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

U.S. Citizenship and Immigration Services

[redacted]

AUG 04 2004

File: SRC 02 196 51436 Office: TEXAS SERVICE CENTER Date:

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:

[redacted]

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

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identifying data deleted to prevent clearly unwarranted invasion of personal privacy

DISCUSSION: The Director, Texas 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 Florida in February 2001. It provides interior design services. It seeks to extend the temporary employment of 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 majority owned by Maanaim Consultores Associados, Ltda., located in Sao Paulo, Brazil.

The director denied the petition concluding that the petitioner had not established that the beneficiary would be employed in a primarily managerial or executive capacity.

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 May 2, 2003, counsel for the petitioner stated that he would not be submitting a separate brief or evidence.

The statement on the appeal form reads:

> This request should have been approved because:
>
> (1) The fact that beneficiary manages a number of sub-contracting companies instead of a number of employees should not disqualify the beneficiary from receiving an extension. Many company plans include the use of sub-contractors so that the labor costs could be better managed than just by paying fixed salaries.
> (2) That the support is by the large staff of a University should not be problematic either. The contract labor provided meets the business needs of the petitioner. That is also true of the facilities and equipment sub-leased. Many companies operate with leased premises and equipment.
>
> Therefore, this case should be reconsidered, and later, approved.

The petitioner's statement does not address the director's determination that the beneficiary is a first-line supervisor of non-professional employees; thus is not eligible for classification as a manager or executive. A first-line supervisor is not considered to be acting in a managerial capacity merely by virtue of the supervisor's supervisory duties unless the employees supervised are professional. *See* section 101(a)(44)(A)(iv) of the Act, 8 U.S.C. § 1101(a)(44)(A)(iv).

Inasmuch as the petitioner's statement does not identify specifically 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.