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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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DA

FILE: WAC 02 223 50571 Office: CALIFORNIA SERVICE CENTER Date: MAY 11 2005

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

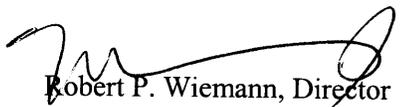
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:

[REDACTED]

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, California Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The matter shall be remanded back to the director for consideration of the beneficiary's eligibility for specialized knowledge status.

According to the documentary evidence contained in the record, the petitioner was incorporated in 1999 and claims to be in the international trade and restaurant business. The petitioner claims to be a subsidiary of [REDACTED] located in Beijing, China. The petitioner claims six employees and \$1,107,437 in gross annual income. It seeks to employ the beneficiary temporarily in the United States as its restaurant manager for three years, at a monthly salary of \$1,800.00. The director determined that the petitioner had failed to establish that the beneficiary had been employed by the foreign entity and would be employed by the U.S. entity primarily in a managerial or executive capacity.

On appeal, counsel asserts that the petitioner is petitioning for L-1B intracompany transferee (an employee with specialized knowledge) status rather than L-1A intercompany transferee (manager/executive) status, and therefore, the director's decision with respect to the proposed managerial or executive duties, is not applicable. Therefore, the matter will be remanded to the director for consideration of this issue. The director may request any additional evidence deemed necessary to assist him with the determination. As always in these proceedings, the burden of proof rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: the petition is remanded to the director for entry of a new decision.