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FEB 15 2005



FILE: SRC-03-162-50693 Office: TEXAS SERVICE CENTER Date:

IN RE: Petitioner:  
Beneficiary:



PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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.

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The Director, Texas Service Center, denied the petition for a nonimmigrant visa. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner states that it operates as a distributor of Japanese personal healthcare products. It seeks to extend its authorization to employ the beneficiary temporarily in the United States as its CEO, pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The director denied the petition concluding that the petitioner did not establish that the beneficiary will be employed in the United States in a primarily managerial or executive capacity.

With the Form I-290B appeal, the petitioner submits a statement further discussing the beneficiary's eligibility for L-1A classification. Specifically, the petitioner provides that "I agree with you, for the time being, the current majority of my efforts are spent in the 'non-executive' day to day operations of my business." The petitioner discusses the nature of its business, then states "[w]ithin 2-3 years, as my business in Florida starts to grow and flourish, I anticipate acting less and less in the day-to-day business building operations (seeking customers and independent business associates) and more and more in a managerial and executive capacity (managing, directing and helping to establish the goals and objectives of my newly created organization of independent business associates.)" The petitioner did not assert that the director's denial was based on any erroneous conclusion of law or statement of fact. The petitioner indicated on Form I-290B that it would submit additional evidence within 30 days. However, as of the date of the date of this decision, the AAO has received no further documentation or correspondence from the petitioner.

To establish eligibility under section 101(a)(15)(L) of the Act, the petitioner must meet certain criteria. Specifically, within three years preceding the beneficiary's application for admission into the United States, a firm, corporation, or other legal entity, or an affiliate or subsidiary thereof, must have employed the beneficiary for one continuous year. Furthermore, the beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial, executive, or specialized knowledge capacity.

Upon review, the AAO concurs with the director's decision and affirms the denial of the petition.

Regulations at 8 C.F.R. § 103.3(a)(1)(v) state, in pertinent part:

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the appeal must be summarily dismissed.

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 not met this burden.

**ORDER:** The appeal is summarily dismissed.