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**U.S. Citizenship  
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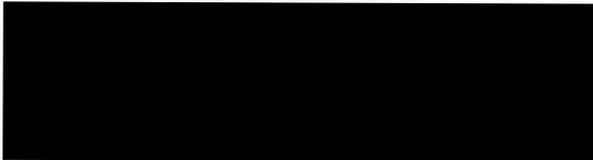
File: SRC 02 075 51214 Office: TEXAS SERVICE CENTER Date: **SEP 06 2006**

IN RE: Petitioner:  
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)

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 president 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 engaged in the business of graphic design. The petitioner claims a qualifying relationship with [REDACTED] of Colombia.

On January 9, 2003, the director denied the petition concluding that the petitioner did not establish that (1) the intended United States operation, within one year of approval of the petition, would support an executive or managerial position; (2) the petitioner and the organization which employed the alien abroad are qualifying organizations; or (3) the beneficiary was employed abroad in an executive or managerial capacity. The petitioner filed an appeal on March 18, 2003. On June 10, 2004, the AAO rejected this appeal as untimely and returned the appeal to the service center. The director chose to treat the untimely appeal as a motion and, on March 29, 2005, affirmed her prior denial of the petition.

The petitioner subsequently filed an appeal to the March 29, 2005 decision of the director. On appeal, counsel to the petitioner stated in the Form I-290B: "Our firm has just been retained by this client, and we have not yet seen the file. We may have to make a FOIA request to obtain a copy of this file, which normally requires 90-120 days." Counsel also stated that he would need 150 days to submit a brief or additional evidence to the AAO. As of this date, the AAO has received nothing further and the record will be considered complete.<sup>1</sup>

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 motion.

Regulations at 8 C.F.R. § 103.3(a)(1)(v) state, in pertinent part:

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<sup>1</sup> On August 14, 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.

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.