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U.S. Citizenship
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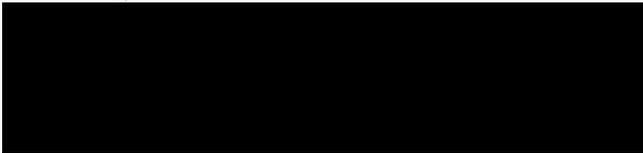
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FILE: LIN 03 039 51919 Office: NEBRASKA SERVICE CENTER Date: FEB 07 2005

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

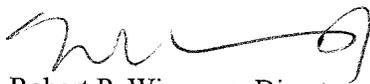
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

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 Director, Nebraska Service Center, denied the petition for a nonimmigrant visa. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is a pharmaceutical sales company. It seeks to extend its authorization to employ the beneficiary temporarily in the United States as its general manager as an L-1A nonimmigrant intracompany transferee pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The director determined that the petitioner failed to submit sufficient evidence that the beneficiary was employed abroad in a qualifying capacity for one year during the requisite time period. The director also determined that the record had not established that the beneficiary would be employed in a primarily managerial or executive capacity under an approved petition.

On appeal, counsel requests an additional 90 days in which to submit an appellate brief. However, over one year and four months since that request was made, neither counsel nor the petitioner have submitted any additional evidence or information to support the appeal. In the few brief statements submitted on the appeal Form I-290B, counsel claimed that the director failed to consider the documentation submitted in the petitioner's response to the director's request for additional evidence. Contrary to counsel's assertion, the director's decision specifically names the documents submitted by the petitioner and thoroughly explains why the submitted evidence has been deemed insufficient for establishing the beneficiary's eligibility for classification of an L-1A nonimmigrant.

Counsel also states that the director "improperly applied the regulations in denying the petition due to untimely filing." However, this argument too is without merit, as nowhere in the director's decision is there any mention of the filing date of the petition. The director's entire decision was based on the petitioner's failure to establish that the beneficiary was employed abroad and would be employed in the United States in a managerial or executive capacity. There is absolutely no indication that the director took into consideration the noted discrepancy between the validity date on the beneficiary's latest Form I-94 and the dates indicated in the beneficiary's Form I-797A.

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.

Regulations at 8 C.F.R. § 103.3(a)(1)(v) state, in pertinent part:

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.

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. Inasmuch as counsel has failed to identify specifically an

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erroneous conclusion of law or a statement of fact in this proceeding, the petitioner has not sustained that burden. Therefore, the appeal will be summarily dismissed.

ORDER: The appeal is summarily dismissed.