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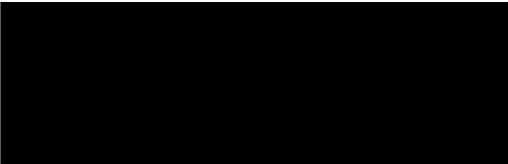
File: WAC 02 027 58385 Office: CALIFORNIA SERVICE CENTER Date:

ON RE: Petitioner:
Beneficiary:

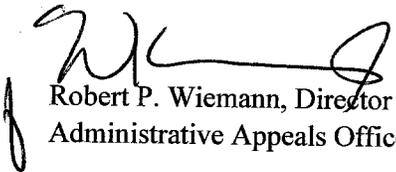


PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:



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


Robert P. Wiemann, Director
Administrative Appeals Office

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

The petitioner is engaged in performing research, advertising and performing public relations work to facilitate the distribution of KROSS products. It seeks to continue to employ the beneficiary temporarily in the United States as its president for an additional period of three years. The director determined the petitioner had failed to respond to a request for additional evidence dated December 18, 2001. The director then determined the petitioner had failed to establish the existence of a qualifying relationship between the petitioning corporation and a qualifying foreign entity. The director also determined that the petitioner had not established that the firm is actually doing business and that beneficiary had been and would be employed in the United States in a managerial or executive capacity.

On appeal, counsel states that the petitioner had requested additional time to submit a response to the director's request for additional evidence. Counsel further states that the petitioner had provided sufficient evidence to demonstrate that the U.S. entity is a qualifying organization and that the beneficiary has been and will be employed in the U.S. in a primarily managerial capacity.

The regulations affirmatively require a petitioner to establish eligibility for the benefit it is seeking at the time the petition is filed. *See* 8 C.F.R. § 103.2(b)(12). The purpose of the request for evidence is to elicit further information that clarifies whether eligibility for the benefit sought has been established. 8 C.F.R. § 103.2(b)(8).

The petitioner was put on notice of required evidence and given a reasonable opportunity to provide it for the record before the visa petition was adjudicated. The petitioner failed to submit the requested evidence to the director within the specified time period. The AAO will not consider this evidence for any purpose. *Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988). The appeal will be adjudicated based on the record of proceeding before the director. As no additional information has been provided in support of the appeal, the record must be considered complete.

The regulations at 8 C.F.R. § 103.3(a)(1)(v) state in part:

Summary dismissal. 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.

As the petitioner has failed to identify specifically any erroneous conclusion of law or statement of fact for the appeal, the appeal will be summarily dismissed.

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. That burden has not been met.

ORDER: The appeal is summarily dismissed.