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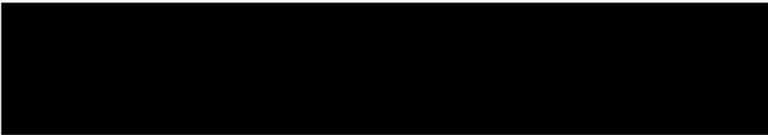
FILE: WAC 06 199 51473 Office: CALIFORNIA SERVICE CENTER Date:

IN RE: Petitioner:  
Beneficiary:



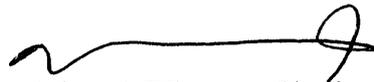
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

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, 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 appeal will be summarily dismissed.

The petitioner states that it is a recreational and educational services promoter and organizer. It seeks to extend its authorization to employ the beneficiary temporarily in the United States as its president and general manager pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. §1101(a)(15)(L). The director denied the petition based on the conclusion that the petitioner failed to establish that: (1) the beneficiary has been and will continue to be employed in a managerial or executive capacity; and (2) a qualifying relationship exists between the petitioner and the foreign entity.

On appeal, counsel for the petitioner indicated on Form I-290B that he was not submitting a separate brief or evidence to address the director's denial. Counsel merely provided the following statement in support of the appeal:

The Decision of the California Service Center erroneously denies [the petitioner's] I-129 Petition for Extension of L-1A Classification for [the beneficiary]. Information and documentation submitted with the Petition demonstrates that the beneficiary has and will continue to be employed in an executive and managerial capacity and that the qualifying relationship between the Colombian Parent Company and its US Subsidiary exists.

This statement on the Form I-290B fails to adequately address the director's conclusions. Counsel asserts that the decision was erroneous, but fails to specifically identify any erroneous conclusion of law or statement of fact on the director's part. The director performed a thorough analysis of the record, and for each basis for the denial provided examples of deficiencies in the petitioner's evidence. For example, with regard to the beneficiary's managerial and/or executive capacity, the director noted that (1) the claimed duties of the beneficiary were too broad and nonspecific to convey a true understanding of the beneficiary's daily tasks; (2) as the petitioner's sole employee, the evidence suggested that the beneficiary was responsible for tasks necessary to provide the petitioner's services; (3) the petitioner had failed to establish that the beneficiary would be supervising a subordinate staff of managers, professionals, or supervisors; and (4) the petitioner had failed to clarify how the reasonable needs of the petitioner at its current stage of development would justify the beneficiary participating in non-qualifying duties.

Regarding the qualifying relationship, the director found that the record lacked sufficient evidence to support a conclusion that the petitioner was a subsidiary of the foreign entity. Specifically, the director noted that in addition to the foreign entity's failure to demonstrate that it had been doing business,<sup>1</sup> the petitioner had failed to submit sufficient evidence of the transfer of stock ownership from the petitioner to the foreign entity. The director noted that the submission of a wire transfer, showing the transfer of \$20,720 from the foreign entity to the petitioner, did not clearly support a finding that the foreign entity designated these funds for the purchase of stock. Second, the director noted that the petitioner's U.S. Corporation Income Tax Return for

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<sup>1</sup> It is noted that, upon review of the record, translated copies of the foreign entity's tax return and invoices for 2005 are included in the record. The tax return, filed in April 2006, demonstrate that the foreign entity had significant income and expenses. Therefore, contrary to the director's findings, the AAO is satisfied that the foreign entity was doing business as required by the regulations. The AAO concurs, however, with the director's findings regarding the failure to demonstrate a qualifying relationship.

2005 indicated on Schedule K, lines 5 and 7, that no corporation or other entity owned more than 50% of the petitioner, and that no foreign person or entity owned more than 25% of the petitioner. The director noted that this inconsistency with regard to the petitioner's claim cast doubt upon the validity of the petitioner's claims, and the AAO agrees. 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).

Counsel's general objections on the Form I-290B, without specifically identifying any errors on the part of the director, are simply 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 Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). While the petitioner may request that it be granted additional time to submit an appeal, no such request was made in this case. See 8 C.F.R. § 103.3(a)(2)(vii). Even if additional time to submit a brief in support of the appeal had been requested and approved, to date there is no indication or evidence that the petitioner ever submitted a brief and/or evidence in support of the appeal with the Service or with the AAO. As stated above, absent a clear statement, brief and/or evidence to the contrary, the petitioner does not identify, specifically, any erroneous conclusion of law or statement of fact. Hence, the appeal must be summarily dismissed. See 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.

Contrary to the petitioner's assertions, the information and documentation submitted with the petition do not establish eligibility in this matter. Rather, the record shows a number of deficiencies as outlined by the director, and counsel's assertion that the evidence prior to adjudication satisfied the regulatory requirements is simply insufficient to overcome the director's bases for denial. In the instant case, the petitioner fails to acknowledge or address the director's reasons for the denial. Accordingly, the appeal will be summarily dismissed.

The regulation at 8 C.F.R. § 214.2(l)(3)(v)(C) allows the "new office" operation one year within the date of approval of the petition to support an executive or managerial position. There is no provision in U.S. Citizenship and Immigration Services (USCIS) regulations that allows for an extension of this one-year period. If the business does not have sufficient staffing after one year to relieve the beneficiary from primarily performing operational and administrative tasks, the petitioner is ineligible by regulation for an extension.

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.

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