

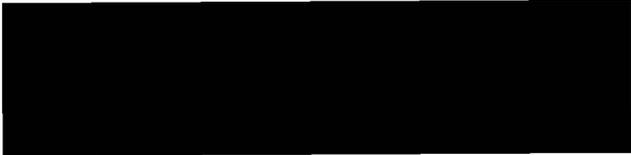


U.S. Citizenship
and Immigration
Services

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File: EAC-02-203-53999 Office: VERMONT SERVICE CENTER Date: APR 03 2006

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)

IN 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 L-1A visa petition was initially approved by Citizenship and Immigration Services on July 19, 2002. Subsequently, Citizenship and Immigration Services (CIS) discovered that the record contained potentially fraudulent documentary submissions that impeached the petitioner's evidence of financial viability. Accordingly, the director properly served the petitioner with a notice of his intent to revoke the approval of the preference visa petition, and the reasons therefore. After the petitioner failed to submit a response, the director revoked the approval of the petition but mailed in the I-290B appeal form appealing the revocation. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a California corporation that claims to be a subsidiary of [REDACTED] Co., Ltd., located in Shanghai, China. The petitioner claims to be engaged in 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 initially approved the immigrant petition on July 19, 2002.

Based on further review of the record, the director issued a notice of intent to revoke the approval on March 10, 2004. The director determined that the petitioner may have submitted fraudulent tax information and requested evidence to establish that the petitioner was a viable, operating business. After the petitioner failed to respond to the notice of intent to revoke, the director revoked the approval of the petition on August 03, 2004.

On appeal, the petitioner failed to address the issues discussed by the director in the notice of intent to revoke the petition and failed to specifically identify the basis for the appeal.

Generally, the decision to revoke approval of an immigrant petition will be sustained, 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. *Matter of Arias*, 19 I&N Dec. 568, 569 (BIA 1988). For this reason, the decision of the director will be affirmed and the appeal will be dismissed.

Section 205 of the Act, 8 U.S.C. § 1155, states that "[t]he Secretary of Homeland Security 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 of the Act]."

A notice of intent to revoke approval of 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. *Matter of Li*, 20 I&N Dec. 700, 701 (BIA 1993); *Matter of Arias*, *supra* at 569-70; *Matter of Ho*, *supra* at 590; *Matter of Estime*, 19 I&N Dec. 450 (BIA 1987). 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*, *supra* at 590.

By itself, the director's realization that a petition was incorrectly approved is good and sufficient cause for the revocation of a petition's approval, provided the director's revised opinion is supported by the record. *Id.*

Notwithstanding the Service's burden to show "good and sufficient cause" in proceedings to revoke the approval of a visa petition, the petitioner still bears the burden of proof to establish eligibility for the benefit sought. *Id.* at 589; *Matter of Cheung*, 12 I&N Dec. 715 (BIA 1968); *see also Tongatapu Woodcraft of Hawaii, Ltd. v. Feldman*, 736 F.2d 1305 (9th Cir. 1984).

In the present case, the director raised sufficient factual issues to support the revocation. The notice of intent to revoke and the subsequent revocation were based on evidence that was in the record at the time the notice was issued. The petitioner did not offer a timely explanation or rebuttal to the notice of intent to revoke and has not overcome the factual inconsistencies contained in the record.

The petitioner failed to offer any explanation or rebuttal to the director's properly issued notice of intent to revoke. Accordingly, pursuant to *Matter of Arias, supra*, the director's decision to revoke the petition's approval will not be disturbed.

The petitioner bears the burden of proof in these proceedings. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.