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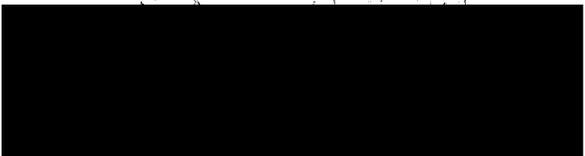
File: WAC 04 081 51317 Office: CALIFORNIA SERVICE CENTER Date: AUG 03 2006

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)

IN 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, Chief
Administrative Appeals Office

DISCUSSION: The Director, California 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 petitioner¹ filed this nonimmigrant visa petition seeking to extend the employment of its managing director/president 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 under the laws of the State of California and is allegedly engaged in the business of purchasing and selling of tobacco and tobacco products. The petitioner claims a qualifying relationship with Mustapha Hassan Trading Est., located in Dubai, United Arab Emirates. The beneficiary was initially granted a one-year period of stay to open a new office in the United States and was subsequently granted a two year extension. The petitioner now seeks to extend the beneficiary's stay for an additional two years.

The director denied the petition concluding that the petitioner did not establish that the beneficiary has been or will be employed in the United States in a primarily managerial or executive capacity.

The petitioner filed an appeal.² The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review. On appeal, the petitioner asserts that the director erred in denying the petition for failing to follow the guidance in an April 23, 2004 Citizenship and Immigration Services (CIS) Interoffice Memorandum. This Memorandum provided guidance on the process by which an adjudicator, during the adjudication of a subsequent request for petition extension, may question another adjudicator's prior approval of a nonimmigrant petition where there has been no material change in the underlying facts.

To establish eligibility for the L-1 nonimmigrant visa classification, the petitioner must meet the criteria outlined in section 101(a)(15)(L) of the Act. Specifically, a qualifying organization must have employed the beneficiary in a qualifying managerial or executive capacity, or in a specialized knowledge capacity, for one continuous year within three years preceding the beneficiary's application for admission into the United States. In addition, 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

¹ It should be noted that the petitioner is identified in the Form I-129 as Malcolm Import Export, Inc. However, according to the corporate records for the State of California, the name of the corporation is actually Malcolm Export Import, Inc.

² The Form G-28, Entry of Appearance as Attorney or Representative, dated November 8, 2004, which was submitted for the record was signed by Mary Agnes Fernandes, the spouse of the beneficiary (identified in the G-28 as "applicant"), not by an authorized representative of the petitioner. Moreover, the I-290B, which was submitted also clearly states that the attorney is acting on behalf of Mary Agnes Fernandes, and not on behalf of the Petitioner, Malcolm Export Import, Inc. A third party is not an affected party in this proceeding, and the attorney for a third party may not be recognized. 8 C.F.R. § 103.3(a)(1)(iii)(B); 8 C.F.R. § 103.3(a)(2)(v). Accordingly, while the assertions made by counsel may be addressed, they will not be given any weight in this proceeding.

specialized knowledge capacity.

The regulation at 8 C.F.R. § 214.2(l)(3) states that an individual petition filed on Form I-129 shall be accompanied by:

- (i) Evidence that the petitioner and the organization which employed or will employ the alien are qualifying organizations as defined in paragraph (l)(1)(ii)(G) of this section.
- (ii) Evidence that the alien will be employed in an executive, managerial, or specialized knowledge capacity, including a detailed description of the services to be performed.
- (iii) Evidence that the alien has at least one continuous year of full time employment abroad with a qualifying organization within the three years preceding the filing of the petition.
- (iv) Evidence that the alien's prior year of employment abroad was in a position that was managerial, executive or involved specialized knowledge and that the alien's prior education, training, and employment qualifies him/her to perform the intended services in the United States; however, the work in the United States need not be the same work which the alien performed abroad.

The regulation at 8 C.F.R. § 214.2(l)(14)(i) also provides that a visa petition may be extended by filing a new Form I-129. The petitioner does not need to supply supporting documentation unless requested by the director.

