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

D-7

U.S. Citizenship and Immigration Services

[redacted]

FILE: WAC 02 195 51986 Office: CALIFORNIA SERVICE CENTER Date: JUN 23 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)

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, California Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner seeks to employ the beneficiary temporarily in the United States in a managerial or executive capacity, namely as its general manager. The director determined that the petitioner failed to provide sufficient evidence to establish that the beneficiary had been employed for one continuous year within three years prior to the filing of the petition and will be employed by the U.S. entity in a managerial or executive capacity.

On appeal, counsel indicated that he would submit a brief and/or evidence to the AAO within 25 days. The notice of appeal is dated May 22, 2003. 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 the petitioner has failed to identify specifically any erroneous conclusion of law or statement of fact for the appeal, the appeal will be summarily dismissed.

Beyond the decision of the director, a related issue is whether the petitioner has established that it has secured sufficient physical premises to house the new office. The petitioner submitted a copy of its month-to-month lease agreement. In this matter, the petitioner has not provided a floor plan describing the anticipated space requirements for its import and export business. Furthermore, there is no evidence to show how the space leased will accommodate food storage and distribution. Based on the insufficiency of the information furnished, it cannot be concluded that the petitioner has secured sufficient space to house the new office.

Another issue in this proceeding is whether the petitioner has submitted sufficient evidence to establish that a qualifying relationship exists between the U.S. and foreign entities. In the instant matter, the petitioner submitted three wire transfer acknowledgements as evidence of U.S. stock ownership by the foreign entity. The acknowledgements of monetary disbursements are for advertisement and promotion of the U.S. entity rather than as payment for shares of U.S. entity stocks. In addition, the petitioner has not submitted sufficient evidence to establish that the foreign entity has been and will continue doing business during the beneficiary's stay in the United States. For these additional reasons, the petition may not be approved.

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.