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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**



B4.

DATE: APR 03 2012

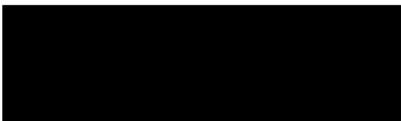
OFFICE: TEXAS SERVICE CENTER

FILE: 

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,

A handwritten signature in black ink, appearing to read "Perry Rhew".

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 The decision of the director will be withdrawn and the appeal will be sustained.

The petitioner is a multinational corporation that seeks to employ the beneficiary as its president. 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 determined that the petitioner failed to establish that the beneficiary would be employed in the United States in a qualifying managerial or executive capacity.

On appeal, counsel submits an appellate brief disputing the director's decision and pointing out facts in the record that address the relevant issues concerning the beneficiary's managerial capacity in his position with the U.S. entity. Counsel also adequately explains and resolves the inconsistency regarding the petitioner's staffing. Additionally, the beneficiary has supplemented the record with a statement in which he further clarifies his role within the petitioning entity and explains how the petitioner's organizational hierarchy functions to support the beneficiary in a managerial or executive capacity.

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, U.S. Citizenship and Immigration Services will examine relevant factors, including the beneficiary's job description, the petitioner's organizational hierarchy, the beneficiary's placement within the organization, and the petitioner's overall ability to relieve the beneficiary from having to primarily perform the daily operational tasks.

The record contains sufficient information about the petitioner's organizational hierarchy and the beneficiary's role with respect to other employees in the company. Proper consideration of the relevant factors leads the AAO to conclude that the petitioner is adequately staffed with individuals who are assigned to perform the daily non-qualifying tasks and relieve the beneficiary from having to allocate the primary portion of his time

either to performing such tasks or to overseeing the work of non-professional and independently contracted employees.

The AAO finds that the evidence provided in this proceeding establishes by a preponderance of the evidence that the beneficiary was more likely than not employed abroad and that he would more likely than not be employed in the United States in a qualifying managerial or executive capacity. *See* section 101(a)(44)(A) of the Act. The AAO concludes that the petitioner has overcome the director's adverse conclusion and the denial must therefore be withdrawn.

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 sustained that burden.

ORDER: The appeal is sustained.