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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 01 2012

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 The decision of the director will be withdrawn and the appeal will be sustained.

The petitioner is a multinational corporation operating in the United States as a manufacturer of women's sportswear. 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 denying the petition, the director found that the petitioner failed to establish that the beneficiary was employed abroad in a qualifying managerial or executive capacity or that he would be employed in the United States in a qualifying managerial or executive capacity.

On appeal, counsel disputes the director's findings and provides additional organizational charts pertaining to both entities. The petitioner also supplements the record with a statement from the vice president of the petitioning entity clarifying how the U.S. and foreign entities function and the beneficiary's role within each company with respect to his subordinates and superiors.

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.

While the director was correct in emphasizing the significance of a detailed job description, this element must be reviewed in light of a comprehensive analysis of other relevant factors, including the overall organizational structure and the beneficiary's placement therein. In the present matter, the record is persuasive in showing that both of the beneficiary's employers are highly staffed and are sufficiently complex in their hierarchical compositions in that both are comprised of multiple managerial tiers and highly skilled professionals who carry out the services required to manufacture and sell companies' products. Each entity's organizational chart contains sufficient information about its staffing hierarchy and the beneficiary's position with respect to the employees he supervised in his position abroad and those he would supervise in his proposed position with the U.S. entity. Proper consideration of these relevant factors indicates that each entity is widely staffed with individuals who are assigned to perform the daily non-qualifying tasks leaving the beneficiary to allocate the primary portion of his time to the performance of tasks within a qualifying managerial capacity.

Despite any shortfalls in the beneficiary's job descriptions, the information provided is sufficient to meet the preponderance of the evidence standard that the beneficiary was probably employed abroad and would most likely be employed in the United States in a qualifying managerial or executive capacity. *See* section 101(a)(44)(A) of the Act.

Accordingly, the AAO concludes that the petitioner has overcome the director's adverse findings 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.