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



U.S. Citizenship  
and Immigration  
Services

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MAY 18 2005

[Redacted]

FILE:

[Redacted]

Office: TEXAS SERVICE CENTER Date:

SRC 03 064 52006

IN RE:

Petitioner:

Beneficiary:

[Redacted]

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 preference visa petition was denied by the Director, Texas Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner was established in 2001 in the state of Florida. The petitioner is operating as a convenience store and seeks to employ the beneficiary as its vice president or co-manager. 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 established that it has a qualifying relationship with a foreign entity. The director also determined that the petitioner failed to submit sufficient evidence to establish that the foreign entity continues to do business and that the U.S. entity is currently doing business. *See generally*, 8 C.F.R. § 204.5(j).

On appeal, counsel states that the petitioner's prior attorney failed to submit a complete response to the request for additional evidence and requested an additional 45 days in which to address the objections brought forth by the director in the denial. It is noted that the petitioner's appeal is date stamped March 9, 2004, indicating the date when the appeal was received. To date, the petitioner has submitted no additional evidence or information to overcome the director's objections. Therefore, the record must be considered complete as currently constituted.

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.

The AAO concurs with the director's decision and affirms the denial of the immigrant visa petition.

Beyond the decision of the director, the record is not persuasive in demonstrating that the beneficiary would be employed in a managerial or executive capacity as defined at section 101(a)(44) of the Act. The petitioner also failed to establish that the beneficiary was employed as a manager or supervisor overseas. Reciting the beneficiary's vague job responsibilities or broadly-cast business objectives is not sufficient; the regulations require a detailed description of the beneficiary's daily job duties. Considering the petitioner's failure to submit sufficient evidence to establish that the U.S. entity is currently doing business, the petitioner's vague description of the beneficiary's duties is suspect and will be accorded less weight. The petitioner has failed to establish the beneficiary's daily primary duties; the actual duties themselves will reveal the true nature of the employment. *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F.2d 41 (2d Cir. 1990). For these additional reasons, the petition will be denied.

An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003); *see also Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989)(noting that the AAO reviews appeals on a de novo basis).

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.