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U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. A3042
Washington, DC 20529

U.S. Citizenship and Immigration Services

D7

[redacted]

FILE: EAC 02 264 53174 Office: VERMONT SERVICE CENTER Date: JUN 1 0 2005

IN RE: Petitioner: [redacted]
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:

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 visa petition was denied by the Director, Vermont Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

According to the documentary evidence contained in the record, the petitioner was incorporated in 2001 and claims to be an import/export company dealing in technical and electronic goods. The petitioner claims to be a subsidiary of Makuska Instalacoes e manutencao Ltda Me, located in Rio de Janerio, Brazil. The petitioner seeks to extend its authorization to employ the beneficiary temporarily in the United States as its president for one year, at a yearly salary of $40,000.00. The director determined that the evidence was insufficient to establish that the beneficiary had been or would be employed in a primarily managerial or executive capacity. The director noted that the description of the beneficiary's job duties, both in support of the initial petition and in response to his request for evidence, was vague and did not clearly indicate what the beneficiary did on a daily basis. The director further noted that the descriptions of the beneficiary's job duties paraphrased the statutory definitions of executive and manager and were presented in an abstract form with no indication as to their actual level of managerial authority. The director also noted that the subordinate's job duty descriptions were vague and were not sufficient to establish that they performed the majority of non-managerial duties at the U.S. entity. The director concluded that it appeared from the record that the beneficiary, rather than performing managerial or executive duties, would be engaged primarily in the day-to-day non-managerial duties of the organization.

Counsel asserts in the notice of appeal: "Please review documentation previously sent which clearly shows alien is qualified."

Counsel fails to address the director's objections relating to the lack of evidence to establish that the beneficiary has been or would be employed in the United States primarily in a managerial or executive capacity.

The regulation at 8 C.F.R. 103.3(a)(1)(v) states 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 counsel has failed to identify specifically any erroneous conclusion of law or statement of fact for the appeal, the appeal will be summarily dismissed.[1]

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: The appeal is summarily dismissed.

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[1] The AAO notes that the Department of Justice (DOJ) list of disciplined practitioners lists counsel for the petitioner, Earl S. David, as being suspended. *See* http://www.usdoj.gov/eoir/profcond/chart.htm (March 15, 2005).