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

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PUBLIC COPY

U.S. Citizenship and Immigration Services

B4

[redacted]

FILE: [redacted] Office: TEXAS SERVICE CENTER Date: JUL 11 2005
SRC 02 274 52193

IN RE: Petitioner: [redacted]
Beneficiary:

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:

[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 Director, Texas Service Center, denied the employment-based petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner claims it was organized in the State of Florida in June 1991. It claims it is engaged in the freight forwarding and cargo business. It seeks to employ the beneficiary as its president. 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 had not submitted sufficient evidence to establish: (1) a qualifying relationship with the beneficiary's foreign employer; (2) that the beneficiary would be employed in a managerial or executive capacity for the United States entity; or, (3) that the beneficiary had been employed in a managerial or executive capacity with the foreign entity for one year prior to her entry into the United States.

The regulation at 8 C.F.R. §103.3(a)(1)(v) states, 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."

On the Form I-290B Notice of Appeal, filed on March 30, 2004, counsel for the petitioner indicated that a separate brief and/or evidence was being submitted with the Form I-290B. The statement on the appeal form reads: "See Attached Documents." Counsel does not submit a brief.

Counsel attaches: (1) Stock certificate 00 showing the petitioner had issued 51 shares to [redacted] on July 5, 1991; (2) Stock certificate 02 showing the petitioner had issued 20 shares to [redacted] on August 15, 2000, the stock certificate also bears a notation that these shares had been transferred from the original issue to [redacted] the back of the stock certificate also bears a notation that the 20 shares had been transferred to [redacted] on November 15, 2001 for consideration received; (3) Stock certificate 03 showing the petitioner had issued 49 shares to Aymara Sucre on August 15, 2000, the stock certificate also bears a notation that these shares had been transferred from the original issue to [redacted] (4) Stock certificate 04 showing the petitioner had issued 31 shares to [redacted] on August 15, 2000, the stock certificate bears the notation original 01, the back of the stock certificate also bears a notation that the 31 shares had been transferred to Aymara Sucre on November 15, 2001; (5) the foreign entity's organizational chart; (6) a list of the foreign entity's employees and their job descriptions; (7) the petitioner's organizational chart; (8) the petitioner's employees and their job descriptions; and, (9) the beneficiary's resume and brief information regarding two of the petitioner's employees.

On the issue of qualifying relationship, the AAO observes that prior to the documents submitted on appeal, the record contained a stock certificate 04 showing the petitioner had issued 100 shares to Ameripack Service DE Venezuela, C.A. on June 11, 1991. Neither counsel nor the petitioner explains the inconsistency of this stock certificate with the stock certificate 04 submitted on appeal. 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).

Further, neither counsel nor the petitioner identifies specifically an erroneous conclusion of law or a statement of fact on the issue of qualifying relationship as the basis of the appeal.

Finally, on the issue of the beneficiary's managerial or executive capacity for the foreign entity and for the petitioner, the documents submitted on appeal had been previously submitted. Neither counsel nor the petitioner explains or otherwise identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal on these issues.

Inasmuch as a specific erroneous conclusion of law or statement of fact has not been identified, the regulations mandate the summary dismissal of 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. Here, that burden has not been met.

ORDER: The appeal is summarily dismissed.