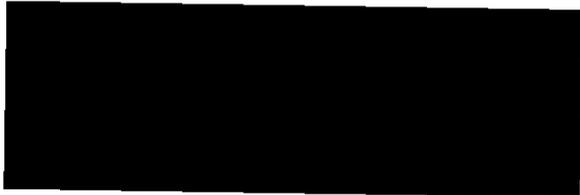


U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services



D7

DATE: **DEC 05 2012**

Office: VERMONT SERVICE CENTER

FILE: 

IN RE:

Petitioner: 

Beneficiary: 

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

ON BEHALF OF PETITIONER:

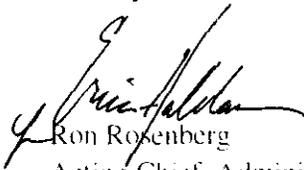
SELF REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,



Ron Rosenberg

Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont 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 filed this nonimmigrant petition seeking to classify the beneficiary 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, [REDACTED], is a Georgia corporation established in 2011. It is in the media and advertising business. According to the petitioner's Form I-129, it seeks to employ the beneficiary in the position of President of a new office for a period of three years.¹

The director denied the petition on December 19, 2011 on the ground that the petitioner failed to establish it would employ the beneficiary in a primarily managerial or executive capacity. In denying the petition, the director observed that the petitioner provided different position titles for the beneficiary: President, Vice President, Marketing Department Manager. The director concluded that the differing titles caused confusion as to the actual position in which the petitioner seeks to employ the beneficiary, as well as the proposed duties and responsibilities of the beneficiary in that position. Given the contradictory and incomplete information, the director concluded that the petitioner failed to establish the beneficiary would function at a senior level within the organization.

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, the petitioner provides a description of the beneficiary's employment with [REDACTED] located in China. This includes his job duties and achievements in that position. The petitioner also explains why it chose the beneficiary to assume the offered position in the U.S. company. Finally, the petitioner states in pertinent part:

3. [The beneficiary's] job description in US:

- A) To help the President setting up the new branch in US
- B) To help the President hiring the new employees
- C) To knowledge the local policy and regulations, establish stable relationship with local banks, lawyers and accountants.
- D) Training, supervising and managing the new employees
- E) Entrusted by the President, preside over the company's daily operating when the President is absent.
- F) Supervising, managing accounting department.

¹ The petitioner has also indicated in the record that the beneficiary will assume the position of vice president for the U.S. company. In addition, although the petitioner seeks to employ the beneficiary for three years, the petition, if approvable, may only be granted for a maximum of one year. See 8 C.F.R. § 214.2(l)(7)(i)(A)(3) (if the beneficiary is coming to the United States to open or be employed in a new office, the petition may be approved for a period not to exceed one year).

- G) Keep the relationships with the existing customers in China. Introducing the current situation of media industry.
- H) Examine and approve the annual financial budget of the company.
4. I think the problems that make you confuse are I and translator. The problem of the translator is limited translation ability. Many key vocabularies were translated inaccurate. Plus I was neglectful and careless. I was not able to checking [sic] and verifying his work. Also, I was misunderstanding with the person who was in charge to contact me from [REDACTED]. So causing so many problems, confusing and misunderstanding. I feel very sorry to have this kind of problems and promise will never happen again. [sic]

In support of the appeal, the petitioner submits: an unsigned letter from the foreign entity regarding the beneficiary's performance there; a marketing booklet describing the foreign entity's services and honors; and a certification from the foreign entity stating: "We hereby declare that [the beneficiary] is an official staff in our company. He joined the company on 2005 as Vice-President and Financial Controller."

The 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.

Upon review, the AAO finds that the petitioner has not identified an erroneous conclusion of law or statement of fact as a basis for the appeal. The petitioner vaguely states that "the problem" was due to translation inaccuracies, carelessness and misunderstanding, but fails to specifically identify or define "the problem." Further, the petitioner takes personal responsibility for the problem, rather than alleging any errors on the part of the service center director based on the evidence presented prior to the denial. The petitioner also provides a new list of job duties, but fails to reconcile the new list of job duties with the previously provided lists. While the petitioner provides additional information and supporting documentation on appeal, this information and documentation do not address the basis for the denial. As discussed above, the director's sole ground for denial was the petitioner's failure to establish that the beneficiary would be employed in a primarily managerial or executive capacity in the United States.

Inasmuch as the petitioner has not identified a specific erroneous conclusion of law or statement of fact, the appeal must be summarily dismissed. 8 C.F.R. § 103.3(a)(1)(v). 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, the petitioner has not met that burden.

ORDER: The appeal is summarily dismissed.