

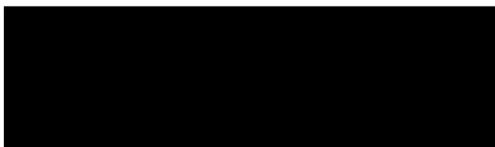
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**U.S. Citizenship
and Immigration
Services**

D-7



File: WAC 04 185 51175 Office: CALIFORNIA SERVICE CENTER Date: SEP 05 2007

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 petitioner filed this nonimmigrant visa petition seeking to extend the employment of its 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 limited liability company organized under the laws of the State of Nevada and is allegedly engaged in the business of "service and trading." 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.¹

The director denied the petition concluding that the petitioner failed to establish (1) that the beneficiary will be employed in the United States in a primarily managerial or executive capacity; or (2) that the petitioner has a qualifying relationship with the foreign employer.

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review. On appeal, counsel to the petitioner asserts that the beneficiary's duties will be primarily those of an executive and a manager and that the petitioner has sufficiently established that it has a qualifying relationship with the foreign employer, ██████████ in India. Counsel also submits a brief and additional evidence, including documents addressing the alleged employment of subordinate workers after the filing of the instant petition.

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. § 214.2(1)(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 (1)(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.

¹According to the corporate records of the State of Nevada, the petitioner's corporate status in Nevada was placed in "default" on July 1, 2007. Therefore, given the effect this status would have on the petitioner's ability to transact business in the United States, this would call into question the petitioner's continued eligibility for the benefit sought if the petition were not being denied for the reasons set forth herein.

- (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(I)(14)(ii) also provides that a visa petition, which involved the opening of a new office, may be extended by filing a new Form I-129, accompanied by the following:

- (A) Evidence that the United States and foreign entities are still qualifying organizations as defined in paragraph (I)(1)(ii)(G) of this section;
- (B) Evidence that the United States entity has been doing business as defined in paragraph (I)(1)(ii)(H) of this section for the previous year;
- (C) A statement of the duties performed by the beneficiary for the previous year and the duties the beneficiary will perform under the extended petition;
- (D) A statement describing the staffing of the new operation, including the number of employees and types of positions held accompanied by evidence of wages paid to employees when the beneficiary will be employed in a managerial or executive capacity; and
- (E) Evidence of the financial status of the United States operation.

The first 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 in the initial petition whether the beneficiary will 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. A petitioner may not claim that a beneficiary will 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 described the beneficiary's proposed job duties in the United States in the Form I-129 as follows:

General management [of] expansion of current business. Complete powers over day-to-day operations, payroll and banking duties, execution of asset and property leases, hiring employees, etc.

On August 16, 2004, the director requested additional evidence. The director requested, *inter alia*, an organizational chart for the petitioner, job descriptions for all employees on the organizational chart, wage reports, a payroll summary, and a more detailed description of the beneficiary's duties in the United States.

In response, the petitioner submitted evidence that the beneficiary is the petitioner's only employee. The

petitioner also submitted an undated letter describing the beneficiary's proposed duties as follows:

1. [The beneficiary] is [the] sole manager of [the petitioner.] [H]e is a decision making [sic] and marketing of Coolant & AutoParts [sic] in USA and also managing the PostNet franchise, which is decided by all the partner[s] of [the foreign employer] to invest money in PostNet so he can [manage] the daily expenses of the company & his personal [sic].
2. The goal will be achieved in coming months as soon [as] our shipment will reach in USA because we have one distributor & sale person is ready to work on our products[.]
3. In last six months he had met several manufacture, wholesaler & some marketing companies, the copies of business card is attach[ed] with this letter so we can prove the authenticity if our words said [sic].
4. The lower levels of employees are not appointed because of delay in the consignment India [sic]. As soon [as] the containment will reach USA we have a plan to higher [sic] a person to run PostNet & [the beneficiary] will look in the marketing of coolant & auto parts, as well as look to PostNet.

On November 23, 2004, the director denied the petition. The director concluded, *inter alia*, that the petitioner failed to establish that the beneficiary will be employed primarily in a managerial or executive capacity.

