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]

FILE: [redacted] Office: VERMONT SERVICE CENTER Date:

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)

ON BEHALF OF PETITIONER:

SELF-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, Vermont Service Center, denied the petition for a nonimmigrant visa. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner filed this nonimmigrant petition seeking to employ the beneficiary as an L-1A nonimmigrant intracompany transferee pursuant to § 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner is a corporation organized in the State of New York that operates as a food distributor. The petitioner claims that it is a branch of the beneficiary's foreign employer, located in Osaka, Japan. The petitioner now seeks to employ the beneficiary as its general manager.

In a decision dated August 20, 2002, the director concluded that the beneficiary had not been employed abroad in a qualifying capacity. The director, noting that the beneficiary's foreign employer "is a small supermarket employing a total of seven individuals," stated that while the beneficiary may have discretion over the business' daily operations, the beneficiary's job duties as an administrative manager and the personnel structure of the foreign business do not demonstrate that the beneficiary was employed in a primarily managerial capacity. The director also concluded that the business' owners determine the goals and policies of the organization, and the beneficiary only has discretion over how to achieve these goals. The director stated that the beneficiary is acting as a supervisor of employees, who do not possess supervisory, professional, or managerial titles, and does not "function as a manager within an overall organization, a department, subdivision, function, or component of the organization." Accordingly, the director denied the petition.

On the Form I-290B appeal, the petitioner asserts:

> The immigration officer has clearly not reviewed one document of information or evidence presented initially or thereafter. The argument presented by the immigration officer is in 100% contradiction of the evidence presented. We will submit within 30 days of the date of this notice of appeal a brief and evidence supporting our position. We will include a copy of the proposed duties of the beneficiary clearly depicting his executive authority. We will also enclose a copy of the schedule of proposed employees clearly depicting the beneficiary as manager. We will present evidence that shows that the immigration officer adjudicating this case did not and does not understand the type of entity the petitioner is and what products and services it provides and will provide. The petitioner invested in the United States. The L1 visa for the beneficiary to come and open the branch [sic]. Respectfully submitted.

The appeal was filed on September 20, 2002. As of this date, the AAO has received nothing further and the record will be considered complete.

To establish eligibility under section 101(a)(15)(L) of the Act, the petitioner must meet certain criteria. Specifically, within three years preceding the beneficiary's application for admission into the United States, a firm, corporation, or other legal entity, or an affiliate or subsidiary thereof, must have employed the beneficiary for one continuous year. Furthermore, the beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial, executive, or specialized knowledge capacity.

Upon review, the AAO concurs with the director's decision and affirms the denial of the petition. The director correctly noted that the record supports a finding that the beneficiary is acting as a first-line supervisor of the business' employees. Moreover, the record clearly describes non-qualifying job duties performed by the beneficiary in the foreign business.

Regulations at 8 C.F.R. § 103.3(a)(1)(v) state, 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 appeal, the petitioner has only made blanket assertions as to the director's misunderstanding of the record, and outlines evidence it intends to provide. Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the appeal must be summarily dismissed.

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. The petitioner has not met this burden.

ORDER: The appeal is summarily dismissed.