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FILE: WAC 02 245 55339 Office: CALIFORNIA SERVICE CENTER Date: MAR 07 2008

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

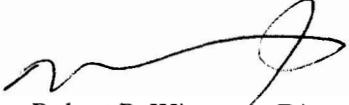
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

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

The petitioner is a California corporation that claims to provide management and investment services. The petitioner filed this nonimmigrant petition seeking to extend the employment of its chief executive officer 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).

On August 20, 2002, the director denied the petition determining that the petitioner had not submitted sufficient evidence to establish: (1) that the foreign entity is a qualifying organization doing business abroad; (2) that a qualifying relationship exists between the petitioner and the beneficiary's foreign employer; or (3) that the beneficiary would be employed by the U.S. entity in a primarily managerial or executive capacity.

The petitioner subsequently filed a motion to reconsider, and the director dismissed the motion on December 12, 2002 without disturbing his August 20, 2002 decision. This timely appeal followed.

On the Form I-290B Notice of Appeal, filed on January 10, 2003, counsel for the petitioner indicates that a brief and/or evidence would be submitted within 30 days. As of this date, the record does not contain a supplemental appellate brief or evidence. The statement on the Form I-290B reads:

1. Sufficient evidence was submitted to establish that the foreign entity exists and is doing business.
2. Sufficient evidence was submitted to establish the Beneficiary has been performing primarily as an executive and/or manager as defined by the USINS.
3. Sufficient evidence was submitted to establish a parent/subsidiary relationship exists between [REDACTED], the parent, and [the petitioner], the subsidiary.
4. Motion to reconsider was supported by documentary evidence and affidavits warranting its granting.

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 specialized knowledge capacity.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, 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."

The petitioner does not identify an erroneous conclusion of law or a statement of fact in the director's decision as a basis for the appeal. The unsupported statements of counsel on appeal or in a motion are not evidence

and thus are not entitled to any evidentiary weight. *See INS v. Phinpathya*, 464 U.S. 183, 188-89 n.6 (1984); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503 (BIA 1980). Inasmuch as the petitioner has failed to identify an erroneous conclusion of law or a statement of fact in support of the appeal, the regulations mandate the summary dismissal of the appeal.

The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.

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