On appeal, the petitioner asserts that the beneficiary's duties are primarily those of an executive and a manager. Counsel also submits additional evidence, including documents addressing the alleged employment of subordinate workers after the filing of the instant petition.

Upon review, the petitioner's assertions are not persuasive.

Title 8 C.F.R. § 214.2(1)(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 Citizenship and Immigration Services (CIS) 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 even if the petitioner has plans to expand its business or to hire additional employees. A visa petition may not be approved based on speculation of future eligibility or after the petitioner or beneficiary becomes eligible under a new set of facts. *See Matter of Michelin Tire Corp.*, 17 I&N Dec. 248 (Reg. Comm. 1978); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm. 1971). The petitioner is also ineligible by regulation for an extension even if the petitioner's inability to expand its United States operation was for reasons beyond its control. In the instant matter, the United States operation has not reached the point that it can employ the beneficiary in a predominantly managerial or executive position and is ineligible for an extension.

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 will be either in an executive or managerial capacity. *Id.* The petitioner must specifically state whether the beneficiary will primarily be 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 petitioner may not claim that a beneficiary will be employed as a hybrid "executive/manager" and rely on partial sections of the two statutory definitions.

The petitioner's description of the beneficiary's job duties has failed to establish that the beneficiary will act in a "managerial" capacity. In support of its petition, the petitioner has provided a vague and nonspecific description of the beneficiary's duties that fails to demonstrate what the beneficiary will do on a day-to-day basis. For example, the petitioner states that the beneficiary will engage in "general management" and will have "complete power" over day-to-day operations, payroll and banking duties, execution of asset and property leases, and hiring employees. The petitioner further describes the beneficiary as managing a PostNet franchise and marketing auto parts and supplies in the United States. However, the petitioner fails to explain what, exactly, the beneficiary will do in "managing" the petitioner's business operations given that he is the petitioner's only employee. The fact that the petitioner has given the beneficiary a managerial title and has prepared a vague job description which includes overly broad duties does not establish that the beneficiary will actually perform managerial duties. To the contrary, it appears that the beneficiary will be primarily engaged in performing non-qualifying administrative or operational tasks related to the ongoing establishment of the enterprise. 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). 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).

Likewise, it appears that the beneficiary will be primarily performing non-qualifying administrative or operational tasks which do not rise to the level of being managerial or executive in nature. As indicated above, it appears that the beneficiary will continue to perform non-qualifying tasks related to the start-up of the new office. Moreover, the beneficiary is described as being engaged in performing "marketing" tasks. However, marketing and sales duties constitute administrative or operational tasks when the tasks inherent to these duties are performed by the beneficiary. As the petitioner does not yet employ subordinate workers capable of relieving the beneficiary of the need to perform the non-qualifying tasks inherent to both the marketing duties and the "general management" of the business in general, it must be concluded that he will perform these tasks. As the petitioner has not established how much time the beneficiary devotes to such non-qualifying tasks, it cannot be confirmed that he will "primarily" be employed as a manager. 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 International*, 19 I&N Dec. 593, 604 (Comm. 1988).

The petitioner has also failed to establish that the beneficiary will supervise and control the work of other supervisory, managerial, or professional employees, or will manage an essential function of the organization. As explained above, the beneficiary is the petitioner's only employee; therefore, he will not supervise and control the work of other employees. Furthermore, the petitioner's employment of subordinate workers after the filing of the instant petition is not relevant to these proceedings. The petitioner must establish eligibility at the time of filing the nonimmigrant visa petition. A visa petition may not be approved at a future date after the petitioner or beneficiary becomes eligible under a new set of facts. *Matter of Michelin Tire Corp.*, 17 I&N Dec. 248. Therefore, the petitioner has not established that the beneficiary will be employed primarily in a managerial capacity.²

Similarly, the petitioner has failed to establish 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 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.* For the same reasons indicated above, the petitioner has failed to

