

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

B4

[REDACTED]

FILE: [REDACTED]

OFFICE: NEBRASKA SERVICE CENTER Date: **AUG 04 2008**

LIN 06 183 51655

IN RE: Petitioner:  
Beneficiary:

[REDACTED]

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:

[REDACTED]

**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 preference visa petition was denied by the Director, Nebraska Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The decision of the director will be withdrawn and the appeal will be sustained.

The petitioner is a multinational corporation operating in the United States as a shipping and cruise agent. 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. In denying the petition, the director found that the petitioner failed to establish: 1) that the beneficiary was employed abroad in a qualifying managerial or executive capacity; and 2) that the beneficiary would be employed in the United States in a qualifying managerial or executive capacity.

On appeal, counsel submits an appellate brief disputing the director's findings as well as additional documentation regarding the beneficiary's position within the petitioning organization and the organization's structural make-up. Upon review, the AAO concludes that the director's decision should be withdrawn and the appeal sustained.

While the director was correct in placing great emphasis on the descriptions of the beneficiary's duties with the foreign and U.S. entities, this element must be reviewed in light of a comprehensive analysis of other relevant factors, including the overall organizational structure, which in the present matter is complex with a number of managerial tiers, as well as the beneficiary's position with respect to others within each given entity. Proper consideration of all three factors strongly indicates that each entity is widely staffed with individuals who are assigned to perform the daily non-qualifying tasks of each entity.

Despite any shortfalls in the beneficiary's job descriptions, the information provided is sufficient to meet the preponderance of the evidence standard that the beneficiary was probably employed abroad and would more likely than not be employed in the United States in a qualifying managerial or executive capacity. *See* section 101(a)(44)(A) of the Act.

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 in the instant case has sustained that burden.

**ORDER:** The appeal is sustained.