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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: SRC 02 130 51034 Office: TEXAS SERVICE CENTER Date: JUL 28 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:

[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

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 new U.S. office organized in the State of Florida in October 2001. It claims to import and export clothing, shoes, leather products, office equipment, and other merchandise. It seeks to temporarily employ the beneficiary as its general manager. 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 the subsidiary of Frapa, Limitada, located in Bucaramanga, Colombia.

The director denied the petition concluding that the petitioner had not: (1) defined the proposed nature of the new entity, its scope, or its organizational structure and goals; or (2) established the size of the United States investment was sufficient to support a managerial or executive position within one year.

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 December 16, 2002, the petitioner indicated that a brief and/or evidence would be sent to the AAO within 30 days. To date, careful review of the record reveals no subsequent submission; all other documentation in the record predates the issuance of the notice of decision.

The statement on the appeal form reads:

> Brief to follow within thirty (30) days.

The statement by the petitioner's general manager does not identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal. Thus, 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.