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**U.S. Citizenship
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File: EAC-03-082-53709 Office: VERMONT SERVICE CENTER Date: JUL 20 2005

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)

IN BEHALF OF PETITIONER:

SELF-REPRESENTED

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 petition was initially approved by the Director, Vermont Service Center. Upon further review of the record, the director determined that the petitioner was not eligible for the benefit sought. Accordingly, the director properly served the petitioner with a notice of intent to revoke the approval of the nonimmigrant petition. The petitioner submitted a response, yet the director determined that it failed to overcome the grounds for revocation and revoked the approval of the petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner filed this nonimmigrant petition seeking to employ the beneficiary as its President/Chief Representative Officer 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 petitioner is a corporation organized in the state of New York that intends to provide investment services. The petitioner claims that it is a subsidiary of [REDACTED] located in Beijing City, China. The director approved the nonimmigrant petition on January 26, 2003.

In revoking approval of the petition, the director concluded that the petitioner failed to provide credible evidence to show that the beneficiary was employed abroad in a managerial or executive capacity with the foreign entity. The director further found that the petitioner failed to establish that it has secured sufficient physical premises to house the new office. The director finally noted that the petitioner failed to respond to issues raised in the notice of intent to revoke, including: (1) the amount of investment made by the foreign entity in the petitioner; (2) the nature of the business activities to be conducted by the petitioner; and (3) the petitioner's proposed staffing.

On appeal, the petitioner submits a short statement on Form I-290B as follows:

The Beneficiary of second petition filed from us with EAC-03-099-53477 did not hold the same position in the parent company as the beneficiary of the first petition. They also served in different department in the Parent Company. Case # EAC-03-099-53477 was dismissed already; [the beneficiary] will be the only one who retained and hold the position as President in the Subsidiary.

To establish eligibility under section 101(a)(15)(L) of the Act, the petitioner must meet certain criteria. Specifically, within three years preceding the beneficiary's application for admission into the United States, a firm, corporation, or other legal entity, or an affiliate or subsidiary thereof, must have employed the beneficiary for one continuous year. Furthermore, the beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial, executive, or specialized knowledge capacity.

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.

The petitioner's statement vaguely addresses the beneficiary's employment abroad and his prospective duties in the United States, but it does not identify specifically an erroneous conclusion of law or a statement of fact made by the director as a basis for the appeal.

Upon review, the AAO concurs with the director's decision to revoke the approval of the petition.

Under CIS regulations, the approval of an L-1A petition may be revoked on notice under six specific circumstances. 8 C.F.R. § 214.2(l)(9)(iii)(A). To properly revoke the approval of a petition, the director must issue a notice of intent to revoke that contains a detailed statement of the grounds for the revocation and the time period allowed for rebuttal. 8 C.F.R. § 214.2(l)(9)(iii)(B). In the present matter, the director provided a detailed statement of the grounds for the revocation but did not cite to the specific provision of the regulations as a basis for the revocation. Upon review, the director revoked the approval on the basis of 8 C.F.R. § 214.2(l)(9)(iii)(A)(4): "The statement of facts contained in the petition was not true and correct."

The petitioner bears the burden of proof in these proceedings. Section 291 of the Act, 8 U.S.C. § 1361. Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or statement of facts in this proceeding, the petitioner has not sustained that burden. Accordingly, the appeal will be summarily dismissed.

ORDER: The appeal is summarily dismissed.