²While the petitioner has not argued that the beneficiary will manage an essential function of the organization, the record nevertheless would not support this position even if taken. The term "function manager" applies generally when a beneficiary does not supervise or control the work of a subordinate staff but instead is primarily responsible for managing an "essential function" within the organization. See section 101(a)(44)(A)(ii) of the Act. The term "essential function" is not defined by statute or regulation. If a petitioner claims that the beneficiary is managing an essential function, the petitioner must furnish a written job offer that clearly describes the duties to be performed in managing the essential function, i.e., identify the function with specificity, articulate the essential nature of the function, and establish the proportion of the beneficiary's daily duties attributed to managing the essential function. See 8 C.F.R. § 214.2(1)(3)(ii). In addition, the petitioner's description of the beneficiary's daily duties must demonstrate that the beneficiary manages the function rather than performs the tasks related to the function. In this matter, the petitioner has not provided evidence that the beneficiary will manage an essential function. To the contrary, it appears that the beneficiary will perform the non-qualifying tasks related to the function. As explained above, the record establishes that the beneficiary is primarily engaged in performing non-qualifying operational or administrative tasks related to the operation of a PostNet franchise and the expansion of the petitioner's business operation. Absent a clear and credible breakdown of the time spent by the beneficiary performing his duties, the AAO cannot determine what proportion of his duties will be managerial, nor can it deduce whether the beneficiary will primarily perform the duties of a function manager. See *IKEA US, Inc. v. U.S. Dept. of Justice*, 48 F. Supp. 2d 22, 24 (D.D.C. 1999).

establish that the beneficiary will be acting primarily in an executive capacity. The job description provided for the beneficiary is so vague that the AAO cannot deduce what the beneficiary will do on a day-to-day basis. Moreover, as explained above, it appears that the beneficiary will perform the tasks necessary to produce a product or to provide a service. Therefore, the petitioner has not established that the beneficiary will be employed 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). The size of a company may be especially relevant when CIS notes discrepancies in the record and fails to believe that the facts asserted are true. *Id.* In this matter, the record is rife with inconsistencies regarding the petitioner's business activities. For example, the petitioner, a limited liability company, asserts that its primary business activity in the United States is the operation of a PostNet franchise. However, according to the lease assignment and franchise transfer addendum submitted in response to the director's Request for Evidence, the beneficiary, individually, owns and operates the PostNet franchise. Moreover, as further explained *infra*, the beneficiary, and not the foreign employer, appears to own and control the petitioner. 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). Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Id.* at 591.

Accordingly, in this matter, the petitioner has failed to establish that the beneficiary will be primarily performing managerial or executive duties, and the petition may not be approved for that reason.

The second issue in the present matter is whether the petitioner has established that it has a qualifying relationship with the foreign entity.

The regulation at 8 C.F.R. § 214.2(I)(14)(ii)(A) states that a petition to extend a "new office" petition filed on Form I-129 shall be accompanied by:

Evidence that the United States and the foreign entity are still qualifying organizations as defined in paragraph (I)(1)(ii)(G) of this section[.]

Title 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 (I)(1)(ii) of this section" and "is or will be doing business." A "subsidiary" is defined in pertinent part as a corporation "of which a parent owns, directly or indirectly, more than half of the entity and controls the entity."

In this matter, the petitioner, a limited liability company, asserts in the Form I-129 that it is a subsidiary of the foreign employer, [REDACTED]. However, the petitioner did not specifically describe its ownership and

control in L Supplement to the Form I-129. The petitioner also submitted copies of the beneficiary's 2003 IRS Form 1040 and the petitioner's 2003 Form 1065, including Schedule K. These tax forms indicate that the beneficiary, and not the foreign entity, is the sole owner of the petitioner.

On August 16, 2004, the director requested additional evidence. The director requested, *inter alia*, financial data concerning the foreign employer's business operation.

In response, the petitioner submitted, *inter alia*, an audit report for the foreign entity indicating that the beneficiary is a 1/3 owner of the foreign employer, a partnership formed under the laws of India.

