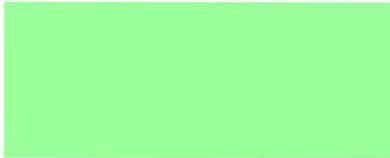


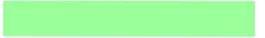


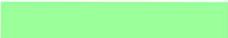
U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: **JUN 13 2013** OFFICE: NEBRASKA 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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case 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 in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** 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,

Ron Rosenberg
Acting 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 appeal was dismissed. The matter is now before the AAO on a second appeal, which the AAO will reject.

The petitioner is a California corporation that seeks to employ the beneficiary in the United States as its president/chief executive officer. The petitioner seeks 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 record shows that the director denied the petition on February 8, 2012 finding that the petitioner is statutorily ineligible based on its failure to establish that (1) the beneficiary was employed abroad in a qualifying managerial or executive capacity or (2) the beneficiary would be employed in the United States in a qualifying managerial or executive capacity.

The petitioner subsequently filed an appeal attempting to overcome the director's adverse decision. After reviewing the petitioner's submissions on appeal, the AAO determined that the petitioner provided sufficient evidence to overcome the director's adverse finding with regard to the beneficiary's proposed employment in the United States. However, the AAO did not issue a similar finding with regard to the beneficiary's employment abroad. Specifically, the AAO noted that the petitioner failed to address the issue of the beneficiary's employment with the foreign entity and therefore effectively conceded that issue. The AAO issued a decision dated March 4, 2013 dismissing the appeal based on the determination that the petitioner failed to establish that the beneficiary was employed abroad in a qualifying managerial or executive capacity.

The petitioner now submits a second appeal in support of which counsel provides a statement dated April 25, 2013. Counsel asks the AAO to review the additionally submitted documents and to "reverse the second ground for denial."

In light of the fact that the petitioner has filed an appeal of an appeal, the AAO is barred from issuing a decision, as there is no statutory or regulatory provision that permits the petitioner to file more than one appeal with regard to the same petition. *See* 8 C.F.R. § 103.3(a)(1)(ii). Although 8 C.F.R. § 103.5(a) permits the petitioner to file a motion to reopen or reconsider the AAO's decision on appeal, the Form I-290B in the present matter clearly indicates that the petitioner intended to file an appeal rather than a motion, apparently seeking to appeal the AAO's prior decision in this proceeding. As there is no law or regulation permitting the filing of multiple appeals of the same petition the petitioner's current appeal must be rejected.

The AAO further notes that even if the petitioner had properly filed a motion to reopen and/or reconsider the AAO's March 4, 2013 decision, the motion would have been dismissed.

A motion to reopen must state the new facts to be proved in the reopened proceeding and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3). A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

(b)(6)

Page 3

Here, the petitioner has not provided new, i.e., previously unavailable evidence or information, to support a motion to reopen; nor has the petitioner cited to pertinent precedent decisions to establish that the AAO's prior decision was based on an incorrect application of law or Service policy. Therefore, even the petitioner had properly filed a motion to reopen and/or reconsider, the motion would have been dismissed based on the petitioner's failure to meet the regulatory motion requirements.

In light of the petitioner's filing of a second appeal in reference to the same adverse decision, the second appeal will be rejected.

ORDER: The appeal is rejected.