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U.S. Citizenship
and Immigration
Services

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FILE: SRC-04-144-51653 Office: TEXAS SERVICE CENTER Date: JUN 29 2005

IN RE: Petitioner: [Redacted]
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:



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, Texas Service Center, denied the petition for a nonimmigrant visa. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner states that it operates as a distributor of fruit drinks. It seeks to employ the beneficiary temporarily in the United States as its General Manager, 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, concluding that the petitioner failed to establish that it has a qualifying relationship with a foreign entity.

On the Form I-290B appeal, counsel simply asserts: "We believe that RG Distribution and Desarollos Inmobiliarios, SA de CV have a proper qualifying relationship as required by 8 CFR 214.2(l)(1)(ii)(g). We will submit a brief and evidence to support our position, within 30 days to the Administrative Appeals Unit." The appeal was filed on June 15, 2004. As of June 8, 2005, approximately one year after the date of filing, the AAO had received no further correspondence from counsel or the petitioner. On June 8, 2005, the AAO sent notification to counsel by facsimile that no further materials had been received in connection with the appeal, and affording counsel five business days to respond before a decision is rendered. On June 15, 2005, counsel submitted additional evidence.

Upon review of the new materials submitted by counsel, it is evident that, while they are marked with the case number assigned to the present matter (SRC-04-144-51653), they pertain to a separate proceeding involving a different petitioner and different type of petition. The new materials are not probative of facts at issue in the present case. Therefore, counsel's assertions on appeal are limited to the general statement on Form I-290B, quoted above. Counsel fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

To establish eligibility under section 101(a)(15)(L) of the Act, the petitioner must meet certain criteria. Specifically, within three years preceding the beneficiary's application for admission into the United States, a firm, corporation, or other legal entity, or an affiliate or subsidiary thereof, must have employed the beneficiary for one continuous year. Furthermore, the beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial, executive, or specialized knowledge capacity.

Upon review, the AAO concurs with the director's decision and affirms the denial of the petition.

Regulations at 8 C.F.R. § 103.3(a)(1)(v) state, 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.

Inasmuch as counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the appeal must be summarily dismissed.

SRC-04-144-51653

Page 3

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 has not met this burden.

ORDER: The appeal is summarily dismissed.