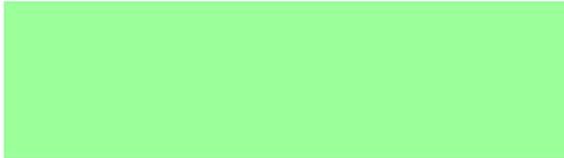




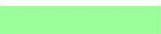
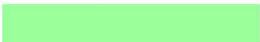
**U.S. Citizenship
and Immigration
Services**

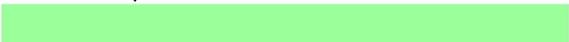
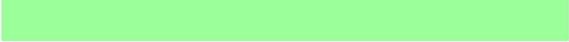
(b)(6)



DATE: **MAR 08 2013**

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: SELF-REPRESENTED

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, Texas Service Center. The petitioner appealed the matter to the Administrative Appeals Office (AAO) where the appeal was dismissed. The matter is now before the AAO on motion to reconsider. The motion will also be dismissed.

The petitioner is a Florida 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.

After reviewing the record and considering the petitioner's response to the request for evidence and notice of intent to deny, the director determined that the petitioner failed to establish that the beneficiary was employed abroad or that he would be employed in the United States in a qualifying managerial or executive capacity. The director therefore issued a decision dated June 7, 2010 denying the petition based on these two independent findings.

In a decision dated May 23, 2012, the AAO dismissed the petitioner's appeal, affirming the director's decision. The AAO found that the petitioner provided job descriptions which failed to convey a meaningful understanding of the specific tasks the beneficiary performed during his employment abroad and tasks that he would perform during his proposed position with the U.S. entity. The AAO noted that despite the petitioner's assertions regarding the beneficiary's managerial responsibilities with regard to formulating the foreign entity's policies, directing its management, and monitoring its finances, the petitioner failed to establish that the primary portion of the beneficiary's time was allocated to tasks of a qualifying nature.

The AAO issued similar findings with regard to the beneficiary's proposed employment with the U.S. entity, concluding that the petitioner failed to provide clarifying information about the beneficiary's broadly stated job responsibilities.

In support of the motion to reconsider, the petitioner submits a statement addressing and attempting to overcome the AAO's and the director's adverse findings.

The regulation at 8 C.F.R. § 103.5(a)(3) states, in pertinent part:

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.

The petitioner's statement does not cite to any pertinent precedent decisions to establish that the AAO's decision was based on an incorrect application of law or Service policy. None of the additional statements provided on motion establish that the AAO's decision was incorrect based on the evidence of record at the time of the AAO's review of the record on appeal.

In light of the above, this motion will be dismissed in accordance with 8 C.F.R. § 103.5(a)(4), which states, in pertinent part, that a motion that does not meet applicable requirements shall be dismissed.

(b)(6)

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As a final note, the proper filing of a motion to reopen and/or reconsider does not stay the AAO's prior decision to dismiss an appeal or extend a beneficiary's previously set departure date. 8 C.F.R. § 103.5(a)(1)(iv).

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. Here, the petitioner has not sustained that burden.

ORDER: The motion is dismissed.