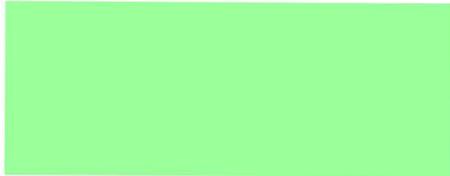




U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE:

**JUN 29 2013**

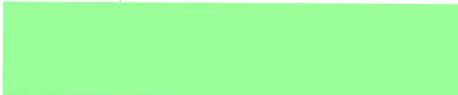
OFFICE: TEXAS SERVICE CENTER



IN RE:

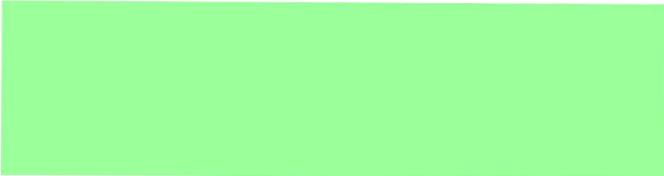
Petitioner:

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:

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.

Thank you,

Ron Rosenberg  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The preference visa petition was denied by the Director, Texas Service Center ("the director"). The matter is now before the Administrative Appeals Office (AAO) on appeal. The director's decision will be withdrawn and the matter will be remanded for entry of a new decision.

The petitioner is a Florida corporation that seeks to employ the beneficiary in the United States as its financial 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.

The director reviewed the petition and initial evidence and determined that the petition did not warrant approval. On September 5, 2012, the director issued a notice of intent to deny (NOID) informing the petitioner that "the United States employer and the foreign employer are unrelated business entities" and that the petitioner "has not submitted verifiable documentation to establish stock ownership in the U.S. company." The director further advised the petitioner that it "lacks the organizational complexity to warrant the employment of the beneficiary in a primarily managerial or executive capacity," and that "the evidence of record does not establish that she will primarily perform managerial or executive duties." The NOID contained no specific references to the evidence submitted in support of the petition. The director notified the petitioner that it had 30 days to submit evidence in support of the Form I-140 and indicated that "any evidence submitted will be carefully reviewed."

On October 1, 2012, counsel for the petitioner submitted a letter and approximately 20 exhibits in response to the NOID. The petitioner submitted evidence relevant to the director's concerns regarding the petitioner's qualifying relationship with the beneficiary's prior foreign employer and the beneficiary's proposed employment capacity in the United States.

On October 10, 2012, the director denied the petition. Upon review, the notice of decision consists of a nearly verbatim restatement of the NOID. The director failed to address any of the evidence submitted in support of the petition and failed to acknowledge the petitioner's timely-submitted response to the NOID.

When denying a petition, a director has an affirmative duty to explain the specific reasons for the denial; this duty includes informing a petitioner why the evidence failed to satisfy its burden of proof pursuant to section 291 of the Act, 8 U.S.C. § 1361. *See* 8 C.F.R. § 103.3(a)(1)(i). Upon review of the NOID and final decision issued in this matter, the director has not fulfilled this duty. The petitioner did not have adequate notice of the reasons for denial as a basis for filing the appeal.

Accordingly, the director's decision dated October 10, 2012 will be withdrawn, and the petition will be remanded to the director. The director is instructed to review the record of proceeding, including the petitioner's response to the NOID, and to issue a new decision. Any adverse decision or new NOID should reflect a review of all relevant evidence, material issues of fact and law and state the specific reasons for denial of the petition.

As always in these proceedings, the burden of proof rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361.

**ORDER:** The director's decision is withdrawn. The petition is remanded to the director for further action in accordance with the foregoing discussion and entry of a new decision which, if adverse, shall be certified to the Administrative Appeals Office for review.