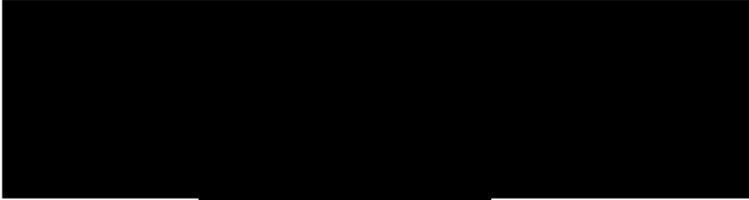




U.S. Citizenship
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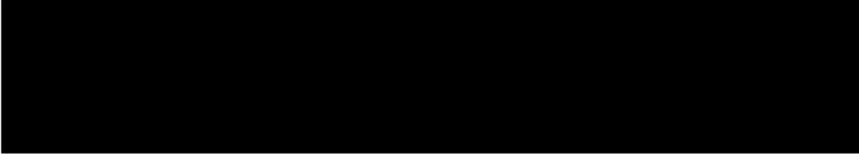


FILE: [REDACTED] OFFICE: NEBRASKA SERVICE CENTER Date: JAN 09 2008
LIN 06 193 53196

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 preference visa petition was denied by the Director, Nebraska Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The decision of the director will be withdrawn and the appeal will be sustained.

The petitioner is a multinational corporation operating in the United States as an information technology consulting firm. It seeks to employ the beneficiary as its senior account 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.

In denying the petition, the director found that the petitioner failed to establish: 1) that the beneficiary was employed abroad in a qualifying managerial or executive capacity and 2) that the beneficiary would be employed in the United States in a qualifying managerial or executive capacity. The director also compared information the petitioner submitted in support of a previously filed Form I-140 with the information provided in support of the present Form I-140 and found that there were various inconsistencies with regard to the beneficiary's position title and prospective job duties.

On appeal, counsel submits an appellate brief disputing all three of the director's findings and submits documentation in support of his assertions.

Upon review and for the reasons discussed herein, the AAO will withdraw the decision of the director and sustain the appeal.

Based upon the documents submitted, the petitioner has established that the beneficiary was employed abroad and would be employed in the United States in a qualifying managerial capacity. *See* section 101(a)(44)(A) of the Act. The AAO notes that the director places undue emphasis on the difference between the beneficiary's position title as proposed in the present Form I-140 and his position title as proposed in the Form I-140 that was previously filed. Counsel provided an adequate explanation with regard to the expansion of the petitioner's business and the changes that took place in accordance with such expansion. Thus, the fact that the beneficiary's position title may have changed since the first Form I-140 was filed is not necessarily a discrepancy, but merely a change experienced by a growing business.

With regard to the beneficiary's job duties with the foreign and U.S. employers, counsel provides a comprehensive discussion of the beneficiary's role within each organization in light of the respective entity's significant organizational hierarchy. The record shows that the beneficiary's foreign and proposed responsibilities would include overseeing essential functions and professional subordinate employees.

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 in the instant case has sustained that burden.

ORDER: The appeal is sustained.