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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**

[REDACTED]

B4

FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date:

DEC 13 2010

IN RE: Petitioner: [REDACTED]
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: SELF-REPRESENTED

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.

Thank you,

Perry Rhew
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 matter will be remanded for further consideration.

The petitioner is a limited liability company organized in the State of Texas. It seeks to hire the beneficiary in the position of general operations 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 determined that the petitioner failed to establish that it has a qualifying relationship with the beneficiary's foreign employer and denied the petition on that basis.

On appeal, the petitioner disputes the director's finding and submits additional supporting evidence. After a thorough review of the record, the AAO finds that the petitioner has submitted sufficient evidence to establish that it and the beneficiary's foreign employer are commonly owned and controlled such that there is a qualifying relationship between them. Therefore, the director's decision is hereby withdrawn.

Notwithstanding the petitioner's ability to overcome the director's basis for denial, the AAO finds that the record lacks sufficient evidence to determine that the petitioner meets the eligibility requirements cited at 8 C.F.R. §§ 204.5(j)(3)(B) and (5), which require evidence establishing that the beneficiary was primarily employed abroad and that he would be primarily employed by the petitioning U.S. entity in a qualifying managerial or executive capacity, respectively. In order to meet the eligibility criteria, the petitioner should provide organizational charts of both entities showing the petitioner's organizational hierarchy at the time the Form I-140 was filed and the foreign entity's organizational hierarchy at the time of the beneficiary's employment abroad. The petitioner should also be instructed to provide detailed job descriptions delineating the specific tasks and the time allocated to those tasks in the context of the beneficiary's employment abroad and in his proposed position with the U.S. entity.

Accordingly, the director is instructed to issue further notice to the petitioner requesting the above information in an effort to establish whether the beneficiary was employed abroad and whether he would be employed in the United States in a managerial or executive capacity. The director may also request any other additional evidence that he may deem necessary in order to establish the petitioner's eligibility for the immigration benefit sought herein.

ORDER: The decision of the director dated June 18, 2009 is withdrawn. The matter is remanded for further action and consideration consistent with the above discussion and entry of a new decision, which, if adverse, shall be certified to the AAO for review.