

**PHOTOCOPY**

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

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

OCT 02 2003

FILE: EAC 97 212 52628 Office: VERMONT SERVICE CENTER Date:

IN RE: Petitioner:  
Beneficiary:

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:

**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 Director, Vermont Service Center, revoked the approval of the nonimmigrant visa petition on September 15, 1999. The Administrative Appeals Office (AAO) affirmed the revocation on March 27, 2000. The petitioner filed a motion for reconsideration with the director on April 25, 2000. In accordance with 8 C.F.R. § 103.3(a)(2)(iii), the director deemed the motion an appeal and forwarded it to the AAO for review. After reviewing the motion, the AAO affirmed the revocation on November 13, 2002. The petitioner submitted a second motion for reconsideration with the director on December 12, 2002. The director deemed the second motion an appeal and forwarded it to the AAO for review. The AAO will dismiss the second motion for reconsideration. The AAO will affirm the revocation of the petition.

The petitioner, [REDACTED] states that it is an investment business. The petitioner claims that it is an affiliate of an Estonian business. On August 5, 1997, the claimed U.S. entity petitioned CIS to extend the beneficiary's classification as a nonimmigrant intracompany transferee (L-1A) for an unstated number of years. In 1997, the petitioner sought to employ the beneficiary as the claimed U.S. entity's president at an unstated annual salary. The director determined, however, that the petitioner failed to establish that it was doing business on a regular, systematic, and continuous basis. Consequently, the director revoked the approval of the petition.

The regulations at 8 C.F.R. § 103.5(a)(2) state:

A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or [CIS] policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision.

The April 25, 2000 and December 12, 2002 motions for reconsideration make essentially identical assertions. In particular, the motions assert that the director's May 3, 1999 decision suggests that that beneficiary has engaged in fraudulent activities; consequently, the petitioner is now unable to obtain any visa on the beneficiary's behalf. The petitioner asks the AAO to reverse the director's suggestion of

fraud so that the claimed U.S. entity may obtain a visa for the beneficiary.

The director's May 3, 1999 decision relies on a May 3, 1999 United States consular report. The report states that U.S. Diplomatic Security Agents found no evidence of the petitioner, Pavali Trading, at any addresses in New York City or Scarsdale, New York. Based on the Diplomatic Security Agents' investigation as well as a later New Jersey State investigation, the consular report concluded: "[The beneficiary] and Pavali Trading have a history of non-existent business locations and questionable associations." The director cited the consular report as support for his conclusion that the petitioner is not doing business on a regular, systematic, and continuous basis.

Although the motion states reasons for reconsideration, the motion presents no precedent decisions to support those reasons; therefore, the petitioner has failed to establish any incorrectly applied law or CIS policy. Moreover, the AAO's two prior decisions reviewed all the relevant evidence of record at the time of the initial decision. Therefore, even if the petitioner had cited pertinent precedent decisions, the AAO properly affirmed the director's denial. Consequently, the AAO will dismiss the motion to reconsider.

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; *Republic of Transkei*, 923 F.2d 175, 178 (D.C. Cir. 1991) (holding burden is on the petitioner to provide documentation); *Ikea US, Inc. v. INS*, 48 F. Supp. 2d 22, at 24-5 (requiring the petitioner to provide adequate documentation). The petitioner has not sustained that burden.

**ORDER:** The motion is dismissed. The revocation of the approval of the petition is affirmed.