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

U.S. Citizenship and Immigration Services

D-7

[redacted]

JUN 22 2004

FILE: EAC 02 236 52905 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:

[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

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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DISCUSSION: The nonimmigrant visa petition was denied by the Director, Vermont Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner claims to be in the business of importing and exporting paint and paint accessories. The petitioner claims to be a subsidiary of Kenind Industries, Ltd., located in Nairobi, Kenya. The petitioner seeks to employ the beneficiary temporarily in the United States in a managerial or executive capacity, namely as its president. The director determined that the petitioner failed to provide sufficient evidence to establish that (1) it had secured sufficient physical premises to house the new office; (2) the beneficiary had been employed abroad in a managerial or executive capacity; and (3) the U.S. entity would be in a position to support a managerial or executive position within one year of the approval of the petition.

On appeal, counsel indicated that he/she would submit a brief and/or evidence to the AAO within 15 days. The notice of appeal is dated December 30, 2002. To date, the AAO has not received any additional evidence. Therefore, the record is considered complete.

The regulation at 8 C.F.R. 103.3(a)(1)(v) states in part:

> *Summary dismissal.* 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.

As counsel has failed to identify specifically any erroneous conclusion of law or statement of fact for the appeal, the appeal will be summarily dismissed.

In visa petition proceedings, the burden of proving eligibility for the benefit sought rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. The petitioner has not sustained that burden.

ORDER: The appeal is summarily dismissed.