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U.S. Citizenship
and Immigration
Services

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D-7

File: LIN 04 134 52480 Office: NEBRASKA SERVICE CENTER Date: **AUG 04 2006**

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

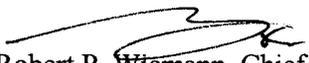
Petition: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

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, Chief
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 AAO will dismiss the appeal.

The petitioner filed this nonimmigrant petition seeking to extend the employment of its president 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, a Wisconsin corporation, claims to be a subsidiary of High Fashion Limited, located in Nairobi Kenya. It operates a retail store. The beneficiary has been employed by the petitioner in L-1A status since July 2001, and the petitioner now seeks to extend his stay for an additional three years.

The director denied the petition, concluding that the petitioner had not established: (1) that the beneficiary would be employed in a primarily managerial or executive capacity; or (2) that the foreign entity continued to do business in a regular, systematic, and continuous manner.

On appeal, counsel for the petitioner asserts that the evidence of record establishes that the beneficiary will serve in a managerial capacity under the extended petition, and that the foreign entity remains an active business in Kenya. Counsel emphasizes that the petitioner's prior request for an extension of the beneficiary's status was approved, and contends that the director should not have denied the instant extension petition absent a finding of a material change in the underlying facts.

A review of Citizenship and Immigration Services (CIS) records indicates that the beneficiary in this case is also the beneficiary of a first preference employment-based immigrant petition filed by the instant petitioner, and has adjusted status to that of a U.S. permanent resident as of September 16, 2005. While the petitioner has not withdrawn the appeal in this proceeding, it would appear that the beneficiary is presently a permanent resident and the issues in this proceeding are moot. Therefore, this appeal is dismissed.

ORDER: The appeal is dismissed as moot.