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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

Administrative Appeals Office
Petition for Nonimmigrant
Worker Pursuant to Section 101(a)(15)(L)

D

MAR 11 2015

[Redacted]

FILE: [Redacted] 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)

ON 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 appeal will be summarily dismissed.

The petitioner states that it is a news media services company. It seeks to temporarily employ the beneficiary in the United States as its chief editor. The director denied the petition based on the conclusion that the petitioner failed to establish that the new office would have sufficient staff after its first year of operations to relieve the beneficiary from performing day-to-day, non-managerial tasks, and consequently, the beneficiary would not be acting primarily in a managerial or executive capacity as required by the regulations. Specifically, the director noted that the business plans submitted were not detailed, consisted only of brief statements, and failed to reasonably outline the projected growth of the U.S. petitioner during the first year of operations.

On appeal, counsel for the petitioner indicated that it would be submitting a brief and/or additional evidence addressing the director's denial within 30 days. Although counsel submitted a brief statement on the Form I-290B, the statement is confusing and fails to adequately address the director's conclusions. Specifically, counsel for the petitioner states:

Application of correct legal standards to determine eligibility of L-1 Nonimmigrant worker classification for the U.S. subsidiary of parent company based in India. The decision demonstrates a bias against the U.S. subsidiary's ability to operate in the first year of its approval of intra-company transfer. Provide additional evidence of U.S. subsidiary efforts to acquire land and real estate [sic], including but not limited to hotel/motel lease to perform at a level sufficient to generate employment.

Counsel's general objections on the Form I-290B are unclear and fail to specifically identify any errors on the part of the director. The mere filing of the Form I-290B is insufficient to overcome the well-founded and logical conclusions the director reached based on the evidence submitted by the petitioner. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

On review, the record as presently constituted is not persuasive in demonstrating that the beneficiary has been or will be employed in a primarily managerial or executive capacity. The petitioner indicates that it plans to engage in other business activities, such as real estate and hotels. However, 8 C.F.R. § 214.2(l)(3)(v)(C) allows the intended United States operation one year within the date of approval of the petition to support an executive or managerial position. There is no provision in CIS regulations that allows for an extension of this one-year period. If the business is not sufficiently operational after one year, the petitioner is ineligible by regulation for an extension. In the instant matter, the petitioner has not reached the point that it can employ the beneficiary in a predominantly managerial or executive position.

On the appeal received on July 29, 2003, counsel for the petitioner indicates that it would be sending a brief and/or evidence to the AAO within 30 days. Counsel for the petitioner has filed no further brief or evidence with the director or the AAO, and more than the time allowed and requested has elapsed. 8 C.F.R. § 103.3(a)(2)(i) and (viii). As stated above, the petitioner does not identify, specifically, any erroneous conclusion of law or statement of fact. Hence, the appeal must be summarily dismissed. 8 C.F.R. § 103.3(a)(1)(v).

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.

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. Inasmuch as counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the petitioner has not sustained that burden. Therefore, the appeal will be summarily dismissed.

ORDER: The appeal is summarily dismissed.