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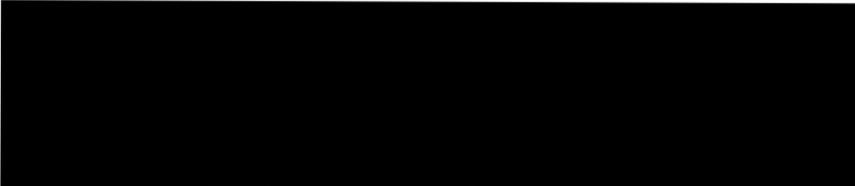
U.S. Department of Homeland Security
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U.S. Citizenship
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FEB 10 2009

FILE: [Redacted]
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OFFICE: NEBRASKA SERVICE CENTER

Date:

IN RE: Petitioner:
Beneficiary:



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:



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.

John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, Nebraska Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The decision of the director will be withdrawn and the appeal will be sustained.

The petitioner is a multinational corporation operating in the United States as a manufacturer and distributor of high-end chocolate bonbons. The petitioner seeks to employ the beneficiary as its regional retail 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. In denying the petition, the director found that the petitioner failed to establish: 1) that the beneficiary was employed abroad in a qualifying managerial or executive capacity; and 2) that the beneficiary would be employed in the United States in a qualifying managerial or executive capacity.

On appeal, counsel submits an appellate brief disputing the director's findings and arguing, in part, that U.S. Citizenship and Immigration Services should consider the totality of the evidence submitted. Upon review, the AAO concludes that the director's decision should be withdrawn and the appeal sustained.

While the director was correct in placing great emphasis on the descriptions of the beneficiary's duties with the foreign and U.S. entities, this element must be reviewed in light of a comprehensive analysis of other relevant factors, including the overall organizational structure, which in the present matter is sufficiently complex in both entities, the existence of multiple managerial tiers, as well as the beneficiary's position with respect to others within each given entity. Thorough consideration of all factors indicates that each entity is widely staffed with individuals who are assigned to perform the daily non-qualifying tasks of each entity, thus permitting the beneficiary to primarily perform qualifying duties.

Taken as a whole, the information and corroborating evidence provided is sufficient to meet the preponderance of the evidence standard that the beneficiary was more likely than not employed abroad and would most likely be employed in the United States in a qualifying managerial or executive capacity. *See* section 101(a)(44)(A) of the Act.

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. The petitioner in the instant case has sustained that burden.

ORDER: The appeal is sustained.