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

D-1

U.S. Citizenship and Immigration Services

[redacted]

File: EAC 98 164 51743 Office: VERMONT SERVICE CENTER Date: AUG 04 2004

IN RE: Petitioner:
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)

IN 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

DISCUSSION: The Director, Vermont Service Center, denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is a corporation organized in the State of New York in April 1997. It claims it is involved in trading. It seeks to temporarily employ the beneficiary as its president. Accordingly, the petitioner endeavors to classify the beneficiary as a 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 claims that it is a subsidiary of Rizhao Conxel Industry Co., Ltd. located in China.

The director denied the petition concluding that the petitioner had not established that the beneficiary had been or would be employed in a primarily executive or managerial capacity, or that the petitioner could support such a position.

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."

On the Form I-290B Notice of Appeal that was filed on December 21, 1998, the petitioner noted that a brief and/or evidence would be sent within 30 days. The petitioner also submitted a December 12, 1998 letter that re-stated the information submitted in a September 5, 1998 letter in response to the director's request for further evidence. A copy of the petitioner's 1997 Internal Revenue Service (IRS) Form 1120, U.S. Corporation Income Tax Return was attached to the December 12, 1998 letter, just as it had been attached to the petitioner's September 5, 1998 letter. Careful review of the record reveals no subsequent submission; all documentation, other than the December 12, 1998 letter accompanying the Form I-290B, in the record predates the issuance of the notice of decision.

The petitioner's December 12, 1998 letter submitted on appeal does not identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal. The director properly considered the information in the letter when it was submitted in September 5, 1998 date. Inasmuch as the petitioner does not describe any errors of law or fact made by the director; the regulations mandate the summary dismissal of 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. Here, that burden has not been met.

ORDER: The appeal is summarily dismissed.