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U.S. Citizenship and Immigration Services

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[redacted]

FEB 23 2005

File: LIN 03 188 52740 Office: NEBRASKA 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)

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 of the Nebraska Service Center denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A).

The petitioner is a United States branch office of a Korean corporation engaging in the business of manufacturing, wholesale, and export of cold formed metal products. It seeks to employ the beneficiary as an overseas sales manager, and has petitioned to classify the beneficiary as an L-1A 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 director denied the petition after determining that the description of the beneficiary's job duties in the foreign entity provided by the petitioner in response to the director's request for additional evidence contains material changes from the description in the initial petition, such that the petitioner is required by the regulations to file an amended or new petition. *See* 8 C.F.R. § 214.2(l)(7)(i)(C). The director further found that even if the amended duties were considered, the record does not establish that the beneficiary was primarily performing duties of a manager. The director also concluded that the petitioner failed to establish that the United States operation would support a managerial position within one year. The director questioned the reliability of the evidence relating to the beneficiary's job duties, noting that the beneficiary herself, rather than an authorized officer of the company, signed the petition, the Form G-28, and the U.S. entity's letter of support submitted with the petition.

On appeal, counsel for the petitioner asserts that beneficiary did not sign the petition or its supporting materials, did not contribute to the authorship of such documents or affirm their content, and did not authorize the use of her apparent signature on such documents. Counsel submits a sworn affidavit from the beneficiary to that effect. Counsel further asserts that because the petition and supporting materials were not reviewed and affirmed by an appropriate corporate officer, the information contained therein was incomplete and at least partially inaccurate. Counsel further submits on appeal a new Form G-28 and letters of support purportedly signed by the president of the petitioner, as well as additional exhibits to supplement the petition. However, no new or amended petition signed by an authorized officer of the petitioner has been submitted.

The regulations provide that "[a]n applicant or petitioner must sign his or her application or petition. . . . By signing the application or petition, the applicant or petitioner . . . certifies under penalty of perjury that the application or petition, and all evidence submitted with it, either at the time of filing or thereafter, is true and correct." 8 C.F.R. § 103.2(a)(2). Furthermore, "[a]n application or petition which is not properly signed or is submitted with the wrong filing fee shall be rejected as improperly filed. Rejected applications and petitions . . . will not retain a filing date." 8 C.F.R. § 103.2(a)(7)(i).

Since the beneficiary stated in her sworn affidavit that she had not signed or authorized the use of her signature on the petition, the petition containing her signature must be deemed "not properly signed" and therefore improperly filed. 8 C.F.R. § 103.2(a)(7)(i). The AAO recognizes that the counsel for the petitioner has submitted on appeal letters in support of the petition purportedly signed by the president of the petitioner. However, the petitioner still has not submitted a petition properly signed by one of its authorized officers or representatives. As such, it would appear that there is no "properly filed" petition before Citizenship and

Immigration Services (CIS) at this time in regard to this matter, and the July 3, 2003 decision of the director must be withdrawn. With no properly filed petition before the CIS, and therefore no appealable decision, the AAO does not have jurisdiction to adjudicate the instant appeal. *See* 8 C.F.R. § 103.3(a)(1)(ii). Moreover, given these circumstances, the petitioner cannot be considered to be an "affected party" with legal standing to file an appeal in this matter. *See* 8 C.F.R. § 103.3(a)(1)(iii)(B).

For the foregoing reasons, the appeal will be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A).

ORDER: The appeal is rejected.