The primary issue in the present matter is whether the beneficiary will be employed by the United States entity in a primarily managerial or executive capacity.

Section 101(a)(44)(A) of the Act, 8 U.S.C. § 1101(a)(44)(A), defines the term "managerial capacity" as an assignment within an organization in which the employee primarily:

- (i) manages the organization, or a department, subdivision, function, or component of the organization;
- (ii) supervises and controls the work of other supervisory, professional, or managerial employees, or manages an essential function within the organization, or a department or subdivision of the organization;
- (iii) if another employee or other employees are directly supervised, has the authority to hire and fire or recommend those as well as other personnel actions (such as promotion and leave authorization), or if no other employee is directly supervised, functions at a senior level within the organizational hierarchy or with respect to the function managed; and

- (iv) exercises discretion over the day to day operations of the activity or function for which the employee has authority. A first line supervisor is not considered to be acting in a managerial capacity merely by virtue of the supervisor's supervisory duties unless the employees supervised are professional.

Section 101(a)(44)(B) of the Act, 8 U.S.C. § 1101(a)(44)(B), defines the term "executive capacity" as an assignment within an organization in which the employee primarily:

- (i) directs the management of the organization or a major component or function of the organization;
- (ii) establishes the goals and policies of the organization, component, or function;
- (iii) exercises wide latitude in discretionary decision making; and
- (iv) receives only general supervision or direction from higher level executives, the board of directors, or stockholders of the organization.

The petitioner does not clarify whether the beneficiary is claiming to be primarily engaged in managerial duties under section 101(a)(44)(A) of the Act, or primarily executive duties under section 101(a)(44)(B) of the Act, and implies in its rebuttal to the director's Notice of Intent to Deny that the beneficiary is acting as both. A beneficiary may not claim to be employed as a hybrid "executive/manager" and rely on partial sections of the two statutory definitions. If the petitioner is indeed representing the beneficiary as both an executive *and* a manager, it must establish that the beneficiary meets each of the four criteria set forth in the statutory definition for executive and the statutory definition for manager.

In the initial I-129 petition, the petitioner described the beneficiary's job duties as follows: "To continue to manage and expand the business in the United States, hire personnel and make all financial and administrative decisions for the company." Further, in the supporting materials submitted with the initial petition, the petitioner includes an undated support letter, which states that the petitioner has one U.S. employee and is in the process of hiring two more. The remainder of the initial petition consists of tax forms, bank and financial documents, a lease, and information regarding the foreign entity.

On March 11, 2004, the director issued a Notice of Intent to Deny giving the petitioner thirty days to submit additional information, evidence, or arguments to support the petition. The director explained in the Notice that there was insufficient evidence to demonstrate how the beneficiary's daily activities, or the specific scope and nature of his activities, will be managerial or executive. Title 8 C.F.R. § 214.2(l)(14)(i) specifically permits the director to request supporting documentation in the context of an L1 extension petition.

In response, the petitioner submitted a letter of support dated April 4, 2004 explaining the following:

As president of the new subsidiary, [the beneficiary] was responsible for establishing all

aspects of the new office. He made all decisions regarding the nature and path of the new business. He was responsible for designing and developing sales and marketing activities to insure that the subsidiary was correctly positioned in a new market. Although the new office relied on outside consultants in the start-up period, [the petitioner] now relies on house staff.

[The beneficiary] has the authority to hire and fire personnel. He has hired an assistant.

* * *

[The beneficiary] has been responsible for carrying out operational goals and actions. He has managed a budget for sales and marketing.

Under only general direction of the board of the parent company, [the beneficiary] has established a foundation for doing business in a competitive American market. He has worked to create an image for the company and its products in the local market.

The parent company has relied on the recommendations of [the beneficiary] in setting a budget. It has also relied on his analysis of the American market.

[The beneficiary] has been responsible for making independent adjustments to the business strategy of the subsidiary based on his observations of the North American market and feedback received from buyers, distributors, sellers and users. He has taken action within the organization to effect such necessary changes in policy and goals.

