U.S. Department of Homeland Security
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Washington, DC 20529

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U.S. Citizenship and Immigration Services

D7

[redacted]

File: WAC-04-042-51311 Office: CALIFORNIA SERVICE CENTER Date: JUL 17 2006

IN RE: Petitioner: [redacted]
Beneficiary:

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)

IN 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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, California 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 is a manufacturer of stainless steel products. It seeks to employ the beneficiary temporarily in the United States as its manager. The director denied the petition based on the conclusion that the petitioner failed to establish that the beneficiary will be employed in a managerial or executive capacity. In addition the director noted numerous inconsistencies in the record which undermined the petitioner's claims.

On appeal, counsel[1] requested an additional 30 days in which to submit a brief addressing the director's denial. The appeal was filed on April 19, 2004. As of this date, the AAO has received nothing further and the record will be considered complete.

On the Form I-290B appeal, counsel simply repeats the claim that the petitioner is eligible for the benefit sought. However, the director did a thorough analysis and specifically discussed inconsistencies among a number of the submitted documents. Counsel's general objections to the denial of the petition, without specifically identifying any errors on the part of the director, are simply insufficient to overcome the well-founded and logical conclusions the director reached based on the evidence submitted by the petitioner. The assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); Matter Of Laureano, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

In addition, the record shows a number of inconsistencies, including the number of employees petitioner has and what the beneficiary's actual duties will be. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). In the instant case, counsel fails to acknowledge, much less resolve the inconsistencies discussed in the denial. In addition, the AAO would note basic deficiencies in the petition, such as the failure to include an L supplement with the I-129 application and the failure to address the qualifying criteria required for an L-1A petition.

To establish L-1 eligibility under section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L), the petitioner must demonstrate that the beneficiary, within three years preceding the beneficiary's application for admission into the United States, has been employed abroad in a qualifying managerial or executive capacity, or in a capacity involving specialized knowledge, for one continuous year

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[1] Neither the petitioner nor counsel submitted an Entry of Appearance as Attorney or Representative (Form G-28) in this matter. Absent a properly executed Form G-28, counsel's representation of the petitioner may not be recognized, and any assertions made by counsel in this proceeding will not be considered. *See* 8 C.F.R. § 103.2(a)(3).

by a qualifying organization and seeks to enter the United States temporarily in order to continue to render his or her services to the same employer or a subsidiary or affiliate thereof in a capacity that is managerial, executive, or involves specialized knowledge.

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.

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 counsel 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.