

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

U.S. Department of Homeland Security  
20 Mass Ave., N.W., Rm. 3000  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**



B<sub>4</sub>

FILE: [Redacted]  
LIN 07 099 51461

Office: NEBRASKA SERVICE CENTER

Date: FEB 02 2009

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

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 appeal will be summarily dismissed.

The petitioner claims to be a consulting business with two employees. It seeks to employ the beneficiary as its chief executive officer. 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 two independent grounds of ineligibility: 1) the petitioner failed to establish that the beneficiary was employed abroad in a qualifying managerial or executive capacity; and 2) the petitioner failed to establish that it would employ the beneficiary in a managerial or executive capacity.

On appeal, counsel asserts that the director's decision is erroneous, claiming that the beneficiary's duties are related to operational and/or policy management. Counsel also indicates that a brief and/or additional information would be submitted within 30 days in support of the appeal. On January 22, 2009, the AAO reviewed the record of proceeding and found that no additional evidence or information had been submitted to the AAO since the appeal was filed on January 10, 2008.<sup>1</sup>

Accordingly, the AAO faxed counsel a notice allowing an additional five days in which to provide a brief and/or any information *if* the petitioner had previously submitted such information to this office. The AAO clearly stated that this was not meant to allow the petitioner additional time in which to provide new information that had not been previously submitted to the AAO. Rather, this was merely an attempt to allow the petitioner to provide information that may have been submitted and gotten detached from the record of proceeding. On January 26, 2009, counsel responded to the AAO's facsimile, submitting evidence that a brief and supporting documentation was submitted in support of the appeal on February 8, 2008.

Upon review of this recently submitted material, the AAO notes that this brief and supporting documentation was submitted directly to the Nebraska Service Center, not the AAO. As indicated above, the regulations require this separately filed brief to have been submitted directly to the AAO, not the service center. *See* 8 C.F.R. § 103.3(a)(2)(viii). Accordingly, the copy of the previously submitted brief and supporting documentation may not be considered, and the record will be considered complete as constituted on the date the appeal was filed.

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.

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

---

<sup>1</sup> As required by 8 C.F.R. § 103.3(a)(2)(viii), if a brief is not filed together with the Form I-290B, it shall be submitted directly to the AAO within the time permitted by that office.

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.