

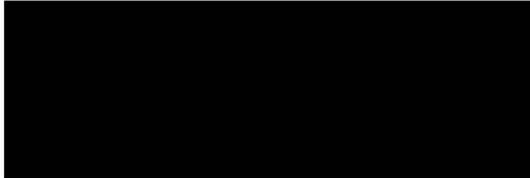
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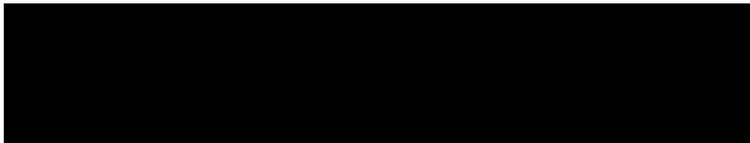
File: EAC 08 041 51014 Office: VERMONT SERVICE CENTER Date: **AUG 29 2008**

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.

for  
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 filed this nonimmigrant visa petition seeking to employ the beneficiary as an L-1A nonimmigrant intracompany transferee to open a new office 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 a construction consulting business.

On March 19, 2008, the director denied the petition concluding that the petitioner failed to establish that the beneficiary was employed abroad in a primarily managerial or executive capacity or that, within one year, the beneficiary will perform primarily managerial or executive duties in the United States.

The petitioner subsequently filed an appeal on April 21, 2008. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review. On appeal, the petitioner states in the Form I-290B as follows:

The Center Director erred in his decision denying the Petitioner's classification for L-1A (intracompany Transfer) status.

The Center Director misapplied and misinterpreted the law, primarily for the following sections:

- 1) Section 101(a)(44) of the Act in definition of managerial capacity[;]
- 2) Further errorS were made in interpretation of executive capacity under L-1A guidelines;
- 3) Further errors of law and inappropriate conclusions of facts shall be fully set forth in detail upon filing of the argument in support.

Counsel indicated that he would file a brief and/or additional evidence within thirty (30) days. However, it is noted that, as of the date of this decision, neither a brief nor additional evidence has been received 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.

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<sup>1</sup>On August 18, 2008, 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.

Upon review, the AAO concurs with the director's decision and affirms the denial of the petition.

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. Although counsel claims that the director misapplied and misinterpreted the law pertaining to managerial and executive capacities, counsel failed to specifically identify the errors claimed.

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.