



U.S. Citizenship
and Immigration
Services

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By

MAY 16 2006

File:



Office: CALIFORNIA SERVICE CENTER

Date:

WAC 98 075 56233

IN RE:

Petitioner:

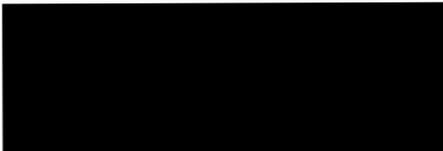
Beneficiary:



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:



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, Chief
Administrative Appeals Office

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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 two notices of his intention to revoke the approval of the preference visa petition, and his reasons therefore. The director ultimately revoked the approval of the petition. The appeal will be rejected.

After issuing two separate notices of his intent to revoke the approval of the petition, the director issued a revocation on November 3, 2004. The director's decision was based on the following findings: 1) the petitioner failed to establish that the beneficiary would be employed in a managerial or executive capacity; 2) the petitioner was dissolved on August 27, 2003 and is therefore no longer doing business; and 3) the petitioner failed to establish a qualifying relationship with the foreign entity. Based on the dissolution of the petitioning entity, the director automatically revoked the approval of the employment-based petition pursuant to 8 C.F.R. § 205.1(a)(3)(iii)(D).

Although the petitioner filed an appeal seeking to have the director's decision reviewed and overturned by the AAO, the AAO lacks jurisdiction in the case of an automatic revocation. *See Matter of Zaidan*, 19 I&N Dec. 297 (BIA 1985). The precedent decision noted that 8 C.F.R. § 205.2 allows for an appeal of a decision of the district director revoking approval of a visa petition on any ground other than those listed in 8 C.F.R. § 205.1. *Id.* However, the Board of Immigration Appeals determined that there is no such provision for appellate review when a petition is automatically revoked pursuant to 8 C.F.R. § 205.1. *Id.* As the approval in the instant matter was revoked pursuant to 8 C.F.R. § 205.1(a)(3)(iii)(D), the petitioner cannot seek to appeal this decision.

Finally, the record shows that both counsel and the beneficiary concede to the petitioner's dissolution. In fact, additional evidence has been provided regarding the beneficiary's new employment. Thus, it is unclear how a dissolved company can maintain a petition and a subsequent appeal on the beneficiary's behalf. It appears that the beneficiary, not the petitioner, has filed the appeal on the beneficiary's own behalf. However, the "party affected" in visa petition cases is the petitioner; the beneficiary does not have standing to move to reopen the proceedings. *Matter of Dabaase*, 16 I&N Dec. 720 (BIA 1979). Consequently, pursuant to the regulations cited above, the appeal in the instant matter must be rejected.

ORDER: The appeal is rejected.