U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20529

U.S. Citizenship and Immigration Services

B4

[redacted]

FILE: [redacted] Office: TEXAS SERVICE CENTER Date: AUG 19 2004

IN RE: Petitioner:
Beneficiary: [redacted]

PETITION: Immigrant Petition for Alien Worker as a Multinational Executive or Manager Pursuant to Section 203(b)(1)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(C)

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, Director
Administrative Appeals Office

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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DISCUSSION: The director denied the employment-based preference visa petition, and the petitioner untimely submitted an appeal to the Administrative Appeals Office (AAO). The AAO remanded the matter to the director to treat the late appeal as a motion; however, the petitioner appealed the AAO's decision. The appeal will be rejected.

The petitioner is a Florida company that seeks to employ the beneficiary as its marketing and import manager. The petitioner, therefore, endeavors to classify the beneficiary as a multinational executive or manager pursuant to section 203(b)(1)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(C).

The director initially denied the petition due to abandonment because the petitioner did not respond to a request for evidence (RFE). The petitioner submitted a motion to reconsider the director's denial, at which time the director discovered that the petitioner had responded to the RFE, but the response was never included in the record. In a March 29, 2002 decision on the motion, the director denied the petition because: (1) no qualifying relationship exists between the petitioner and a foreign entity; (2) a qualifying foreign entity did not employ the beneficiary in a managerial or executive capacity for at least one year in the three years immediately preceding the entry of the beneficiary into the United States; (3) the proffered position in the United States is not in an executive or managerial capacity; (4) the petitioner has not established its ability to pay the proffered wage; and (5) the petitioner had not been doing business for at least one year at the time it filed the petition.

The petitioner untimely submitted an appeal on May 16, 2002. The appeal did, however, meet the requirements of a motion to reopen and the AAO, therefore, on April 8, 2003, it remanded the matter to the director to treat the appeal as a motion pursuant to 8 C.F.R. § 103.3(a)(2)(v)(B)(2). On May 13, 2003, the petitioner appealed the AAO's April 8, 2003 decision to remand the matter.

The petitioner was not entitled to file an appeal of the AAO's April 8, 2003 decision because the AAO remanded the matter to the director. Accordingly, the AAO must reject the appeal as improperly filed pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

ORDER: The appeal is rejected.