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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090

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U.S. Citizenship
and Immigration
Services

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FILE:

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OFFICE: NEBRASKA SERVICE CENTER

Date: AUG 06 2009

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.

John F. Grissom

Acting 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 The decision of the director will be withdrawn and the appeal will be sustained.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 Delaware corporation that seeks to employ the beneficiary as its chairman. 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 based on three independent grounds of ineligibility: 1) the petitioner failed to establish that the beneficiary was employed abroad in a managerial or executive capacity; 2) the petitioner failed to establish that it would employ the beneficiary in a managerial or executive capacity; and 3) the petitioner failed to establish that it has a qualifying relationship with the beneficiary's foreign employer. In his discussion of the factors leading up to the overall adverse conclusion, the director noted that the record lacked evidence that the beneficiary's subordinate employees both abroad and in the United States were/are professional and further commented on the fact that the beneficiary has and would have only one employee directly reporting to him.

Upon review of the record in its entirety, the AAO finds counsel's arguments and submissions on appeal have adequately addressed and resolved the director's concerns regarding all three grounds for denial. The petitioner has provided sufficient documentation to establish the levels of complexity of both the foreign and U.S. entities' respective organizational hierarchies and the beneficiary's elevated position and job duties within the scheme of both organizations. The petitioner has also provided supplemental documentation clearly showing common ownership and control of the beneficiary's foreign and U.S. employers. *See Matter of Church Scientology International*, 19 I&N Dec. 593 (BIA 1988); *see also Matter of Siemens Medical Systems, Inc.*, 19 I&N Dec. 362 (BIA 1986); *Matter of Hughes*, 18 I&N Dec. 289 (Comm. 1982).

In summary, the information provided is sufficient to meet the preponderance of the evidence standard with regard to the beneficiary's employment capacity, both abroad and in the United States, and with regard to the qualifying relationship between the beneficiary's foreign and U.S. employers.

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.