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FILE: EAC 07 086 51371 Office: VERMONT SERVICE CENTER

Date: NOV 03 2008

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: 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann", with a small "f.w." written below it.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center, denied the petition for a nonimmigrant visa. The petitioner subsequently filed a motion to reconsider. Although the director granted the motion, he affirmed the denial, finding that the petitioner failed to overcome the grounds cited therein. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner filed this nonimmigrant petition seeking to employ the beneficiary as its manager as an L-1B nonimmigrant intracompany transferee with specialized knowledge 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 Florida corporation that claims to be engaged in the wholesale and resale of computers. The petitioner seeks to employ the beneficiary for a period of two years.

In a decision dated October 2, 2007, the director determined that the petitioner failed to establish that the beneficiary possesses specialized knowledge or that he would be employed in a position that requires specialized knowledge.

On November 2, 2007, the petitioner filed a motion, disputing the director's basis for denial.

In a decision dated April 2, 2008, the director affirmed the prior decision denying the petition, concluding that the petitioner failed to establish that the beneficiary would assume a position that requires specialized knowledge.

On appeal, the beneficiary, on behalf of the petitioner, states that he is working with the petitioner's foreign affiliate to come up with evidence to overcome the ground for denial of the petition. The petitioner also indicated that a brief and/or additional information would be submitted within 30 days in support of the appeal. On September 16, 2008, the AAO reviewed the record of proceeding and found that no additional evidence or information had been submitted since the appeal was filed on May 2, 2008. Accordingly, the AAO faxed the petitioner a notice allowing an additional five days in which to provide a brief and/or any information *if* the petitioner had previously submitted such information.<sup>1</sup> The AAO clearly stated that this was not meant to allow the petitioner additional time in which to provide new information that had not been previously submitted. Rather, this was merely an attempt to allow the petitioner to provide information that may have been submitted but never matched with the record of proceeding.

In response, the beneficiary provides an undated letter accompanied by an untranslated letter dated April 24, 2008 from Bancolombia. The beneficiary asserts that the foreign bank letter establishes the amount of credit for which he is responsible and claims that he uses this credit in order to purchase computers. It is noted that the petitioner's failure to submit a certified translation of the document, the AAO cannot determine whether the evidence supports the petitioner's claims. *See* 8 C.F.R. § 103.2(b)(3). Accordingly, the evidence is not probative and will not be accorded any weight in this proceeding.

In addition, the beneficiary's statement does not address the director's ultimate finding that the proposed position in which the beneficiary would be employed in the United States does not require an individual with specialized knowledge.

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<sup>1</sup> It is noted that the AAO's fax cites the date of filing of the appeal as May 2, 2006. Although this is not the correct year of filing, as noted in the body of the decision, this error is harmless and will not have any bearing on the outcome in this proceeding.

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.

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.