

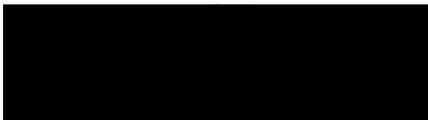
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U.S. Department of Homeland Security  
20 Massachusetts Ave., N.W., Rm. A3042  
Washington, DC 20529



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

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FILE: SRC 03 238 55936 Office: TEXAS SERVICE CENTER Date: FEB 15 2005

IN RE: Petitioner: [REDACTED]  
Beneficiary: [REDACTED]

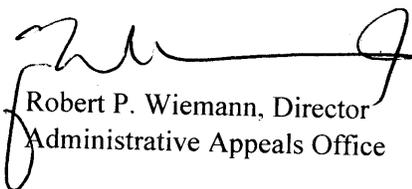
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:



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

According to the documentary evidence contained in the record, the petitioner was incorporated in 2002 and claims to be a buyer, distributor, and retailer of food and food supplies. The petitioner claims to be a subsidiary of [REDACTED] located in the British Virgin Islands. The petitioner seeks to employ the beneficiary temporarily in the United States as general manager of its new office for two years, at a yearly salary of \$35,000.00.

The director denied the petition determining that the petitioner had failed to submit sufficient evidence to establish that the beneficiary would be employed by the U.S. entity in a primarily managerial or executive capacity.

On appeal, counsel indicated that he would submit a brief and/or evidence to the AAO within 30 days of the Notice of Appeal. The notice of appeal is dated December 3, 2003. To date, the AAO has not received any additional evidence. Therefore, the record is considered complete.

Counsel fails to address the issues raised by the director regarding the lack of evidence in the record to establish that the beneficiary would be employed by the U.S. entity in a primarily managerial or executive capacity.

The regulation at 8 C.F.R. 103.3(a)(1)(v) states in part:

*Summary dismissal.* 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.

As counsel has failed to identify specifically any erroneous conclusion of law or statement of fact for the appeal, the appeal will be summarily dismissed.

In visa petition proceedings, the burden of proving eligibility for the benefit sought rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. The petitioner has not sustained that burden.

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