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

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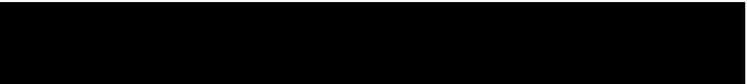
ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street N.W.
Washington, DC 20536



File: LIN 02 027 50899 Office: NEBRASKA SERVICE CENTER Date:

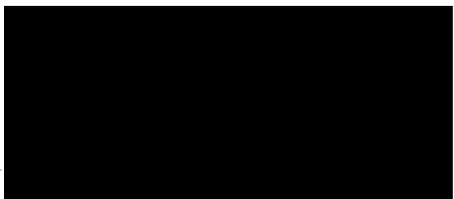
MAR 02 2004

ON 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 nonimmigrant visa petition was denied by the Director, Nebraska Service Center. The petitioner filed a motion to reconsider causing the case to be reopened by the director. After considering the motion, the director again denied the visa petition. The matter is now before the Administrative Appeals Office on certification. The director's decision to deny the visa petition will be affirmed.

The petitioner is an architectural firm that seeks to employ the beneficiary temporarily in the United States as a senior architect. The director determined that as the beneficiary would be employed by TriNet, a company which does not have a qualifying relationship with either the petitioner or the beneficiary's employer abroad, the beneficiary could not be classified as an intracompany transferee.

The petitioner was provided 30 days to submit a brief or written statement for the Administrative Appeals Office for consideration. To date, no brief or additional evidence has been received.

As no additional information has been provided concerning this case, the record must be considered complete.

The record shows that the petitioner has retained a professional employer organization named TriNet to provide certain human resource functions concerning the beneficiary. Review of the record supports the director's conclusion that the firm TriNet would exercise sufficient control over the beneficiary while he is working in the United States to be deemed his actual employer in this country. On certification, the petitioner has failed to identify specifically any erroneous conclusion of law or statement of fact by the director.

Beyond the decision of the director, the petitioner has not submitted sufficient evidence to establish that the beneficiary will be employed in a qualifying managerial or executive capacity in the United States. As the petition will be denied on the grounds discussed, this issue need not be examined further.

In visa petition proceedings, the burden of proving eligibility for the benefit sought rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

ORDER: On certification, the director's denial of the visa petition is affirmed.