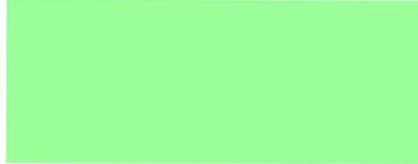




U.S. Citizenship
and Immigration
Services

(b)(6)



Date: **AUG 07 2013** Office: CALIFORNIA 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 (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the nonimmigrant visa petition and certified the decision to the Administrative Appeals Office (AAO) for review. The AAO will affirm the director's decision and deny the petition as moot.

The petitioner filed this nonimmigrant petition to employ the beneficiary pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L), as an intracompany transferee employed in a managerial or executive capacity. The petitioner, a California corporation engaged in "general investments," seeks to employ the beneficiary as the chief executive of its new office in the United States. The director denied the petition and certified the decision to the AAO on October 1, 1996 concluding that the petitioner's business appears to constitute trade to/from and from/to the United States and Iraq, which is precluded by Executive Order 12724 of August 9, 1990.¹

The regulation at 8 C.F.R. § 214.2(l)(1)(ii)(G) states that a *qualifying organization* means a United States or foreign firm, corporation, or other legal entity which:

- (1) Meets exactly one of the qualifying relationships specified in the definitions of a parent, branch, affiliate or subsidiary specified in paragraph (l)(1)(ii) of this section;
- (2) Is or will be doing business (engaging in international trade is not required) as an employer in the United States and in at least one other country directly or through a parent, branch, affiliate, or subsidiary for the duration of the alien's stay in the United States as an intracompany transferee; and
- (3) Otherwise meets the requirements of section 101(a)(15)(L) of the Act.

The term doing business is defined at 8 C.F.R. § 214.2(l)(1)(ii)(H) as follows:

Doing business means the regular, systematic and continuous provision of goods and/or services by a qualifying organization and does not include the mere presence of an agent or office of the qualifying organization in the United States and abroad.

In the present matter, the AAO finds that the petitioner is no longer eligible to file a Form I-129, Petition for a Nonimmigrant Worker, on behalf of the beneficiary. During the course of verifying the validity of the petitioning entity, the AAO reviewed the Secretary of State's California Business Search database.² The search showed that as of August 19, 1998, the petitioner's active corporate status ceased and the petitioner was shown as "SUSPENDED." As indicated above, 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 suspended dating back to August 19, 1998, the petitioner is no longer a legal entity that is qualified to file a nonimmigrant petition in the beneficiary's behalf.

¹ The director's decision incorrectly cites to Executive Order 12817 of August 2, 1990. The corrected Executive Order is cited above.

² The California Secretary of State. Web. 17 Jul. 2013 < [REDACTED] >. (A copy of the information found has been incorporated into the record of proceeding.)

The suspension of the corporation by the California Secretary of State on August 19, 1998, and later affirmation by the California Franchise Tax Board on October 1, 2001, 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.

Accordingly, while the petitioner has not withdrawn the petition in this proceeding, its dissolved corporate status renders the issues in this proceeding moot. Therefore, the petition will be denied as moot.

ORDER: The petition is denied as moot.