On November 23, 2004, the director denied the petition. The director concluded that the petitioner's tax returns contradict its assertion that it is a subsidiary of the foreign employer. The director indicated that the petitioner's Form 1065 states that it is a "limited partnership" and that it does not have any foreign partners. Therefore, the director concluded that the petitioner failed to establish that it has a qualifying relationship with the foreign employer.

On appeal, counsel asserts that the petitioner has established that it is a subsidiary of the foreign employer. Specifically, counsel refers to a support letter from the foreign employer, a resolution of the foreign employer addressing its relationship to the petitioner, a business transcript, and the foreign employer's financial statement. Counsel also submitted a copy of the foreign employer's Indian "Partnership Deed" confirming the beneficiary's 1/3 ownership interest. However, counsel does not address the averments in the Form 1065 regarding the petitioner's ownership and control.

Upon review, the petitioner's assertions are not persuasive.

The regulation and case law confirm that ownership and control are the factors that must be examined in determining whether a qualifying relationship exists between United States and foreign entities for purposes of this visa classification. *Matter of Church Scientology International*, 19 I&N Dec. 593; *see also Matter of Siemens Medical Systems, Inc.*, 19 I&N Dec. 362 (BIA 1986); *Matter of Hughes*, 18 I&N Dec. 289 (Comm. 1982). In the context of this visa petition, ownership refers to the direct or indirect legal right of possession of the assets of an entity with full power and authority to control; control means the direct or indirect legal right and authority to direct the establishment, management, and operations of an entity. *Matter of Church Scientology International*, 19 I&N Dec. at 595.

In this matter, the record confirms that the petitioner and the foreign employer are not qualifying organizations as defined by the regulations. As indicated in the Forms 1040 and 1065, including Schedule K, the beneficiary is identified and treated as the sole owner of the petitioner. The record is devoid of any objective evidence addressing the petitioner's ownership and control. Furthermore, the foreign employer's audit report and partnership deed both indicate that the beneficiary is a 1/3 owner of the foreign employer.

Therefore, as the foreign employer and the petitioner do not share ownership and control, they are not qualifying organizations, and the petition may not be approved for this reason.³

Accordingly, the petitioner has not established that it and the foreign entity are qualifying organizations. For this additional reason, the petition may not be approved.

Beyond the decision of the director, the petitioner has failed to establish that the beneficiary was employed abroad in a primarily managerial or executive capacity. The petitioner described the beneficiary's duties abroad in the Form I-129 as "[r]epresentative of parent company to USA, set up business and expand to a profitable level." The petitioner also described the beneficiary as "[p]artner and [vice president] of the parent company for general management."

On August 16, 2004, the director requested a more detailed description of the beneficiary's duties abroad. The petitioner, however, failed to respond to this specific request. 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). Once again, specifics are clearly an important indication of whether a beneficiary's duties were 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, *aff'd*, 905 F.2d 41. 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. Therefore, absent a detailed job description of the beneficiary's duties abroad as requested by the director, the petitioner has failed to meet its burden of proof of establishing that the beneficiary was employed abroad in a primarily managerial or executive capacity. Accordingly, the petition may not be approved for this additional reason.

The initial approval of an L-1A new office petition does not preclude CIS from denying an extension of the original visa based on a reassessment of the petitioner's qualifications. *Texas A&M Univ. v. Upchurch*, 99 Fed. Appx. 556, 2004 WL 1240482 (5th Cir. 2004). 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.

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).

³It is noted that the director erroneously stated in the decision that the petitioner's Form 1065 indicates that the petitioner is a "domestic limited partnership." However, upon review, the Form 1065 actually states that the petitioner is a "domestic general partnership." Therefore, this statement by the director will be withdrawn. That being said, as the petitioner's averment that it is a "domestic general partnership" is still inconsistent with its averment in the petition that it is a limited liability company, the director's statement was harmless error and the denial of the petition was proper.

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. 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 petition approved on behalf of the beneficiary is warranted to determine if it was also approved in error. Therefore, the director shall review the prior L-1 nonimmigrant petition 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 petition approved on behalf of the beneficiary for possible revocation pursuant to 8 C.F.R. § 214.2(1)(9).