

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



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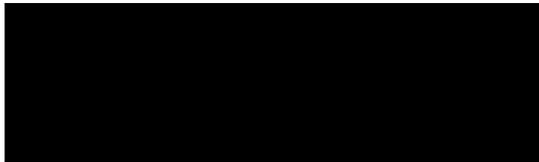
OFFICE: NEBRASKA SERVICE CENTER

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:

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, 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 The decision of the director will be withdrawn and the appeal will be sustained.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 Delaware corporation operating in the United States as an automated information systems and software firm in the directory and telecommunications industry. 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 would be employed in the United States in a qualifying managerial or executive capacity.

On appeal, counsel submits an appellate brief and additional supporting documents addressing the beneficiary's managerial capacity in his proposed position with the U.S. entity.

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). The AAO finds that it is also appropriate to consider the beneficiary's job description in light of 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.

While the AAO finds that the director was correct in emphasizing the importance of the description of the beneficiary's proposed job duties, this element should not solely determine whether the beneficiary merits the visa classification of multinational manager or executive. The AAO has considered the beneficiary's job description as part of a comprehensive analysis, which included a review of the petitioner's overall organizational structure and the beneficiary's placement therein.

The record is persuasive in showing that the beneficiary's proposed U.S. employer is staffed with highly skilled staff members and commissioned contractors who are available to carry out the non-qualifying operational tasks that enable to the petitioner to sell completed products to its clientele. The petitioner has provided detailed organizational charts that depict the beneficiary as a senior member of an entity with a complex hierarchical composition. The petitioner also provided job descriptions for the beneficiary's direct subordinates and for his role in overseeing their work and the various functions of the individual departments within the beneficiary's supervisory control. The record indicates that the petitioner is adequately staffed with individuals who are able to relieve the beneficiary from having to allocate the primary portion of his time to non-qualifying operational tasks.

The information provided is sufficient to establish that the beneficiary would more likely than not be employed in the United States in a qualifying managerial or executive capacity, thus meeting the preponderance of the evidence standard of proof. The AAO concludes that the petitioner has overcome the director's adverse decision. 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 has met that burden.

ORDER: The appeal is sustained.