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: WAC 02 173 53724 Office: CALIFORNIA SERVICE CENTER Date: AUG 04 2004

IN RE: Petitioner: [redacted]
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)

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, California 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 claims to be part of Tend Corp., a Nevada corporation organized in January 2000. It claims to provide caregiver services. It seeks to temporarily employ the beneficiary as its program coordinator. 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 entered into a joint venture or partnership with Dribbler Enterprises, located in Davao City, Philippines.

The director denied the petition concluding that the petitioner had not established a qualifying relationship with Dribbler Enterprises.

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, filed on March 21, 2003, the petitioner stated that it is submitting a separate brief and/or evidence with the Form I-290B.

The statement on the appeal form reads:

> The Partnership established in US is an affiliate to the foreign entity – Dribbler Enterprise.

The petitioner also included a March 19, 2003 letter signed by the corporate secretary that states in pertinent part:

> Asian American Homemaker Services is a dba operating under the auspices of Tend Corporation. With the investment of the foreign entity to Asian American Homemaker Services each has equal control over the entity. DBA, Asian American Homemaker Svs and Dribbler Enterprise are in business working relationship with each other. This partnership is an affiliate to the Dribbler Enterprise in the foreign country.

The petitioner also includes a letter expressing its desire that the United States venture continue with the involvement of the beneficiary.

The petitioner's statement and letters do not specifically address the issues raised by the director in his decision and present inconsistent information with the record of proceeding. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

Inasmuch as the petitioner's statement and letters do not specifically identify an erroneous conclusion of law or a statement of fact as a basis for the appeal; 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.