENTER

Date: **SEP 02 2005**

WAC 03154 51614

IN RE:

Petitioner:



Beneficiary:

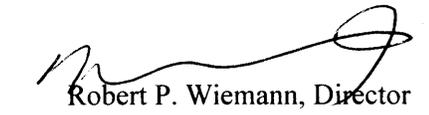
PETITION: Immigrant Petition for Alien Worker as a Multinational Executive or Manager Pursuant to Section 203(b)(1)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(C)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision 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 Director, California Service Center, denied the employment-based petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The petitioner is a corporation organized in the State of California in December 2000. It engages in real estate investment and development and international trade. It seeks to employ the beneficiary as its president. 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 determined that the petitioner had not established a qualifying relationship with the beneficiary's foreign employer.

On appeal, counsel for the petitioner asserts that the evidence establishes a qualifying relationship between the petitioner and the beneficiary's foreign employer. Counsel explains that a facsimile of a "customer advice" submitted to establish that the foreign entity purchased the petitioner's stock failed to include a complete translation. Counsel has submitted additional documentary evidence and has completed the one missing line of translation on the "customer advice."

Section 203(b) of the Act states in pertinent part:

- (1) Priority Workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

* * *

- (C) Certain Multinational Executives and Managers. -- An alien is described in this subparagraph if the alien, in the 3 years preceding the time of the alien's application for classification and admission into the United States under this subparagraph, has been employed for at least 1 year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof and who seeks to enter the United States in order to continue to render services to the same employer or to a subsidiary or affiliate thereof in a capacity that is managerial or executive.

The language of the statute is specific in limiting this provision to only those executives and managers who have previously worked for the firm, corporation or other legal entity, or an affiliate or subsidiary of that entity, and are coming to the United States to work for the same entity, or its affiliate or subsidiary.

A United States employer may file a petition on Form I-140 for classification of an alien under section 203(b)(1)(C) of the Act as a multinational executive or manager. No labor certification is required for this classification. The prospective employer in the United States must furnish a job offer in the form of a statement that indicates that the alien is to be employed in the United States in a managerial or executive

capacity. Such a statement must clearly describe the duties to be performed by the alien. *See* 8 C.F.R. § 204.5(j)(5).

The sole issue to be considered in this proceeding is whether the petitioner has established a qualifying relationship with the beneficiary's foreign employer. In order to qualify for this visa classification, the petitioner must establish that a qualifying relationship exists between the United States and foreign entities in that the petitioning company is the same employer or an affiliate or subsidiary of the foreign entity. *See* section 203(b)(1)(C) of the Act.

The regulation at 8 C.F.R. § 204.5(j)(2) states in pertinent part:

Affiliate means:

- (A) One of two subsidiaries both of which are owned and controlled by the same parent or individual;
- (B) One of two legal entities owned and controlled by the same group of individuals, each individual owning and controlling approximately the same share or proportion of each entity.

Multinational means that the qualifying entity, or its affiliate, or subsidiary, conducts business in two or more countries, one of which is the United States.

Subsidiary means a firm, corporation, or other legal entity of which a parent owns, directly or indirectly, more than half of the entity and controls the entity; or owns, directly or indirectly, half of the entity and controls the entity; or owns, directly or indirectly, 50 percent of a 50-50 joint venture and has equal control and veto power over the entity; or owns, directly or indirectly, less than half of the entity, but in fact controls the entity.

The petitioner stated that it is a wholly-owned subsidiary of Guangdong International Co., Ltd., located in China. The petitioner has submitted stock certificate number 1 showing the petitioner issued 20,000 shares of its stock on December 22, 2000 to Guangdong International Company, Ltd. The accompanying stock ledger shows that the Guangdong International Company, Ltd. purchased the 20,000 shares for \$200,000. The petitioner has also provided Guangdong International Company, Ltd.'s November 15, 2000 Board Resolution authorizing the \$200,000 investment in the petitioner and the California Notice of Transaction confirming the value of the stock offered.

The director's denial of the petition centers on the "customer advice" the petitioner submitted to confirm that Guangdong International Company, Ltd. transferred funds to purchase the petitioner's issued shares. The director observed that the "customer advice" from the China State Bank Limited in Hong Kong shows that on December 20, 2000 Easthero International Limited transferred \$200,000 to the petitioner. The director concluded that Easthero International Limited owns the petitioner's stock.

On appeal, counsel for the petitioner submits three copies of the "customer advice," a facsimile, a copy of the original, and a color copy from the original. Counsel acknowledges that he failed to translate one of the lines on the copy submitted in response to the director's request for evidence. Counsel provides the English translation of the one line, asserting that it should read "for payment on behalf of Guangdong International Co., Ltd. of Zhuhai (city)." Counsel also provides a December 23, 2004 sworn statement from the vice-chairman of the Great Aim Group Co., Ltd. of Zhuhai City detailing the interrelationship between Guangdong International Co., Ltd., Hong Kong Easthero International Limited, Great Aim Group Co., Ltd. of Zhuhai City, and the petitioner, Great Aim Enterprises, USA. The vice-chairman explains that the Great Aim Group Co. Ltd. has designated its subsidiary, Hong Kong Easthero International Limited as the international settlement center for the Great Aim Group and requires all of its subsidiaries to use Hong Kong Easthero International Limited for international settlements. Counsel also provides a copy of a December 13, 2000 wire transfer from Guangdong International Co., Ltd. to Easthero International Limited in the amount of \$200,000.

In this matter, the petitioner has submitted evidence that Guangdong International Co., Ltd. and Hong Kong Easthero International Limited are both subsidiaries of Great Aim Group Co., Ltd. of Zhuhai City. Counsel has provided additional evidence and an explanation for the use of Hong Kong Easthero International Limited to transfer \$200,000 on behalf of Guangdong International Co., Ltd. to purchase the petitioner's stock. In this limited circumstance, the AAO accepts that the Guangdong International Co., Ltd., the beneficiary's foreign employer, is the petitioner's 100 percent owner.

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 been met.

ORDER: The appeal is sustained.