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

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U.S. Citizenship and Immigration Services

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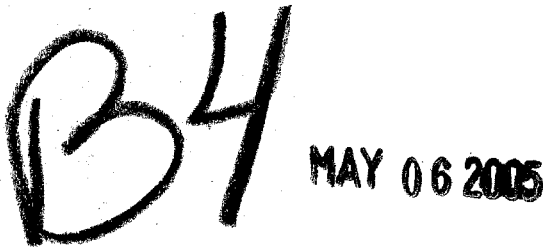

MAY 06 2005

FILE: WAC 01 122 50041 Office: CALIFORNIA SERVICE CENTER Date:

IN RE: Petitioner:
Beneficiary:

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:

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

DISCUSSION: The Director, California Service Center, denied the employment-based petition. The Administrative Appeals Office (AAO) remanded the matter noting that the director had not afforded the petitioner a reasonable opportunity to provide evidence pertinent to the issue of the beneficiary's employment in the United States. Upon remand of the matter, the director issued a notice of intent to deny detailing the deficiencies in the record regarding the beneficiary's managerial or executive capacity for the United States entity and requesting further evidence to cure those deficiencies. The AAO required that the director's new decision, if adverse to the petitioner, be certified to the AAO for review. The matter is now before the AAO on certification. The director's decision will be affirmed.

On November 22, 2003, the director issued a notice of intent to deny this matter and requested further evidence to overcome the intent to deny. The director afforded the petitioner 30 days to provide a response. The petitioner failed to provide any response. On August 30, 2004, the director denied the petition, again detailing the deficiencies of the record regarding the issue of the beneficiary's managerial or executive capacity and noting that the petitioner had failed to provide a response to overcome the deficiencies in the record. As requested, the director certified his decision to the AAO for review.

As the petitioner failed to provide the requested evidence, the director properly denied the petition. The record does not demonstrate the beneficiary's eligibility for this visa classification. 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, that burden has not been met.

ORDER: The director's decision is affirmed.