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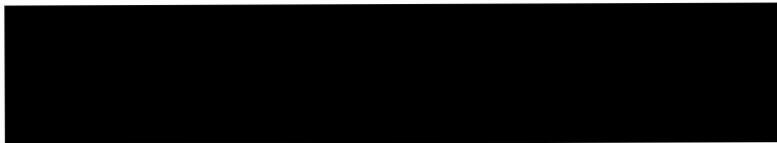
JUN 05 2007

FILE: LIN 06 093 52048 Office: NEBRASKA SERVICE CENTER Date:

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

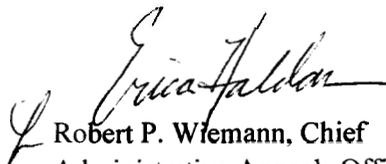
PETITION: Immigrant Petition for Alien Worker as a Multinational Executive or Manager Pursuant to Section 203(b)(1)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(C)

ON BEHALF OF PETITIONER:



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, Nebraska Service Center, denied the employment-based visa petition. The matter is now before the Administrative Appeals Office on appeal. The appeal will be summarily dismissed.

The petitioner filed the immigrant visa petition to classify the beneficiary as a multinational manager or executive pursuant to section 203(b)(1)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(C). The petitioner is a corporation headquartered in the State of Michigan that is engaged in the marketing and distribution of vehicles throughout the United States. The petitioner seeks to employ the beneficiary as its "Team Leader, Audi Product Support & Dealer Technician Help."

The director denied the petition concluding that the petitioner had failed to demonstrate that the beneficiary had been and would be employed in a primarily managerial or executive capacity.

On the Form I-290B, counsel states:

The I-140, Immigrant Petition, filed by [the petitioner] on behalf of [the beneficiary] was denied on the basis that it was not clearly established that [the beneficiary] was a multinational manager. However, as the record indicates, [the beneficiary] currently manages a group of 26 individuals, at least 6 of whom are university-degreed professionals and is responsible for an annual budget of \$3.6 million.

Prior to his transfer to the U.S., [the beneficiary] also served in a managerial capacity, with four reports who were university-degreed professionals (some with advanced degrees) and one managerial report, the Technical Development Manager.

[United States Citizenship and Immigration Services (USCIS)] ignored the information and evidence provided in denying the I-140, Immigrant Petition, on behalf of [the beneficiary].

We respectfully request that the AAO reverse the [USCIS'] decision and approved [sic] the I-140, Immigrant Petition, filed by [the petitioner] on behalf of [the beneficiary].

On May 7, 2007, the AAO sent a notice to counsel via facsimile requesting confirmation as to whether an additional brief or evidence was filed in support of the instant appeal. Counsel responded on the same day, stating that while a brief had not been submitted, "evidence was provided." Counsel did not clarify in her May 7, 2007 response whether her statements on the Form I-290B constituted the entire "evidence" submitted in support of the appeal. Other than counsel's statements on the Form I-290B, the record does not contain additional evidence in support the requested immigrant visa. Accordingly, the record will be considered complete.

To establish eligibility under section 203(b)(1)(C) 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 to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial or executive capacity.

Upon review, the AAO concurs with the director's decision and affirms the denial of the petition. Counsel's brief statements on the Form I-290B fail to acknowledge, much less resolve, the inadequacies that are discussed in great detail in the director's denial. In both his request for evidence and July 19, 2006 decision, the director emphasized the petitioner's failure to provide "a detailed, comprehensive description" of the specific managerial or executive duties associated with the beneficiary's former or present positions, specifically observing that the petitioner submitted essentially the same job descriptions in its response to his request for evidence as those originally offered with the initial filing. The AAO emphasizes that the regulation at 8 C.F.R. § 204.5(j)(3)(ii) authorizes the director to request additional evidence in appropriate cases. The purpose of the request for evidence is to elicit further information that clarifies whether eligibility for the benefit sought has been established, as of the time the petition is filed. *See* 8 C.F.R. §§ 103.2(b)(8) and (12). A petitioner's failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14).

The AAO notes the relevance of the requested evidence to the analysis of the two issues in this proceeding. For example, based on the description of the beneficiary's position in the United States, the beneficiary would spend 50 percent of his time serving as a team leader, and managing and directing the product support and technical helpline teams. Despite the director's request, the petitioner did not offer a more detailed job description, or an explanation of the managerial or executive job duties associated with his purported management of subordinate teams. The limited statements pertaining to the beneficiary's employment do not demonstrate that he performed or would perform in a *primarily* managerial or executive capacity. 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. The petitioner has failed to answer a critical question in this case: What does the beneficiary primarily do on a daily basis? 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).

Counsel's general objections to the denial of the petition, without identifying any specific errors on the part of the director, are simply insufficient to overcome the well-founded and logical conclusions the director reached based on the evidence submitted by the petitioner. The beneficiary's purported management of university-degreed professionals addresses only one condition in establishing employment in a "managerial capacity," and falls significantly short of demonstrating the beneficiary's eligibility for classification as a multinational manager or executive. *See* § 101(a)(44)(A) of the Act. Moreover, counsel's mere claims of a university education are not sufficient to establish that a portion of the beneficiary's subordinate employees is professional. *See generally Matter of Sea*, 19 I&N Dec. 817 (Comm. 1988); *Matter of Ling*, 13 I&N Dec. 35 (R.C. 1968); *Matter of Shin*, 11 I&N Dec. 686 (D.D. 1966) (instructing that because the term "profession" contemplates knowledge or learning, not merely skill, of an advanced type in a given field gained by a prolonged course of specialized instruction and study of at least baccalaureate level, which is a realistic prerequisite to entry into the particular field of endeavor, the appropriate analysis of a "professional" for purposes of classification as a multinational manager or executive is the level of education required by the position, rather than the degree held by a subordinate employee). The unsupported statements of counsel on appeal or in a motion are not evidence and thus are not entitled to any evidentiary weight. *See INS v. Phinpathya*, 464 U.S. 183, 188-89 n.6 (1984); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503 (BIA 1980).

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 counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the appeal must 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. The petitioner has not met this burden.

ORDER: The appeal is summarily dismissed.