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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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DATE: JUL 26 2011 OFFICE: [REDACTED] FILE: [REDACTED]

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:

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, [REDACTED] denied the preference visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. After reviewing the record in its entirety, the AAO finds that further action is required. Therefore, the matter will be remanded.

The record shows that the Form I-140 was filed on March 17, 2008 along with a letter from the petitioner, dated November 1, 2007, and supporting documents. After reviewing the petition, the director determined that additional documentation was needed in order to assess the petitioner's eligibility. Therefore, on August 15, 2008 the director issued a request for evidence. U.S. Citizenship and Immigration Services (USCIS) received the petitioner's response to the request on November 24, 2008 and on November 28, 2008 issued a Form I-797C in which the petitioner was informed that the Form I-140 was approved. However, on June 5, 2009 the director issued an adverse decision denying the petition despite its prior approval.

As a threshold matter, the AAO notes that the approval of a visa petition vests no rights in the beneficiary of the petition, as approval of a visa petition is but a preliminary step in the visa application process. The beneficiary is not, by mere approval of the petition, entitled to an immigrant visa. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The AAO further notes that revocation of a previously approved petition is permitted for "good and sufficient cause" so long as the director follows legally mandated protocol.

The regulation at 8 C.F.R. § 205.2(b) states that prior to issuing a final notice of revocation, the director must first issue a notice of intent to revoke the petition and allow the petitioner an opportunity to offer evidence in support of the petition and in opposition to the grounds alleged for revocation of the approval. By itself, the director's realization that a petition was incorrectly approved is good and sufficient cause for the issuance of a notice of intent to revoke an immigrant petition. *Matter of Ho*, 19 I&N Dec. 582, 590 (BIA 1988). If, however, the director fails to issue a notice of intent to revoke, the approval is not properly revoked. See § 205 of the Act.

As the approval was effectively issued on November 24, 2008, the director's subsequent issuance of the June 5, 2009 decision had the effect of revoking approval of the petition. However, the revocation was not preceded by a notice of the director's intent to revoke approval of the petition as required by 8 C.F.R. § 205.2(b). While the director's June 5, 2009 decision described a number of valid grounds that may support the director's ultimate decision to revoke approval of the petitioner's Form I-140, the director must comply with the provisions of 8 C.F.R. § 205.2(b) by issuing a notice of intent to revoke that will inform the petitioner of the adverse findings.

Section 205 of the Act, 8 U.S.C. § 1155, states: "The Attorney General may, at any time, for what he deems to be good and sufficient cause, revoke the approval of any petition approved by him under section 204."

Regarding the revocation on notice of an immigrant petition under section 205 of the Act, the Board of Immigration Appeals has stated:

In *Matter of Estime*, . . . this Board stated that a notice of intention to revoke a visa petition is properly issued for "good and sufficient cause" where the evidence of record at the time the notice is issued, if unexplained and un rebutted, would warrant a denial of the visa petition based upon the petitioner's failure to meet [its] burden of proof. The decision to revoke will be sustained where the evidence of record at the time the decision is rendered, including any

evidence or explanation submitted by the petitioner in rebuttal to the notice of intention to revoke, would warrant such denial.

Matter of Ho, 19 I&N Dec. at 590 (citing *Matter of Esteime*, 19 I&N 450 (BIA 1987)).

Accordingly, in light of the above, the director's adverse decision dated June 5, 2009 is hereby withdrawn and the director is instructed to serve the petitioner with a notice of intent to revoke listing all adverse findings and allowing the petitioner the opportunity to supplement the record with evidence addressing those findings.

ORDER: The decision of the director dated June 5, 2009 is withdrawn. The matter is remanded for further action and consideration consistent with the above discussion and entry of a new decision, which shall be certified to the AAO for review.