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U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. A3042
Washington, DC 20529

U.S. Citizenship and Immigration Services

D7

[redacted]

FILE: WAC 03 078 51854 Office: CALIFORNIA SERVICE CENTER Date: JUN 10 2015

IN RE: Petitioner:
Beneficiary: [redacted]

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

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.

According to the documentary evidence contained in the record, the petitioner was incorporated in December of 2002 and claims to be a party supplies rental business. The petitioner claims to be a subsidiary of A.A.A.A. Comercial de Veiculos Ltda Co., located in Brazil. The petitioner seeks to employ the beneficiary temporarily in the United States as president and general manager of its new office for one year, at a yearly salary of $30,000.00.

The director determined that the petitioner had failed to submit sufficient evidence to establish that the beneficiary had been employed by the foreign entity in a primarily managerial or executive capacity for one continuous year within three years preceding the filing of the instant petition. *See* 8 C.F.R. § 214.2(l)(3)(iii). The director noted that the record demonstrated the beneficiary began employment with the foreign entity January 5, 2002. The director further noted that the Citizenship and Immigration Services (CIS) records showed that the beneficiary has been in the United States in a B2 visitor for pleasure nonimmigrant classification since January 18, 2002, which was only thirteen days after being employed at the foreign entity. The director stated that a preponderance of the beneficiary's duties involved directly providing the services of the business. The director further stated that the petitioner failed to provide a comprehensive description of the beneficiary's duties that would demonstrate that he had been supervising and controlling the work of other supervisory, professional, or managerial employees who relieve him from performing non-qualifying duties, or managing the organization, or a department, subdivision, function, or component of the company abroad. The director concluded that the foreign entity had only employed the beneficiary as a purchasing and supplies manager for thirteen days, which is less than the statutory requirement of one continuous year of employment. The director further stated that although the beneficiary remained on the foreign entity's payroll while in the United States, there was nothing in the record to show that the beneficiary worked for or was in contact with the company abroad.

On appeal, counsel indicated that he would submit a brief and/or evidence to the AAO within 30 days of the Notice of Appeal. The notice of appeal is dated September 18, 2003. To date, the AAO has not received any additional evidence. Therefore, the record is considered complete.

Counsel asserts in the notice of appeal: "The facts recited in the Notice of Denial are incorrect; and, consequently, the applicable law was in error."

Counsel fails to address the issues raised by the director regarding the lack of evidence in the record to establish that the beneficiary had been employed by the foreign entity in a primarily managerial or executive capacity for one continuous year within three years preceding the filing of the petition.

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 counsel has failed to identify specifically any erroneous conclusion of law or statement of fact for the appeal, the appeal will be summarily dismissed.

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.