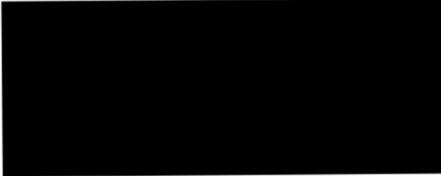


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U.S. Citizenship  
and Immigration  
Services

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FILE: EAC 04 092 53462 Office: VERMONT SERVICE CENTER Date:

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

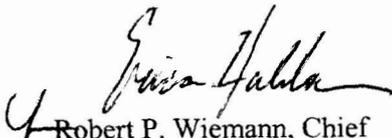
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the  
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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 nonimmigrant visa petition was initially approved by the Director, Vermont Service Center. The director subsequently served the petitioner with a notice of her intention to revoke the approval of the nonimmigrant visa petition, and ultimately revoked the approval of the petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The U.S. entity petitioned Citizenship and Immigration Services (CIS) to classify the beneficiary as a nonimmigrant intracompany transferee (L-1A) 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 New York corporation that claims to be engaged in the investment business. The petitioner states that it is a subsidiary of [REDACTED] located in China. The beneficiary was initially granted a one-year period of stay to open a new office in the United States and the petitioner now seeks to extend the beneficiary's stay for three years in order to continue to fill the position of president.

The petitioner filed the nonimmigrant petition on February 11, 2004. The director initially approved the petition on March 15, 2004. On March 25, 2005, the director issued a notice of intent to revoke the approval, noting that the approval of the beneficiary's initial "new office" petition (EAC 03 082 53709) had been revoked on December 23, 2003, and the beneficiary was therefore ineligible for an extension of the new office petition at the time the instant petition was approved. In the notice of intent to revoke, the director noted that the record lacked: (1) credible evidence of the qualifying relationship between the U.S. entity and foreign company; (2) evidence that the beneficiary has been performing the duties of a manager or executive with the foreign company; (3) evidence that the beneficiary will perform in a managerial or executive capacity with the U.S. entity; (4) evidence that both the foreign company and the U.S. entity are doing business; and (5) evidence that the petitioner secured sufficient physical premises for the new office.

The director requested, in part: a copy of the foreign company's annual report; evidence to show that the foreign parent company paid for the U.S. entity; a copy of the minutes of the meeting for the foreign company that lists the stockholders and the number and percentage of shares owned; a comprehensive list of duties, including percentage of time spent on each duty, performed by all of the employees at the foreign company; a detailed description of the beneficiary's duties in the United States, including the staffing of the U.S. entity; a copy of the U.S. entity's payroll; copies of the U.S. entity's bank statements; letters from the U.S. bank indicating the bank account activity; a copy of the U.S. entity's valid business license; a copy of the U.S. entity's telephone directory listing; copies of local, national and/or international publications showing advertisements for or about the U.S. entity; invoices, telephone bills and utility bills for the U.S. company; a floor plan for the U.S. entity; and, the square footage of the U.S. entity's leased space.

The director properly advised the petitioner that it had thirty days in which to submit the requested evidence, and that failure to submit such evidence could result in the revocation of the approval previously granted.

In a response dated April 6, 2005, the petitioner submitted some of the requested documentation but failed to submit several of the documents requested by the director. Failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14).

The director revoked the approval of the petition on May 5, 2005, noting that the petitioner did not submit all of the requested evidence in regard to the grounds for revocation. The director concluded that the petitioner had not established that: (1) the petitioner and the foreign entity have a qualifying relationship; (2) the beneficiary will be employed in a managerial or executive capacity; (3) the United States company is doing business as required by the regulations; and, (4) it had secured adequate physical premises to house its new office in the United States.

The petitioner subsequently filed an appeal on June 2, 2005. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review. The petitioner indicated on Form I-1290B that it would submit a brief and/or evidence to the AAO within 30 days. As no additional evidence has been incorporated into the record, the AAO contacted the petitioner by facsimile on October 5, 2006 to request that the petitioner acknowledge whether the brief and/or evidence were subsequently submitted, and, if applicable, to afford the petitioner an opportunity to re-submit the documents. To date, the petitioner has not responded to the AAO's request. Accordingly, the record will be considered complete.

To establish eligibility under section 101(a)(15)(L) of the Act, the petitioner must meet certain criteria. Specifically, within three years preceding the beneficiary's application for admission into the United States, a firm, corporation, or other legal entity, or an affiliate or subsidiary thereof, must have employed the beneficiary for one continuous year. Furthermore, 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.

Under CIS regulations, the approval of an L-1A petition may be revoked on notice under six specific circumstances. 8 C.F.R. § 214.2(l)(9)(iii)(A). To properly revoke the approval of a petition, the director must issue a notice of intent to revoke that contains a detailed statement of the grounds for the revocation and the time period allowed for rebuttal. 8 C.F.R. § 214.2(l)(9)(iii)(B).

Upon review, the AAO concurs with the director's decision to revoke approval of the petition. In the present case, the director did raise sufficient factual issues to support the revocation. The notice of intent to revoke and the subsequent revocation were based on evidence that was in the record at the time the notice was issued.

On the Form I-1290B Notice of Appeal, the petitioner asserts the following:

1. Parent company and US Entity has good qualifying relationship [sic].
2. Duties of each employee is just documents [sic].
3. We have a good tax return records [sic].
4. We have a good business records [sic].

Despite these assertions made by the petitioner, based on the minimal documentation in the record, it cannot be determined that the beneficiary will be employed in a managerial or executive capacity; that the United States entity and the entity abroad continue to have a qualifying relationship; or that the U.S. entity and foreign entity are doing business. Going on record without supporting documentary evidence

is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). The petitioner's unsupported assertions, without specifically identifying any errors on the part of the director, are simply insufficient to overcome the well-founded and logical conclusion the director reached based on the evidence submitted by the petitioner.

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.

Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in support of the appeal, the appeal must be summarily dismissed.

The AAO notes that generally, the director's decision to revoke the approval of a petition will be affirmed, notwithstanding the submission of evidence on appeal, where a petitioner fails to offer a timely explanation or rebuttal to a properly issued notice of intention to revoke. *See Matter of Arias*, 19 I&N Dec. 568, 569 (BIA 1988). In this matter, the director's notice of intent to revoke was properly issued based on a number of factual inconsistencies in the record. Although the petitioner technically submitted a timely response to the notice of intent to revoke, it failed to rebut any of the deficiencies noted in great detail in the director's notice of intent to revoke, nor did it submit any of the evidence or explanation which was clearly and specifically requested by the director. For this additional reason, the director's decision to revoke the approval of the petition will not be disturbed.

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 the petitioner 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.