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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**

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DATE: **JAN 06 2012** OFFICE: VERMONT SERVICE CENTER FILE:

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:

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 law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the nonimmigrant visa petition. 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 extend the beneficiary's employment as a 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, a North Carolina limited liability company, states that it is engaged in an import/export business of textiles, materials, and machinery. The petitioner claims to be a subsidiary of [REDACTED] located in Lahore, Pakistan. The beneficiary was previously granted L-1A status for a period of one year, from April 2008 to April 2009, and the petitioner now seeks to extend his status so that he may continue to serve in the position of president.

On October 13, 2009, the director denied the petition, concluding that the petitioner failed to establish that the beneficiary has been or will be employed in a managerial or executive capacity. In denying the petition, the director found that the vague and brief list of duties provided for the beneficiary fail to establish that he will be primarily employed in a managerial or executive capacity. The director further found that the beneficiary will not be involved in the supervision and control of the work of other supervisory, professional, or managerial employees who will relieve him from performing the services of the U.S. company. The director observed that the petitioner has not shown that the beneficiary functions at a senior level within the organizational hierarchy other than in position title.

On November 16, 2009, the petitioner submitted the Form I-290B to appeal the denial of the underlying petition. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review. The petitioner marked the box at part two of the Form I-290B to indicate that a brief and/or additional evidence would be submitted to the AAO within 30 days. As of this date, the appeal brief has not been received by the AAO, thus, the AAO deems the record complete and ready for adjudication.

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 the 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.

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.

On the Form I-290B, the petitioner simply states, "I am filing this appeal and will submit my brief and additional evidences [*sic*] within 30 days to the AAO. I believe that additional evidences [*sic*] will help my application to be re-examined and re-evaluated by considering the additional evidences [*sic*] submitted." The

petitioner has not identified an erroneous conclusion of law or statement of fact on the part of the director as a basis for the appeal, but simply indicates that it will provide additional documentation, which has yet to be submitted.

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

Additionally, during the course of verifying the validity of the petitioning entity, the AAO reviewed the North Carolina Department of the Secretary of State Corporations Division database.¹ The search showed that as of October 29, 2007, the petitioner's active corporate status ceased and the petitioner was shown as "Admin. Dissolved." In order to seek employment of the beneficiary as an intracompany transferee, the petitioner must be a United States legal entity that is the same employer as the firm, corporation, or other legal entity that employed the beneficiary abroad or the U.S. petitioner must be a subsidiary or affiliate of that foreign entity. As the petitioner's corporate status is shown as administratively dissolved dating back to October 29, 2007, the petitioner is no longer a legal entity that is qualified to file a nonimmigrant petition in the beneficiary's behalf.

Furthermore, the USCIS record contains an Immigration and Customs Enforcement (ICE) Record of Sworn Statement in Affidavit Form, dated April 15, 2010, where the petitioner/beneficiary clearly stated, ". . . Due to slump in business I could not continue my business and L-1 status was denied. I no longer have business [*sic*]."

The administrative dissolution of the corporation, and the petitioner's sworn statement stating that the business is no longer active, effectively terminates the employer's business. Where there is no active and legal U.S. entity, no legitimate job offer exists, and the request that a foreign worker be allowed to fill the position offered in the petition has become moot. For this additional reason, the petition cannot be approved.

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.

¹ State of North Carolina Department of the Secretary of State Corporations Division. Web. 22 Dec. 2011 <<http://www.secretary.state.nc.us/corporations/CSearch.aspx>>. (A copy of the information found has been incorporated into the record of proceeding.)