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



U.S. Citizenship
and Immigration
Services

DATE: DEC 17 2014

OFFICE: VERMONT SERVICE CENTER

FILE: [REDACTED]

IN RE:

Petitioner:

Beneficiary: [REDACTED]

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:

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,

A handwritten signature in black ink, appearing to read "Ron Rosenberg", written over the "Thank you," text.

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner, a Georgia corporation, states on the Form I-129 that it is involved in "Retail Investments." The petitioner states that it is an affiliate of [REDACTED] located in India. Accordingly, the United States entity petitioned United States Citizenship and Immigration Services (USCIS) to classify the beneficiary as a nonimmigrant intracompany transferee (L-1A) pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The beneficiary was previously granted L-1A status for a period of five years and seeks to extend his stay for an additional two years so that he may continue to serve as Managing Member.

The director denied the petition on November 27, 2013 concluding that the petitioner failed to establish that the beneficiary has been and will be employed in a managerial or an executive capacity in the United States.

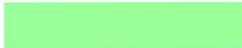
On December 24, 2013, counsel for the petitioner submitted the Form I-290B to appeal the denial of the underlying petition. The petitioner marked the box at part two of the Form I-290B to indicate that a brief and/or evidence would be sent within 30 days. The appeal brief was never received by the AAO, thus, the AAO deems the record complete and ready for adjudication.

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. 8 C.F.R. § 103.3(a)(1)(v).

On the Form I-290B, the counsel for the petitioner states the following:

VSC incorrectly determined that Beneficiary was not acting as an executive for petitioner when the overwhelming evidence shows that Beneficiary is the only executive in the company and that he has daily managers that work below him. Beneficiary is qualified for L-1A status and a brief arguing Petitioner's appeal will be filed with AAO.

On appeal, the petitioner fails to submit any evidence and fails to identify any erroneous conclusion of law or statement of fact disputing the director's conclusion. The director's denial lists a number of inconsistencies that call into question whether the beneficiary in fact has daily managers working below him. The petitioner's appeal does not dispute the director's statements that (1) the petitioner claims on initial appeal to have three stores, but in response to the RFE shows staff for four stores; (2) the response to the RFE did not include staffing for a store listed in the initial petition; (3) the IRS Form W-2 submitted for the most recent quarter prior to filing shows a different number of employees than those claimed on the Form I-129; and (4) the salaries of the beneficiary's subordinates do not appear to be those of a professional. The director also notes that the job description provided for the beneficiary is vague and does not specify what the beneficiary will be



doing as the member manager of the company. Furthermore, the director notes that although the beneficiary has been in the United States since 2008, the petitioner has only operated that U.S. company, [REDACTED] since 2010 and the remaining companies less than one year.

As no additional evidence is presented on appeal to overcome the decision of the director, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

We also note that the eligibility of the petitioner's status is in question. The petitioner claims to be a corporation organized under the laws of the State of Georgia. During the adjudication of the appeal, the AAO discovered evidence that the status of the petitioning business in this matter is "To Be Dissolved." If the petitioning business is no longer an active business, the petition will have become moot.

Moreover, this fact would be material to the petitioner's eligibility for the requested visa. Specifically, the petitioner's dissolution raises serious questions about whether it continues to exist as an importing employer, whether the petitioner maintains a qualifying relationship, and whether it is authorized to conduct business in a regular and systematic manner. See section 214(c)(1) of the Act; see also 8 C.F.R. §§ 214.2(l)(1)(ii)(G) and (l)(3).

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.