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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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JUN 17 2005

[Redacted]

File: EAC 02 159 53748 Office: VERMONT SERVICE CENTER Date:

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

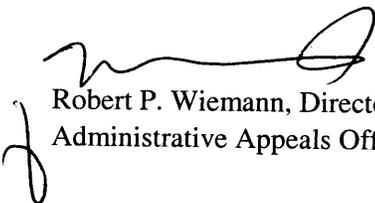
Petition: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

IN BEHALF OF PETITIONER:

[Redacted]

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, Vermont Service Center, denied the petition for a nonimmigrant visa. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will dismiss the appeal.

The petitioner filed this nonimmigrant petition seeking to employ the beneficiary as an L-1A nonimmigrant intracompany transferee pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner is a corporation organized in the State of New Jersey that claims to operate a restaurant, a catering business and a health club/spa. The petitioner's 2001 IRS Form 1120, U.S. Corporation Income Tax Return identifies it as a holding company with three subsidiaries. The petitioner claims that it is the affiliate of [REDACTED] located in [REDACTED]. The petitioner seeks to employ the beneficiary as its accounting/financial manager.

The director denied the petition concluding that the beneficiary would not be employed in a primarily executive or managerial capacity.

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review. On appeal, counsel for the petitioner explains that the petitioner filed the instant petition for the sole purpose of seeking an amended Form I-797 Approval Notice for a previously approved petition filed by the petitioner on behalf of the beneficiary for the same position. Counsel claims that the director erroneously issued a denial, "ignoring the fact that this petition has already been approved and continuing to ignore and disregard the beneficiary's request for a change of status." Counsel requests that the decision be withdrawn and a proper Form I-797A Approval Notice be issued.

A review of the Citizenship and Immigration Services (CIS) records indicates that this beneficiary in this case is also the beneficiary of an approved immigrant petition, filed by the same employer, and has adjusted status to that of a permanent resident as of April 2, 2004. While the petitioner has not withdrawn the appeal in this proceeding, it would appear that the beneficiary is presently a permanent resident and the issues in this proceeding are moot. Therefore, this appeal is dismissed.

ORDER: The appeal is dismissed as moot.