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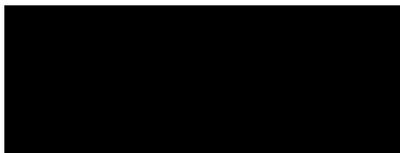
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals, MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

B4



File:



Office: NEBRASKA SERVICE CENTER

Date: DEC 16 2010

IN RE:

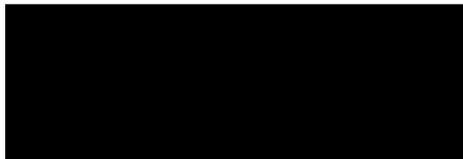
Petitioner:

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:

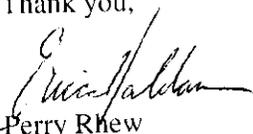


INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,


Perry Rhew

Chief, Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the employment-based immigrant petition. The director granted the petitioner's subsequent motion to reopen and reconsider and affirmed the previous denial of the petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a limited liability company organized in the State of New Jersey which claims to be engaging in the business of granite sales and distribution. It seeks to employ the beneficiary as its general manager. Accordingly, the petitioner filed a Form I-140, Immigrant Petition for Alien Worker, on July 23, 2007, seeking 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 on March 17, 2009, determining that the petitioner had not established: (1) that the U.S. company would employ the beneficiary in a primarily managerial or executive capacity; (2) that the beneficiary was employed abroad in a managerial or executive capacity; or (3) that there exists a qualifying relationship between the United States petitioner and the beneficiary's foreign employer.

On April 17, 2009, the petitioner filed a motion to reopen and reconsider along with additional evidence to address the grounds for denial stated in the director's decision. On May 28, 2009, the director issued a decision granting the motion to reopen and reconsider but affirming the previous decision to deny the petition. The director withdrew his determination with respect to the petitioner's failure to demonstrate the existence of a qualifying relationship between the U.S. and foreign entities, but concluded that the evidence submitted to address the beneficiary's U.S. and foreign employment failed to overcome the grounds for denial as stated in the previous decision.

On June 29, 2009, the petitioner filed an appeal of the director's decision on the motion. On the Form I-290B, Notice of Appeal or Motion, counsel checked the box indicating that a brief and/or additional evidence would be submitted within 30 days. In addition, in Part 3 of the Form I-290B, where the petitioner is to set forth the basis for the appeal, counsel simply stated:

The petition was denied on the grounds that

- 1) The beneficiary was not employed in an managerial/executive position
- 2) The beneficiary was not employed in an managerial/executive position in the overseas company for a continuous period of one year.

The petitioner and beneficiary will be submitting additional proof and legal grounds to overcome these grounds for denial.

To date, careful review of the record shows that no brief or additional evidence has been submitted by the petitioner since the Form I-290B was filed in June 2009.

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."

The petitioner has failed, in the Form I-290B or in any subsequent submission, to identify an erroneous conclusion of law or a statement of fact in the director's decision as a basis for the instant appeal. Thus, the regulations mandate the summary dismissal of 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. Here, that burden has not been met.

ORDER: The appeal is summarily dismissed.