* * *

[The beneficiary] has been vested with discretionary authority over the day-to-day strategic decisions regarding the sales and distribution activities of the USA subsidiary, including the hiring of personnel and outside contractors, the firing of same, choice of business model, design of buyer incentive programs, negotiations of leasing and other contracts.

[The beneficiary] was responsible for the negotiation and approval of contracts with North American sellers.

* * *

[The beneficiary] periodically consults with the board of the parent company regarding the results of various marketing efforts and sales programs selected by the General Manager of the parent company.

[The beneficiary], as president, is responsible for strategic managerial decisions affecting sales and marketing subject to periodic review of the board of directors.

[The beneficiary] has had day-to-day discretionary authority to direct the operations of

the US subsidiary during his three years of temporary employment in L1A status.

[The beneficiary] has hired two people to carry out the daily activities of the business. Although he has the power to fire any employee, he has yet to exercise that power.

In further pursuit of his responsibilities, he has implemented a business plan for the USA subsidiary. He has directed that the company target specific aspects of the retail market.

[The beneficiary] has adjusted the overall sales and marketing strategy to fit the local market. Adjustments to the overall business plan were implemented by [the beneficiary] as the President of the company, and he continues to adjust the strategic approach to the USA market on an ongoing basis.

[The beneficiary] has had to adjust the budget of the subsidiary as the recession in the United States continues. This has meant that he has had to abandon certain economic assumptions as he has seen fit according to his entrepreneurial experiences both abroad and here.

[The beneficiary's] extensive executive experience in the retail industry has allowed him to arrange for local financing on attractive credit terms. This flexibility has been critical in giving the relatively new business an opportunity to operate in a fiscally responsible and orderly manner.

* * *

[The beneficiary] has been responsible for controlling the prices of products in the new market. He has relied on wide-ranging sources, including industry reports and consultants, to allow him to price products attractively on an ongoing basis. To maintain our pricing edge, [the beneficiary] must adroitly calculate consumer desire and confidence, industry trend changing, industry margins and terms of payment.

[The beneficiary] had done this with a specific business strategy tailored to the US market.

Examples of specific goals and policies that the president has established are:

1. Be open to all aspects of the marketplace.
2. Pursue different approaches to each distinct area of the marketplace.
3. Hire more staff as soon as finances permit. Quality people, plus quality product, equals a successful company.
4. Publicize the product without overpaying.

Some discretionary decisions that the beneficiary has exercised during his tenure with the

company include:

1. Selected office and store premises and extended leases. Searched for new expansion sites.
2. Hired a professional to handle accounting.
3. Chose a website designer.
4. Chose product line that would most appeal to consumers in new North American market. Adjusted product line in response to retailer reaction. Discarded overly floral line that was a success in Asia in favor of simpler designs for American market.
5. Set pricing policies based on market research and targeting of outlet-specific pricing.
6. Guided purchase policy.

On October 8, 2004, the director denied the petition. The director determined that the petitioner did not establish that the beneficiary has been or will be employed in the United States in a primarily managerial or executive capacity.

On appeal, the petitioner asserts that the beneficiary's duties are primarily those of an executive or manager. In support of this appeal, the petitioner relies on the fact that CIS approved an L-1A petition submitted on behalf of the beneficiary in 2002 by the same petitioner for the same position. The petitioner argues that the director failed to follow the guidelines established in an April 23, 2004 Citizenship and Immigration Services (CIS) Interoffice Memorandum. This Memorandum provided guidance on the process by which an adjudicator, during the adjudication of a subsequent request for petition extension, may question another adjudicator's prior approval of a nonimmigrant petition where there has been no material change in the underlying facts. Specifically, this Memorandum states that adjudicators should give deference to prior approvals involving the same underlying facts except where: (1) it is determined that there was a material error with regard to the previous petition approval; (2) a substantial change in circumstances has taken place; or (3) there is new material information that adversely impacts the petitioner's or beneficiary's eligibility. Memo. From William R. Yates, Associate Director for Operations, to Service Center Directors, *The Significance of a Prior CIS Approval of a Nonimmigrant Petition in the Context of a Subsequent Determination Regarding Eligibility for Extension of Petition Validity* (April 23, 2004). The Memorandum also states that the adjudicator should clearly articulate the material error, changed circumstances, or new material information in his or her decision. *Id.* The petitioner argues that, since the director did not articulate any of these three justifications for not deferring to the earlier approval, the decision was in error.

