U.S. Department of Homeland Security
20 Mass Ave., N.W., Rm. 3000
Washington, DC 20529

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U.S. Citizenship
and Immigration
Services

[redacted]

B4

FILE: [redacted] Office: TEXAS SERVICE CENTER Date: NU

SRC 06 098 52645

IN RE: Petitioner:
Beneficiary: [redacted]

PETITION: Immigrant Petition for Alien Worker as a Multinational Executive or Manager Pursuant to Section 203(b)(1)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(C)

ON BEHALF OF PETITIONER:

[redacted]

PUBLIC COPY

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, Chief
Administrative Appeals Office

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

The petitioner was established in 2004 and is engaged in the business of residential construction. It seeks to employ the beneficiary as its general manager. Accordingly, the petitioner endeavors to classify the beneficiary as an employment-based immigrant pursuant to section 203(b)(1)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(C), as a multinational executive or manager. The director denied the petition based on the following independent grounds of ineligibility: 1) the petitioner failed to establish that it has a qualifying relationship with the beneficiary's foreign employer; 2) the petitioner failed to provide documentation to establish that it and the beneficiary's foreign employer were doing business at the time the Form I-140 was filed; 3) the petitioner failed to establish that the beneficiary was employed abroad in a qualifying managerial or executive capacity; 4) the petitioner failed to establish that it would employ the beneficiary in a managerial or executive capacity; and 5) the petitioner failed to establish its ability to pay the beneficiary's proffered wage.

The petitioner submitted an appeal indicating that an appellate brief and/or additional information would be submitted within 30 days in support of the appeal. On November 8, 2006, the AAO reviewed the record of proceeding and found that no additional evidence or information had been submitted since the appeal was filed on September 8, 2006. Accordingly, the AAO faxed counsel a notice allowing an additional five days in which to provide a brief and/or any evidence *if* the petitioner had previously submitted such documentation. The AAO clearly stated that this was not meant to allow the petitioner additional time in which to provide new information that had not been previously submitted. Rather, this was merely an attempt to allow the petitioner an opportunity to provide information that may have been submitted and never attached to the record of proceeding. To date, however, the petitioner has not responded to the AAO's facsimile. Accordingly, the record will be considered complete as currently constituted.

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.

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. Inasmuch as the petitioner has failed to identify** specifically an erroneous conclusion of law or a statement of fact in this proceeding, the petitioner has not sustained that burden. Therefore, the appeal will be summarily dismissed.

ORDER: The appeal is summarily dismissed.