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FILE: EAC 08 008 53617 Office: VERMONT SERVICE CENTER Date: NOV 03 2008

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.

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 petition seeking to employ the beneficiary as its president 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 Georgia corporation that claims to be engaged in the wholesale of apparel. The petitioner seeks to employ the beneficiary as its president for an initial period of three years.

In a decision dated January 23, 2008, the director denied the petition after concluding that the petitioner failed to adequately provide the evidence and information requested in the previously issued request for additional evidence/information. Specifically, the director found that the petitioner failed to provide the following: 1) a comprehensive business plan with specific dates for actions the petitioner plans to take over a two-year period starting from the date the petition was filed; 2) the requested quarterly wage report for the third quarter of 2007 establishing the number of employees during the time of filing; 3) evidence that the petitioner would be able to relieve the beneficiary from having to primarily perform non-qualifying tasks within one year of its operation; 4) descriptions of the job duties to be performed by the petitioner's employees as well as each person's salary or wage; and 5) sufficient photographs of the petitioner's business.

On appeal, counsel for the petitioner urges the AAO to reconsider the director's decision, claiming that all relevant regulatory requirements were met. Counsel also argued that the denial was in line with other suspect denials where the countries of origin were the suspected basis for the adverse decisions. However, the AAO finds no grounds for counsel's baseless assertions, particularly in light of the specific nature of the director's adverse findings in the present matter. Additionally, despite counsel's indication on Form I-290B that a brief and/or additional information would be submitted within 30 days in support of the appeal, there is no evidence that any supplemental material has been submitted to this date. It is noted that on September 25, 2008, the AAO faxed counsel a notice allowing an additional five days in which to provide a brief and/or any information *if* the petitioner had previously submitted such information. The AAO clearly stated that this was not meant to allow the petitioner additional time in which to provide new information that had not been previously submitted. Rather, this was merely an attempt to allow the petitioner to provide information that may have been submitted and gotten detached from the record of proceeding. In response, counsel indicated that no brief was filed in support of the appeal. Accordingly, the record will be considered complete as currently constituted.

The regulation at 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.

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 the petitioner 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.

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