Upon review, petitioner's assertions are not persuasive. Even though the director did not specifically determine that there was material error with regard to the previous petition, the AAO agrees with the director that, upon a review of the facts, the earlier determination that the beneficiary was working primarily in a managerial or executive capacity was a material error.³

³ Before further addressing the merits of the appeal, the legal significance of the April 23, 2004 Memorandum should be addressed. This Memorandum, which specifically states that adjudicators are not bound to approve

When examining the executive or managerial capacity of the beneficiary, the AAO will look first to the petitioner's description of the job duties. *See* 8 C.F.R. § 214.2(l)(3)(ii). The petitioner's description of the job duties must clearly describe the duties to be performed by the beneficiary and indicate whether such duties are either in an executive or managerial capacity. *Id.* The petitioner must specifically state whether the beneficiary is primarily employed in a managerial or executive capacity. As explained above, a petitioner cannot claim that some of the duties of the position entail executive responsibilities, while other duties are managerial. A beneficiary may not claim to be employed as a hybrid "executive/manager" and rely on partial sections of the two statutory definitions. If the petitioner is indeed representing the beneficiary as both an executive *and* a manager, it must establish that the beneficiary meets each of the four criteria set forth in the statutory definition for executive and the statutory definition for manager.

The petitioner has failed to prove that the beneficiary will act in a "managerial" capacity. In support of its application, the petitioner has provided a vague and nonspecific description of the beneficiary's duties that

subsequent petitions where ineligibility has not been demonstrated because of erroneous prior approvals, limits its authority on Page 4 of the Memorandum:

This memorandum is intended solely for guiding USCIS personnel in performance of their professional duties. It is not intended to be, and may not be relied upon, to create any right or benefit, substantive or procedural, enforceable at law by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or matter.

Id.

Courts have consistently supported this position. *Loa-Herrera v. Trominski*, 231 F.3d 984, 989 (5th Cir. 2000) (holding that CIS memoranda merely articulate internal guidelines for INS personnel; they do not establish judicially enforceable rights. An agency's internal personnel guidelines "neither confer upon [plaintiffs] substantive rights nor provide procedures upon which [they] may rely"); *see also Noel v. Chapman*, 508 F.2d 1023 (2nd Cir. 1975) (finding that policy memoranda to INS district directors regarding voluntary extended departure determinations to be "general statements of policy"); *Prokopenko v. Ashcroft*, 372 F.3d 941, 944 (8th Cir. 2004) (describing an INS Operating Policies and Procedures Memorandum (OPPM) as an "internal agency memorandum," "doubtful" of conferring substantive legal benefits upon aliens or binding the INS); *Romeiro de Silva v. Smith*, 773 F.2d 1021, 1025 (9th Cir. 1985) (describing an INS Operations Instruction (OI) as an "internal directive not having the force and effect of law"); *Ponce-Gonzalez v. INS*, 775 F.2d 1342, 1346-47 (5th Cir. 1985) (finding that OIs are "only internal guidelines" for INS personnel, and that an apparent INS violation of an OI requiring investigation of an alien's eligibility for statutory relief from deportation was at worst "inaction not misconduct").

