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**U.S. Citizenship  
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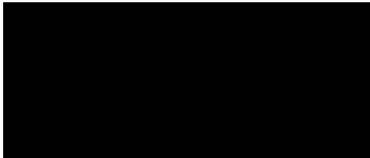
File: WAC 05 098 51907 Office: CALIFORNIA SERVICE CENTER Date: **NOV 30**

IN RE: Petitioner:  
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:



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 filed this nonimmigrant visa petition seeking to employ the beneficiary as its general manager as an L-1A nonimmigrant intracompany transferee pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner is a limited liability company organized under the laws of the State of California and describes its business type as "real estate, restaurant, trade and commerce." The petitioner claims a qualifying relationship with Anhui Wanyuan Tourism and Hotel Co. Ltd. of China.

The director denied the petition concluding that the petitioner did not establish (1) that the beneficiary will be employed in a primarily executive or managerial capacity; or (2) that the petitioner has a qualifying relationship with the foreign entity.

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review. On appeal, counsel to the petitioner stated the following in the Form I-290B:

The parent company is a major company with hotels, restaurants and tour offices in China, with thousands of employees[,] and the Beneficiary is the second in command of that parent company. The Beneficiary occupies a vital function in China and in the US. The parent company in China has openly stated in its newsletter, that the petitioning company in the US is one of its subsidiaries.

The denial by CIS overlooked those essential facts.

Counsel further indicated that a brief and/or evidence would be submitted to the AAO within 90 days. As of this date, the AAO has received nothing further and the record will be considered complete.<sup>1</sup>

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.

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<sup>1</sup>On October 31, 2006, the AAO sent a fax to counsel. The fax advised counsel that no evidence or brief had ever been received in this matter and requested that counsel submit a copy of the brief and/or additional evidence, if in fact such evidence had been submitted, within five business days. On November 2, 2006, counsel to the petitioner confirmed by fax that no evidence or brief was submitted.

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 the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the appeal must be summarily dismissed. While counsel does imply that the director erred in overlooking the listing of the petitioner as a subsidiary in the foreign entity's newsletter, the director specifically addressed this averment on page five of his decision. Therefore, the appeal will be dismissed.

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.