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FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

OCT 17 2005

WAC 03 144 52901

IN RE:

Petitioner:
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:



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, California 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 is a corporation established in December 2000 in the State of California. It claims to export goods to Japan and to provide marketing services. It seeks to employ the beneficiary as its president/purchasing department director. 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 denied the petition on April 25, 2005, determining that the petitioner had not established: (1) that the beneficiary would be employed in a managerial or executive capacity for the United States petitioner; (2) it had the ability to pay wages; or, (3) that it is doing business in 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 May 26, 2005, counsel for the petitioner indicated that a brief and/or evidence would be submitted within 30 days. To date, careful review of the record reveals no subsequent brief or evidence. The record does include a one-page letter submitted June 24, 2005.

The statement on the appeal form reads: "Need to correct the information that USCIS has re Petitioner." The one-page letter filed June 24, 2005, lists the director's determination on the three issues referenced above and a statement under each issue that reads: "Please inform us of what document you need to prove this."

Neither counsel nor the petitioner address the inconsistencies or the derogatory information found and provided to the petitioner in a January 11, 2005 notice of intent to deny the petition and in the director's ultimate decision.

Inasmuch as the petitioner has not identified specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, but implicitly acknowledges that the record is deficient, the regulations mandate the summary dismissal of the appeal. The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.