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U.S. Department of Homeland Security  
20 Massachusetts Ave., N.W., Rm. A3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services



B4

FILE:

SRC 05 055 50882

Office: TEXAS SERVICE CENTER

Date:

NOV 30 2006

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: 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

**PUBLIC COPY**

**DISCUSSION:** The Director, Texas Service Center, denied the petition for an immigrant 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 an import company dealing with processed food.<sup>1</sup> It seeks authorization to permanently employ the beneficiary in the United States as its president. The director denied the petition based on the petitioner's failure to establish that (1) the petitioner had been doing business as required by the regulations; or (2) the beneficiary will be employed in the United States in a primarily managerial or executive capacity.

On appeal, the petitioner indicated on Form I-290B that it was not submitting additional evidence in support of the appeal.<sup>2</sup> Although the petitioner submitted a brief statement on the Form I-290B, it failed to adequately address the director's conclusions. In this brief statement, the petitioner lists six sentences that pertain to the nature of the petitioner and the beneficiary's eligibility for the benefit sought. The sentences merely make general statements, such as sentence II, which states "Beneficiary Job title in the U.S. is MANAGER," and sentence IV, which states "Assistant Manager primary duties are management reporting, due to reporting on customer service required feasibility study on actual participation."

In this matter, the director did a thorough analysis and discussed with specificity the basis upon which the denial was based. For example, with regard to the finding that the petitioner was not doing business as required by the regulations, the director noted that despite providing the regulatory definition of "doing business" and clearly stating the evidentiary requirements for establishing this factor in the request for evidence, the petitioner failed to submit sufficient documentation to demonstrate that the petitioner had engaged in the distribution of import supplies for the previous year. The director noted that while tax returns and bank statements were submitted, they were insufficient to establish that the regulatory requirements for doing business had been met. Furthermore, with regard to the conclusion that the beneficiary was not employed in a primarily managerial or executive capacity, the director specifically discussed the list of duties provided, the organizational chart for the U.S. entity, the nature of the petitioner's "Zip In Grocery" business, and the overall lack of a subordinate staff to relieve the beneficiary from performing non-qualifying duties.

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<sup>1</sup> It should be noted that, according to the Texas Comptroller of Public Accounts, the petitioner is not currently in good standing in Texas due to its failure to satisfy all state tax requirements. Therefore, regardless of whether the petitioner's tax issues in Texas can be easily remedied or not, it raises the critical issue of the company's continued existence as a legal entity in the United States.

<sup>2</sup> The petitioner's Form I-290B was initially rejected due to the petitioner's use of outdated forms. The most recently submitted Form I-290B indicates no additional evidence is being submitted in support of the appeal. The AAO notes that the petitioner appears to have submitted additional documents, such as copies of tax returns for an entity identified as "Clique Stores, Inc." and sworn affidavits. The affidavits, however, merely restate the duties of the beneficiary and claim that bank statements submitted are evidence of the petitioner's business dealings for the previous year. **No errors on the part of the director are identified.** The documentation pertaining to Clique Stores, Inc. is likewise irrelevant, as Clique Stores, Inc. is not the petitioner in this matter. Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).

The petitioner's general statements on the Form I-290B do not specifically identify any errors on the part of the director and are simply insufficient to overcome the well-founded and logical conclusions the director reached based on the evidence submitted by the petitioner. 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).

While the petitioner may request that it be granted additional time to submit a brief, no such request was made in this case. See 8 C.F.R. § 103.3(a)(2)(vii). Even if additional time to submit a brief in support of the appeal had been requested and approved, to date there is no indication or evidence that the petitioner ever submitted a brief and/or evidence in support of the appeal with the Service or with the AAO. As stated above, absent a clear statement, brief and/or evidence to the contrary, the petitioner does not identify, specifically, any erroneous conclusion of law or statement of fact. Hence, the appeal must be summarily dismissed. See 8 C.F.R. § 103.3(a)(1)(v).

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 the instant case, the petitioner fails to acknowledge or address the director's reasons for the denial. Accordingly, the appeal will be summarily 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. 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.