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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: **MAY 26 2011** OFFICE: NEBRASKA 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:



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.

Thank you,

Perry Rhew
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 The director's decision will be withdrawn and the appeal will be sustained.

The petitioner is a California corporation that seeks to employ the beneficiary as its general manager. 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.

In a decision dated August 11, 2009, the director referred to the descriptions of the beneficiary's foreign and proposed positions and concluded that the petitioner failed to establish that the beneficiary was employed abroad and that she would be employed in the United States in a qualifying managerial or executive capacity.

On appeal, counsel disputes the grounds for denial and submits an appellate brief further addressing the beneficiary's positions within each entity. The petitioner also supplemented the record with further information regarding the beneficiary's support staff with the U.S. entity, including their job duties and educational qualifications.

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 language of the statute is specific in limiting this provision to only those executives and managers who have previously worked for a firm, corporation or other legal entity, or an affiliate or subsidiary of that entity, and who are coming to the United States to work for the same entity, or its affiliate or subsidiary.

When examining the executive or managerial capacity of the beneficiary, the AAO will look first to the petitioner's description of the job duties. *See* 8 C.F.R. § 204.5(j)(5). A determination of the beneficiary's employment capacity should not, however, rest solely on an analysis of the beneficiary's position descriptions. Rather, the AAO considers the beneficiary's job descriptions in tandem with other relevant factors, including the petitioner's organizational hierarchy, the beneficiary's position therein, and the petitioner's overall ability to relieve the beneficiary from having to primarily perform the daily operational tasks.

In the present matter, the AAO finds that the petitioner has provided sufficient evidence to establish that it is more likely than not that the beneficiary was employed abroad and that she would be employed in the United States in a qualifying managerial or executive capacity. Although the AAO duly notes the director's observations regarding the beneficiary's salary as compared to one of her subordinates, this factor is not inconsistent with the petitioner's otherwise credible claims and supporting documentation.

Based upon a comprehensive review of the petitioner's record, the AAO finds no other grounds for denying the instant petition. Therefore, the petitioner has met the preponderance of the evidence standard.

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 met that burden.

ORDER: The appeal is sustained.