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DT

FILE: EAC 08 029 51602 Office: VERMONT SERVICE CENTER

Date **NOV 03 2008**

IN RE: Petitioner:  
Beneficiary:



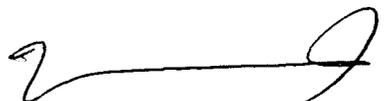
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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 filed this nonimmigrant petition seeking to classify the beneficiary 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, Florida corporation, states that it is engaged in international in the cargo business. It claims to be a subsidiary of Efrinsa Customs Agents, S.A., located in Peru. The petitioner seeks to employ the beneficiary as the general executive/manager of its new office in the United States for a period of one year.

The director denied the petition on January 14, 2008, concluding that the petitioner failed to establish: (1) that the beneficiary has been employed by the foreign entity in a primarily managerial or executive capacity; and (2) that the beneficiary would be employed in the United States in a primarily managerial or executive capacity, or that the petitioner would support such a position within one year of commencing operations.

The petitioner subsequently filed an appeal on February 15, 2008. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review. The petitioner indicated on the Form I-290B, Notice of Appeal or Motion, that it would submit a brief and additional documents to the AAO within 30 days. The petitioner did not identify a basis for the appeal on Form I-290B.

As no additional evidence has been incorporated into the record, the AAO contacted the petitioner by facsimile on August 18, 2008 to request that petitioner acknowledge whether the brief and/or evidence were timely submitted, and to afford the petitioner an opportunity to re-submit the documents. As of the date of this decision, the petitioner has not responded to the AAO's inquiry. Accordingly, the record will be considered complete.

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.

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.

Upon review, the AAO concurs with the director's decision and affirms the denial of the petition. The petitioner has not identified any erroneous conclusion of law or statement of fact on the part of the director, nor has it submitted any evidence on appeal to overcome the director's grounds for denial of the petition.

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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. Here, the petitioner has not met that burden.

**ORDER:** The appeal is summarily dismissed.