Therefore, the Memorandum does not create any substantive rights in the petitioner, and a director's failure to follow the guidance in the Memorandum would not be grounds for a withdrawal of the decision.

fails to demonstrate what the beneficiary does on a day-to-day basis. For example, the petitioner states that the beneficiary's duties include making independent business decisions, carrying out goals and actions, hiring and firing employees, implementing the business plan, arranging financing, pricing products, and designing marketing activities. The petitioner did not, however, define the beneficiary's goals or policies, his marketing plan, his financing package, his products, or his business plan. The petition also failed to clarify who actually will do the work that is being managed. 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). Specifics are clearly an important indication of whether a beneficiary's duties are primarily executive or managerial in nature; otherwise meeting the definitions would simply be a matter of reiterating the regulations. *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103 (E.D.N.Y. 1989), *aff'd*, 905 F.2d 41 (2d. Cir. 1990).

The petitioner also failed to supply a job description for the beneficiary's subordinate(s) or to explain whom, exactly, will be providing the services being rendered by the petitioner. As correctly determined by the director, the beneficiary would appear to be either a first-line supervisor or the provider of actual services. An employee who "primarily" performs the tasks necessary to produce a product or to provide services is not considered to be "primarily" employed in a managerial or executive capacity. See sections 101(a)(44)(A) and (B) of the Act (requiring that one "primarily" perform the enumerated managerial or executive duties); see also *Matter of Church Scientology Intl.*, 19 I&N Dec. 593, 604 (Comm. 1988). A managerial or executive employee must have authority over day-to-day operations beyond the level normally vested in a first-line supervisor, unless the supervised employees are professionals. 101(a)(44)(A)(iv) of the Act; see also *Matter of Church Scientology Intl.*, 19 I&N Dec. at 604. Since record fails to reveal the educational or skill level of the subordinate employee, it cannot be determined if he rises to the level of professional employees.⁴ Therefore, the record does not prove that the beneficiary is acting in a managerial capacity.

Similarly, the petitioner has failed to prove that the beneficiary will act in an "executive" capacity. The statutory definition of the term "executive capacity" focuses on a person's elevated position within a complex organizational hierarchy, including major components or functions of the organization, and that person's authority to direct the organization. Section 101(a)(44)(B) of the Act. Under the statute, a beneficiary must have the ability to "direct the management" and "establish the goals and policies" of that organization. Inherent to the definition, the organization must have a subordinate level of employees for the beneficiary to direct and the beneficiary must primarily focus on the broad goals and policies of the organization rather than

⁴ In evaluating whether the beneficiary manages professional employees, the AAO must evaluate whether the subordinate positions require a baccalaureate degree as a minimum for entry into the field of endeavor. Section 101(a)(32) of the Act, 8 U.S.C. § 1101(a)(32), states that "[t]he term *profession* shall include but not be limited to architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academies, or seminaries." The term "profession" contemplates knowledge or learning, not merely skill, of an advanced type in a given field gained by a prolonged course of specialized instruction and study of at least baccalaureate level, which is a realistic prerequisite to entry into the particular field of endeavor. *Matter of Sea*, 19 I&N Dec. 817 (Comm. 1988); *Matter of Ling*, 13 I&N Dec. 35 (R.C. 1968); *Matter of Shin*, 11 I&N Dec. 686 (D.D. 1966).

the day-to-day operations of the enterprise. An individual will not be deemed an executive under the statute simply because they have an executive title or because they "direct" the enterprise as the owner or sole managerial employee. The beneficiary must also exercise "wide latitude in discretionary decision making" and receive only "general supervision or direction from higher level executives, the board of directors, or stockholders of the organization." *Id.* As indicated above, the petitioner has failed to prove that the beneficiary, who is allegedly managing no more than one employee who is apparently engaged in providing services to customers, will be acting primarily in an executive capacity.

It is appropriate for CIS to consider the size of the petitioning company in conjunction with other relevant factors, such as a company's small personnel size, the absence of employees who would perform the non-managerial or non-executive operations of the company, or a "shell company" that does not conduct business in a regular and continuous manner. *See, e.g. Systronics Corp. v. INS*, 153 F. Supp. 2d 7, 15 (D.D.C. 2001).

