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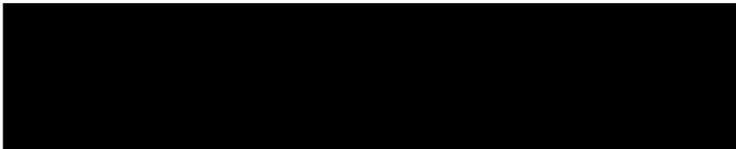
D7

FILE: EAC 03 130 50758 Office: VERMONT SERVICE CENTER Date: JUN 20 2007

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

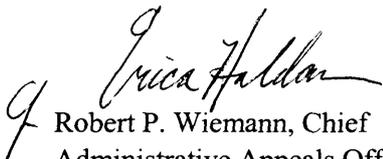
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

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, Vermont 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 an event planning and catering company. It seeks to extend its authorization to employ the beneficiary temporarily in the United States as its director. The director denied the petition based on the conclusion that the petitioner failed to establish that it had been doing business for the previous year as required by the regulations. In addition, the director found that the beneficiary, as the petitioner's sole employee, was primarily performing non-qualifying as opposed to managerial or executive duties and therefore was not eligible for the L-1A classification sought.

On appeal, counsel for the petitioner indicated on Form I-290B that he would submit a brief and/or additional evidence to address the director's denial within 30 days. Although counsel submitted a brief statement on the Form I-290B, it failed to adequately address the director's conclusions. In this brief statement, counsel claims that the petitioner submitted sufficient evidence of the viability of the U.S. entity and the foreign entity's financial support of the petitioner, and that it employed independent contractors to assist the beneficiary in the start-up phase of the business. Counsel concludes by stating that due to a delay in receiving a change of status, the beneficiary had only six months to commence operations and thus was not afforded sufficient time to establish the new office.

The director, however, did a thorough analysis and specifically discussed the documentary evidence submitted in the record, and counsel's general objections on the Form I-290B, without specifically identifying any errors on the part of the director, are simply insufficient to overcome the well-founded and logical conclusions the director reached based on the evidence submitted by the petitioner. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

On the Notice of Appeal received on November 17, 2003, counsel clearly indicates that it would send a brief with the necessary evidence [to the AAO] within thirty days. According to 8 C.F.R. § 103.3(a)(2)(i), the petitioner "shall file the complete appeal including any supporting brief with the office where the unfavorable decision was made within 30 days after service of the decision," which in the case at hand would be no later than November 17, 2003. Although the petitioner requested additional time to submit its arguments on appeal, to date there is no indication or evidence that the petitioner ever submitted a brief and/or evidence in support of the appeal with the Service or with the AAO.

On May 29, 2007, the AAO sent a fax to counsel. The fax advised counsel that no evidence or brief had been received in this matter, and requested that counsel submit a copy of the originally submitted brief and/or additional evidence, if in fact such evidence had been submitted, within five business days. As of the date of this decision, no brief or response from counsel has been received. Accordingly, the record will be considered complete.

As stated above, absent a timely filed clear statement, brief and/or evidence to the contrary, the petitioner does not identify, specifically, an erroneous conclusion of law or statement of fact in support of the appeal. Hence, the appeal must be summarily dismissed. See 8 C.F.R. § 103.3(a)(1)(v).

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.

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. Inasmuch as counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the petitioner has not sustained that burden. Therefore, the appeal will be summarily dismissed.

ORDER: The appeal is summarily dismissed.