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

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FILE:

LIN 06 190 50287

Office: NEBRASKA SERVICE CENTER

Date: SEP 25 2007

IN RE:

Petitioner:
Beneficiary:



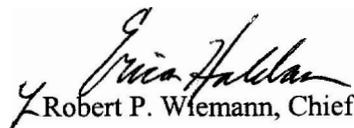
PETITION: Immigrant Petition for Alien Worker as a Multinational Executive or Manager Pursuant to Section 203(b)(1)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(C)

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, Chief
Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the petition for a nonimmigrant visa. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner filed the instant immigrant petition to classify the beneficiary as a multinational manager or executive pursuant to section 203(b)(1)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(C). The petitioner claims to be operating as a manufacturer and distributor of concrete. The petitioner seeks to employ the beneficiary as its operations manager.

The director denied the petition concluding that the petitioner had failed to demonstrate that a qualifying relationship existed between the foreign and petitioning entities at the time of filing the petition.

On Form I-290B, Notice of Appeal, filed on April 17, 2007, the petitioner contends:

In its recent history, [REDACTED] has been offered an opportunity to merge with a current US corporation namely [the petitioning entity]. When the initial application was filed, we failed to mention or show evidence of this fact, however if the fact can be sustained or proved, that [REDACTED] / [the petitioning entity] is the same corporation or has in fact merged, it will prove to be evidence that Harmony Logistics Inc. / [the petitioning entity] had a qualifying relationship with a foreign business entity which employs or has employed the beneficiary, since the beneficiary is currently still the holder of a valid L[-]1A Visa under Section 203(b)(1)(C).

On the Form I-290B and in an appended letter, the petitioner requests sixty days from the date of filing the appeal to submit "the necessary documents."

As of this date, the petitioner has not submitted any additional documentation. The AAO notes that on September 10, 2007, a request was sent to the petitioner via facsimile requesting confirmation as to whether an appellate brief or additional evidence had been filed in connection with this appeal within the requested period of time. The petitioner responded on September 20, 2007 indicating that it had not previously filed a brief or evidence as indicated on the Form I-290B. Accordingly, the record will be considered complete.

To establish eligibility under section 203(b)(1)(C) of the Act, the petitioner must meet certain criteria. Specifically, within three years preceding the beneficiary's application for admission into the United States, a firm, corporation, or other legal entity, or an affiliate or subsidiary thereof, must have employed the beneficiary for one continuous year. Furthermore, the beneficiary must seek to enter the United States to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial or executive capacity.

Upon review, the AAO concurs with the director's decision and affirms the denial of the petition. The petitioner's brief statement on the Form I-290B fails to identify any erroneous conclusion of law or statement of fact on the part of the director. In fact, the petitioner concedes on appeal that the original record of

¹ Based on the Form G-325A submitted in connection with the beneficiary's application to adjust status, [REDACTED] is the United States company with which the beneficiary was originally employed upon his entrance into the United States as a nonimmigrant intracompany transferee in December 2001.

proceeding did not establish the existence of a qualifying relationship between the foreign and petitioning entities, and suggests that additional documentary evidence is necessary to establish this requisite element of eligibility. The AAO further confirms the director's observation that the record is devoid of documentary evidence relating to the purported relationship between [REDACTED] the petitioning entity, and the beneficiary's foreign employer. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

Regulations at 8 C.F.R. § 103.3(a)(1)(v) state, 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.

Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the appeal must be summarily dismissed.

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 met this burden.

ORDER: The appeal is summarily dismissed.