

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



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FILE: WAC 04 077 53382 Office: CALIFORNIA SERVICE CENTER Date: SEP 30 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:

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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The Director, California 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 states that it is a corporation organized in the State of California, which engages in the home shopping business. It seeks to extend its authorization to employ the beneficiary temporarily in the United States as its chief executive officer, 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 denied the petition, concluding that the petitioner has not established that the beneficiary would be employed primarily in an executive or managerial capacity in the United States. The director found the record indicates that a preponderance of the beneficiary's duties will be directly providing the services of the U.S. company. In addition, the director does not find the evidence persuasive in establishing that the beneficiary will be managing a subordinate staff of professional, managerial or supervisory personnel who would relieve her from performing non-qualifying duties. The director also concluded that the petitioner has not established that it is engaged in the regular, systematic and continuous provision of goods and/or services by a qualified organization.

On the Form I-290B appeal, the petitioner states:

We regret about your decision regarding to the application for L-1 status of [REDACTED] as a Chief Executive Officer of our subsidiary in [the] [REDACTED]. Our subsidiary, [REDACTED] is an active enterprise, which is showing substantial commercial transactions and hiring some employees in [the] U.S.A. as of year 2004. It is a new[ly] established subsidiary of [REDACTED] (also known as [REDACTED]) in Seoul, Korea. It is a small company, but it has distinctly lots of potential capability [sic]. We established our subsidiary, [REDACTED] in Los Angeles, and it is because that we believe the subsidiary will contribute our company's growth [sic]. As a result, our subsidiary will absolutely create much more hiring U.S. employees [sic]. Accordingly, it will give a lot of benefit for both of our company and U.S.A. economy.

The petitioner also submits on appeal a brief statement, which comments generally on the difficulty and time involved in establishing a subsidiary, adding that the U.S. company did not commence substantial activity until April 2003 and is growing gradually. The petitioner also states that while efforts have been made to recruit U.S. workers, it has been difficult to find qualified workers given the company's Korean language requirement. The petitioner submitted no other brief or evidence on appeal.

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.

Upon review, the AAO concurs with the director's decision and affirms the denial of the petition. The AAO also notes that while the petitioner sought to give some explanation on appeal for its failure to meet the regulatory requirements applicable to this petition, the petitioner has not identified any error in law or fact in the director's decision. The 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.

Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the appeal must be summarily dismissed.

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. The petitioner has not met this burden.

**ORDER:** The appeal is summarily dismissed.