Despite any number of previously approved petitions, CIS does not have any authority to confer an immigration benefit when the petitioner fails to meet its burden of proof in a subsequent petition. *See* section 291 of the Act, 8 U.S.C. § 1361. The prior approvals do not preclude CIS from denying an extension of the original visa based on a reassessment of petitioner's qualifications. *Texas A&M Univ. v. Upchurch*, 99 Fed. Appx. 556, 2004 WL 1240482 (5th Cir. 2004). Therefore, even though the petitioner was successful in the past in petitioning for the beneficiary, the director properly denied the petition in this case.

Furthermore, if the previous nonimmigrant petitions were approved based on the same unsupported and contradictory assertions that are contained in the current record, the approval would constitute material and gross error on the part of the director. The AAO is not required to approve an application or petition where eligibility has not been demonstrated merely because of prior approvals that may have been erroneous. *See, e.g., Matter of Church Scientology International*, 19 I&N Dec. 593, 597 (Comm. 1988). It would be absurd to suggest that CIS or any agency must treat acknowledged errors as binding precedent. *Sussex Eng'g. Ltd. v. Montgomery*, 825 F.2d 1084, 1090 (6th Cir. 1987), *cert. denied*, 485 U.S. 1008 (1988).

In this case, not only was there material and gross error in determining that the beneficiary was serving in a primarily executive or managerial capacity for the reasons outlined above, but there was material and gross error in determining that a qualifying relationship exists between the petitioner and the foreign entity, Mustapha Hassan Trading Est.

The regulation at 8 C.F.R. § 214.2(l)(3) states that an individual petition filed on Form I-129 shall be accompanied by:

- (i) Evidence that the petitioner and the organization which employed or will employ the alien are qualifying organizations as defined in paragraph (l)(1)(ii)(G) of this section.

8 C.F.R. § 214.2(i)(1)(ii)(G) defines a "qualifying organization" as a firm, corporation, or other legal entity which "meets exactly one of the qualifying relationships specified in the definitions of a parent, branch, affiliate

or subsidiary specified in paragraph (l)(1)(ii) of this section." An "affiliate" is defined, in part, as "one or two subsidiaries both of which are owned and controlled by the same parent or individual."

The I-129 petition purports that the foreign entity, [REDACTED], is 100% owned by Mr. [REDACTED]. The I-129 also purports that [REDACTED] is a 50% shareholder in the petitioner. If true, this would establish that the two entities are "affiliates" under the definition above. However, upon reviewing the tax documents submitted by the petitioner with the initial petition and in its rebuttal to the Notice of Intent to Deny, it is now clear that the two entities are not affiliated. The petitioner's IRS Forms 1120 from 2001 and 2003, and the petitioner's California Corporate Income Tax forms from 2001 and 2002, clearly and consistently identify the beneficiary as the 100% owner of petitioner. Therefore, the two entities are 100% owned by two different people. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Therefore, since the record indicates that the petitioner and the foreign entity are not affiliated, there was a material or gross error in the approval of the earlier petition and the petition for extension may properly be denied.

An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003); *see also Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989) (noting that the AAO reviews appeals on a *de novo* basis).

The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. When the AAO denies a petition on multiple alternative grounds, a plaintiff can succeed on a challenge only if it is shown that the AAO abused its discretion with respect to all of the AAO's enumerated grounds. *See Spencer Enterprises, Inc.*, 229 F. Supp. 2d at 1043.

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. Here, that burden has not been met. Accordingly, the appeal will be dismissed.

Finally, based on the reasons for the denial of the instant petition, a review of the prior L-1 nonimmigrant petitions approved on behalf of the beneficiary is warranted to determine if they were also approved in error. Therefore, the director shall review the prior L-1 nonimmigrant petitions approved on behalf of the beneficiary for possible revocation in accordance with 8 C.F.R. § 214.2(1)(9).

ORDER: The appeal is dismissed.

FURTHER ORDERED: The director shall review the prior L-1 nonimmigrant petitions approved on behalf of the beneficiary for possible revocation pursuant to 8 C.F.R. § 214.2(1)(9).