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U.S. Citizenship
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Services

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MAY 11 2004

File: EAC 00 183 50948 Office: VERMONT SERVICE CENTER Date:

IN RE: Petitioner: [Redacted]
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:



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, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Vermont Service Center. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is before the AAO on a motion to reconsider. The motion will be dismissed and the previous decisions of the director and the AAO will be affirmed.

The petitioner's branch company in the United States named Evelin of America Corporation is engaged in machine tool sales. It seeks to continue to employ the beneficiary temporarily in the United States as the president of the United States entity. The director determined that the petitioner had not established that the beneficiary had been or would be employed primarily in a managerial or executive capacity. The director's decision was affirmed by the AAO.

In this motion to reconsider, counsel lists the evidence that was previously forwarded on appeal and argues that the submitted documentation unequivocally evidences the natural growth and increased activity of Evelin of America Corporation. Counsel indicates that the primary concerns of the U.S. company were the purchase of new equipment and related inventory and storage solutions. Counsel further indicates that these concerns took time and resources away from the hiring of personnel and similar business necessities. Counsel states the AAO decision completely ignores the weight of the submitted evidence, and the actual situation facing a start-up venture. Counsel argues that L-1 visas should not be reserved exclusively for large corporate conglomerates, but must be issued to permit satellite start-ups such as in this case.

Counsel's assertion that the previously forwarded documentation unequivocally evidences the natural growth and increased activity of the petitioner provides no additional facts upon which to reconsider this matter. Nor does his explanation that the petitioner's purchase of new equipment and related inventory and storage solutions took time and resources away from the hiring of personnel and similar business necessities. Counsel indicates that the AAO decision ignored the weight of the submitted evidence but provides no examples of this. The AAO agrees with counsel's statement that L-1 visas should not be reserved exclusively for large corporate conglomerates and notes that this is not the case.

The regulations at 8 C.F.R. § 103.5(a)(3) state:

Requirements for motion to reconsider. 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 Citizenship and Immigration Services (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 petitioner has failed to support this motion for reconsideration with any pertinent precedent decisions that would establish that the AAO decision was based on an incorrect application of law or CIS policy. For this reason, the petition may not be approved.

ORDER: The motion is dismissed. The previous decisions of the director and the AAO are affirmed.