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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

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U.S. Citizenship
and Immigration
Services



B4

DATE: JUN 22 2011 OFFICE: TEXAS SERVICE CENTER



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: SELF-REPRESENTED

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 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 preference visa petition was denied by the Director, Texas Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a Florida corporation that seeks to employ the beneficiary as its marketing director. 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 concluding that the record lacks evidence establishing that the petitioner had been doing business in the United States for one year prior to filing pursuant to 8 C.F.R. § 204.5(j)(3)(i)(D).

On appeal, the beneficiary disputes the director's conclusion and states that a brief and/or additional information would be submitted within 30 days of the appeal. The beneficiary claims that she is attaching evidence to establish that the petitioner has been doing business since 2005. It is noted that there is no evidence to indicate that the record has been supplemented in any way since the date the appeal was filed. Accordingly, the record will be considered complete as presently constituted.

Section 203(b) of the Act states, in pertinent part:

(1) Priority Workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

* * *

(C) Certain Multinational Executives and Managers. -- An alien is described in this subparagraph if the alien, in the 3 years preceding the time of the alien's application for classification and admission into the United States under this subparagraph, has been employed for at least 1 year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof and who seeks to enter the United States in order to continue to render services to the same employer or to a subsidiary or affiliate thereof in a capacity that is managerial or executive.

The primary issue to be addressed in this decision is whether the petitioner had been doing business for at least one year prior to the date it filed the Form I-140.

The regulation at 8 C.F.R. § 204.5(j)(2) states that doing business means "the regular, systematic, and continuous provision of goods and/or services by a firm, corporation, or other entity and does not include the mere presence of an agent or office."

In the present matter, the only documentation submitted initially in support of the petition included evidence of the petitioner's corporate existence as of January 26, 2009, the petitioner's application for a federal tax identification number, and the petitioner's articles of amendment showing that the petitioner's name was changed to [REDACTED]

Accordingly, in a decision dated May 19, 2009, the director denied the petition, concluding that the above documentation does not establish that the petitioner had been doing business for one year prior to March 16, 2009, the date the instant Form I-140 was filed.

On appeal, the petitioner provides corporate documents establishing the petitioner's corporate existence and the issuance of shares, an untranslated [REDACTED] receipt dated March 18, 2006, and a receipt for payment of a local tax covering a one-year term from October 1, 2007 through September 30, 2008. Additionally, the beneficiary submits a notarized affidavit containing her address, date of birth, and alien registration number.

The AAO finds that the above submissions are not sufficient to overcome the basis for denial. First, with regard to the petitioner's corporate documents, evidence of an entity's corporate existence does not establish that business has been conducted on a "regular, systematic, and continuous" basis. Although the petitioner has claimed that it operates as an interior design company, no invoices have been submitted to establish the petitioner's purchase of merchandise or sale of its services. A single untranslated receipt from the [REDACTED] is not insufficient. The AAO further notes that 8 C.F.R. § 103.2(b)(3) requires that any foreign language document must be accompanied by a certified English language translation. As the petitioner failed to submit certified a translation of the store receipt, the AAO cannot determine whether the evidence supports the petitioner's claims.

In summary, the petitioner has submitted minimal documentation to support its claim and therefore has failed to establish that the petitioner meets the regulatory criteria specified at 8 C.F.R. § 204.5(j)(3)(i)(D). Therefore, the instant petition cannot be approved on the basis of this initial conclusion.

Additionally, while not addressed in the director's decision, the AAO finds that the record lacks evidence to establish that the petitioner meets the regulatory criteria discussed at 8 C.F.R. §§ 204.5(j)(3)(i)(B), (C), and 204.5(j)(5).

An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003); *see also Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004)(noting that the AAO reviews appeals on a *de novo* basis).

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 the petitioner has failed to 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 dismissed.

ORDER: The appeal is dismissed.