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PUBLIC COPY

U.S. Department of Homeland Security
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Washington, DC 20529

U.S. Citizenship and Immigration Services

[redacted]

File: SRC 02 183 51369 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:

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, 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 that claims it will generate revenue importing Peruvian products for sale in the United States. 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 an affiliate of AIJA SRL, located in Lima, Peru.

The director denied the petition concluding that the petitioner had not established a qualifying relationship exists between the U.S. entity and the foreign company. The director specifically observed that: (1) the petitioner had failed to submit any evidence of the ownership of the U.S. entity; (2) the petitioner's claimed lease for its proposed physical premises consisted of a lease for residential purposes only; and, (3) the petitioner had failed to submit documentation of the one-year requisite employment.

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."

The petitioner attached a letter to the Form I-290B Notice of Appeal that was filed on January 7, 2003. The petitioner wrote:

> I am writing this letter, because I am trying to explain my palns [sic] in your country:
>
> 1st) I am owner in Peru with my brother and my sister of a small business with the name "Aija [redacted] to mean in English "Limited Partnership Society", [sic] so I am owner of the 75% of that business with 6,000 shares.
>
> 2nd) I am to put a business in USA as ownership, by import Peruvian products to Aija S.R.Ltda only. [sic]
>
> 3th) I cannot open my business in USA as corporation, because Aija Peru is an ownership. [sic]
>
> Also i [sic] cannot get the EIN by the IRS, because I have [sic] not social security card.
>
> 4th) I am submitting a copy of the follow [sic] documents:
>
> U.S. BUSINESS
>
> - Business License of the state [sic] of Texas.
> - I am submiting [sic] a copy of the Washington Mutual Bank form, showing that i [sic] opened my account number [sic] with them.

- I am submiting [sic] my first quarterly date to pay my taxes.

FOREIGN BUSINESS

- Copy of the current lease.
- Annotation of inscription of the registration office.
- Registration of my business in Peru to SUNAT (National superintendence of tax administration).
- Letters of our two principal supplier [sic] in Peru.
- Balance sheet for the year 2000.
- Income tax for the year 2000.
- Bank Statements of our accounts for the year 2000.
- Balance sheet for the year 2001.
- Income tax for the year 2001.
- Bank Statements of our accounts for the year 2001.
- My pay slips for the year 2002.

5th) If you need some aditional [sic] information of my business in USA or from Peru, let me know by [sic] I submit those documents for you.

The petitioner's letter on appeal does not identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal. Further, the director specifically requested the documentation submitted on appeal in her request for further evidence dated August 7, 2002. Where, as here, a petitioner has been put on notice of a deficiency in the evidence and has been given an opportunity to respond to that deficiency, the AAO will not accept evidence offered for the first time on appeal. *See Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); *see also Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988). If the petitioner had wanted the submitted evidence to be considered, it should have submitted the documents in response to the director's request for evidence. *Id.* Under the circumstances, the AAO need not and does not consider the sufficiency of the evidence submitted on appeal.

Inasmuch as the petitioner has not identified any errors in the director's decision, 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.