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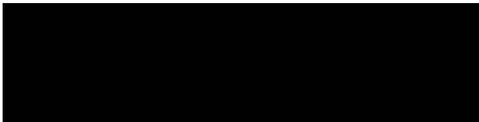
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File: SRC 05 800 14062 Office: TEXAS SERVICE CENTER Date:

IN RE: Petitioner:
Beneficiary:



SEP 05 2006

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:



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, Texas 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 filed this nonimmigrant visa petition seeking to employ the beneficiary in the position of company director/senior creative director/strategist to open a new office in the United States 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 under the laws of the State of Florida and is allegedly doing business as an advertising agency. The petitioner claims a qualifying relationship with [REDACTED] of Green Point, South Africa.

The director denied the petition concluding that the petitioner did not establish that (1) sufficient premises had been secured for the new office; (2) the beneficiary had been employed for one continuous year in the three year period preceding the filing of the petition in an executive or managerial capacity; or (3) the intended United States operation, within one year of the approval of the petition, would support an executive or managerial position.

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review.

On appeal, counsel to the petitioner asserts the following on the Form I-290B:

Client was not available to gather information from the foreign company in South Africa. Will gather information and evidence and submit the same within the additional 30 day period. We intend to show that the Service erred in its decision; that the beneficiary functions and will function as an executive and manager, with additional evidence and therefore meets the criteria under 214.2(l)(1)(ii) and that they have demonstrated and will additionally demonstrate they have acquired sufficient physical premises to house the start up of the U.S. operation. We will also show that [the beneficiary's] creative talents are executive and managerial in fact and that the service again erred in its decision.

Counsel further indicates that a brief or evidence would be submitted to the AAO within 45 days. The appeal was filed on April 11, 2005. As of this date, the AAO has received nothing further and the record will be considered complete.¹

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

¹ On July 26, 2006, the AAO sent a fax to counsel. The fax advised counsel that no evidence or brief had ever been received in this matter and requested that counsel submit a copy of the brief and/or additional evidence, if in fact such evidence had been submitted, within five business days. As of the date of this decision, the AAO has received no response from counsel or the petitioner.

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. Title 8 C.F.R. § 103.3(a)(1)(v) states, 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 counsel has failed to identify specifically an erroneous conclusion of law or 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.