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U.S. Department of Homeland Security

Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street N.W.
Washington, DC 20536

[redacted]

File: EAC 02 220 51677 Office: VERMONT SERVICE CENTER Date: NOV 17 2003

ON RE: Petitioner:
Beneficiary: [redacted]

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:
This is the decision 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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of Citizenship and Immigration Services (CIS) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of $110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner is a limousine and coach service that seeks to employ the beneficiary temporarily in the United States as an export manager to work for its newly formed joint venture company named A & A Partners. The director determined that the petitioner had not established that the beneficiary would be coming to the United States to perform services involving specialized knowledge.

On appeal, counsel states that the director's denial appears to be based on the job description as provided, and overlooks the weight that the petitioner places on the beneficiary's significant client contacts and 15 years of accumulated goodwill in the markets that are being targeted. Counsel further states that, as a result, the decision lacks an understanding of the real value of the beneficiary's "specialized knowledge."

To establish L-1 eligibility under section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L), the petitioner must demonstrate that the beneficiary, within three years preceding the beneficiary's application for admission into the United States, has been employed abroad in a qualifying managerial or executive capacity, or in a capacity involving specialized knowledge, for one continuous year by a qualifying organization and seeks to enter the United States temporarily in order to continue to render his or her services to the same employer or a subsidiary or affiliate thereof in a capacity that is managerial, executive, or involves specialized knowledge.

The regulations at 8 C.F.R. § 214.2(l)(3) state that an individual petition filed on Form I-129 shall be accompanied by:

> (i) Evidence that the petitioner and the organization which employed or will employ the alien are qualifying organizations as defined in paragraph (l)(1)(ii)(G) of this section.
>
> (ii) Evidence that the alien will be employed in an executive, managerial, or specialized knowledge capacity, including a detailed description of the services to be performed.

At issue in this proceeding is whether the petitioner has established that the beneficiary will be employed in a capacity that involves specialized knowledge.

In this case, the visa petition was filed on June 17, 2002. The record contains a joint venture agreement dated June 1, 2002 creating [redacted] The agreement is between [redacted] a Maryland Corporation, and [redacted] an entity formed under the laws of the Republic of Lebanon. The agreement specifies that [redacted] Inc. and [redacted] each have a 50 percent interest in the new venture and that they will provide an initial capital contribution of $15,000 to begin the enterprise. In a letter dated June 2, 2002, the managing director of [redacted] indicates that the beneficiary has been with that firm for twelve years.

Section 214(c)(2)(B) of the Act, 8 U.S.C. § 1184(c)(2)(B), provides:

> An alien is considered to be serving in a capacity involving specialized knowledge with respect to a company if the alien has a special knowledge of the company product and its application in international markets or has an advanced level of knowledge of processes and procedures of the company.

The regulations at 8 C.F.R. § 214.2(l)(1)(ii)(D) state:

> *Specialized Knowledge* means special knowledge possessed by an individual of the petitioning organization's product, service, research, equipment, techniques, management, or other interests and its application in international markets, or an advanced level of knowledge or expertise in the organization's processes and procedures.

Counsel describes the duties of the offered position as follows:

> Mr. ANTAR will be charged with supervising mechanics and technicians modifying vehicles and inspecting those modifications, along with meeting with vendors to inspect inventory batches to ascertain if they are applicable prior to export. Examples of modifications that Mr. ANTAR will oversee are body conversions to stretch limousines, conversions from automatic to manual transmissions, and installation of heavy-duty transmissions, mounts and bearings. Mr. ANTAR will also process shipping documentation including bills of lading and customs documents for applicable countries. Lastly, Mr. ANTAR will meet with vendors on business calls around the U.S. to procure specialty and custom coach vehicles, along with reviewing agreements to export such vehicles as agent for the manufacturers.

The petitioner describes the beneficiary's specialized knowledge as follows:

> Mr. [redacted] has over 16 years of practical work experience in import/export and sales of industrial and auto parts and automobiles, in addition to the fact that he is a trained auto mechanic, who is an expert in diesel and gasoline engines. This experience is of immense value to Petitioner, which relies on Mr. [redacted] to travel around the globe to source high quality, low price auto and industrial parts to enhance their profitability.
>
> Since Mr. [redacted] knows exactly what the specific tolerances are for the inventory he approves for export, by virtue of his training as an auto mechanic, and the specific needs of the markets for which he is importing into, Mr. [redacted] holds significant specialized knowledge for Petitioner. Additionally, Mr [redacted] will now also be responsible for the export of Automobiles and Luxury Coaches, which is why Petitioner will need to ensure that the inventory is mechanically sound prior to being shipped abroad, thereby constituting further need to have a qualified and experienced manager trained as an auto mechanic.

The petitioner's assertions concerning the specialized knowledge possessed by the beneficiary are not persuasive. The description of the beneficiary's job duties indicates that the beneficiary will be working as a supervisory automobile mechanic, shipping clerk and buyer. The petitioner has not articulated any duties of the beneficiary that involve specialized knowledge. The petitioner has not shown that the beneficiary has an advanced level of knowledge of or expertise in its processes and procedures. On review of the record, the petitioner has not established that the beneficiary will be employed in a position involving specialized knowledge. The assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 BIA 1980). Going on record without supporting documentary evidence is not sufficient for the purpose of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

The evidence provided remains insufficient to warrant the granting of a nonimmigrant visa based upon the beneficiary's specialized knowledge. The plain meaning of the term specialized knowledge implies that which is significantly beyond the average in a given field or occupation. The petitioner has not demonstrated that the beneficiary's knowledge is advanced knowledge specifically relating to the petitioner's business, or that it is knowledge of the petitioner's product, processes, or procedures.

As held in *Matter of Penner*, 18 I&N Dec. 49, 54 (Comm. 1982), an L-1 "...petition may be approved for persons with specialized knowledge, not for skilled workers." Based on the evidence submitted, the services of the beneficiary as a supervisory mechanic, shipping clerk and buyer do not satisfy the requirements that he possess specialized knowledge or that he has been or will be employed in a capacity involving specialized knowledge as required for classification as an intracompany transferee pursuant to section 101(a)(15)(L) of the Act. For this reason, the petition may not be approved.

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 not been met.

ORDER: The appeal is dismissed.