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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

[Redacted]

DATE: **MAY 07 2013** Office: NEBRASKA SERVICE CENTER

[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:

[Redacted]

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,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The preference visa petition was initially denied on June 28, 2012 by the Director, Nebraska Service Center. On August 2, 2012, the director issued a notice informing the petitioner that the matter was being reopened on service motion.¹ On August 6, 2012, the director issued a new decision denying the petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will neither affirm nor overturn the director's decision. Rather, the appeal will be dismissed as moot.

The petitioner was organized as a limited liability company in the State of Florida. It seeks to employ the beneficiary as its chief executive officer and general 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.

In the August 6, 2012 decision, the director denied the petition based on the finding that the petitioner failed to establish that the beneficiary's proposed employment with the U.S. entity would be within a qualifying managerial or executive capacity.

On appeal, counsel disputes the director's decision, asserting that the beneficiary's position with the U.S. entity was previously deemed qualifying when the petitioner's L-1A nonimmigrant petitions were approved on behalf of the same beneficiary. In support of the appeal, the petitioner provides a statement, dated October 3, 2012, written and signed by the beneficiary's wife in her capacity as the petitioner's CEO. She explains that she has taken over running the petitioning entity since the death of her husband, the beneficiary in the present matter. Counsel specified in the appellate brief that the beneficiary passed away on February 17, 2012.

In light of the beneficiary's death, there is effectively no longer a valid job offer, as the petitioner's job offer was extended to [REDACTED] who is no longer available to assume the proffered position. While the petitioner seeks to pursue the appeal in hopes of replacing the beneficiary with the beneficiary's surviving spouse, the job offer is no longer valid and the issues in this proceeding are thereby moot. Accordingly, this appeal is dismissed. This decision is without prejudice to the petitioner's filing of a new petition on behalf of a new beneficiary.

ORDER: The appeal is dismissed as moot.

¹ Although the record shows that the petitioner submitted a timely motion to reconsider on July 25, 2012, the matter became moot by virtue of the director moving to reopen the matter on service motion. Therefore, the