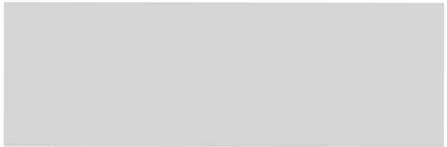


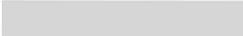


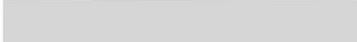
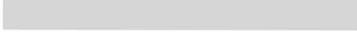
U.S. Citizenship
and Immigration
Services

(b)(6)



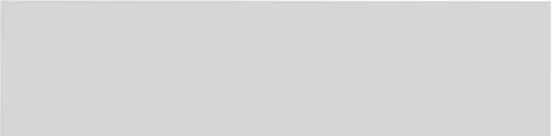
DATE: **JUL 01 2015**

PETITION RECEIPT #: 

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:



Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,


Ron Rosenberg
Chief, Administrative Appeals Office

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

The petitioner filed this Form I-129, Petition for a Nonimmigrant Worker, 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, a Florida corporation established in [REDACTED], states that it operates a health and wellness business. It claims to be an affiliate of [REDACTED] the beneficiary's employer in Russia. At the time of filing, the petitioner sought to employ the beneficiary as managing director of its new office in the United States. The director approved the instant petition on April 23, 2013.

On November 27, 2013, the director issued a Notice of Intent to Revoke ("NOIR") advising the petitioner that, based on the information discovered by the Fraud Protection Unit ("FPU") at the American Embassy in [REDACTED] the petition had been approved in error. The director requested evidence to establish: (1) the overseas entity continued to conduct business; (2) the beneficiary's ownership of the overseas businesses; and (3) the size of the overseas businesses. The director advised the petitioner that it had 33 days to submit the requested evidence and that failure to do so would result in the revocation of the petition.

The petitioner responded to the NOIR on December 30, 2013. In the response, the petitioner asserted that the inconsistencies are a result of its prior counsel's negligence and FPU errors. The petitioner concedes that it does not have a relationship with [REDACTED] and identifies its affiliated company as [REDACTED]. The petitioner asserts that it also is affiliated with the web stores [REDACTED] and [REDACTED]. The petitioner submitted an untranslated partial screenshot from the website [REDACTED] and printed email communications between the petitioner and prior counsel.

On April 14, 2014, the director revoked the petition, finding that the petitioner failed to establish that it has an affiliated business abroad. The director noted that the petitioner claimed to have six retail stores, two warehouses, a wholesale distributing office, a technical support office, and two web shops; however, provided no documentary evidence to support its claims.

On May 14, 2014, the petitioner filed the instant appeal. The petitioner indicates that it requested to withdraw the petition on October 25, 2013, and that the case should have been administratively closed without referral to the FPU.¹ The petitioner states that it no longer seeks the requested benefit, but seeks the removal of any fraud findings. The petitioner submits the following: affidavits; documentation demonstrating that the beneficiary owns 100 shares of the U.S. entity; U.S. bank statements; Russian bank statements for the beneficiary; printouts from the [REDACTED] email correspondence with prior counsel; an untranslated Russian document; a statement of work for the U.S. entity; and the support letter provided with the initial petition.

¹ On appeal, the petitioner provides copies of a withdrawal request dated October 25, 2013; however, there is no prior evidence of the withdrawal request in the record. Contrary to the petitioner's assertions, withdrawing the petition prior to the NOIR does not preclude USCIS from revoking a petition on notice, as was done in this instance. Even if the withdrawal had been received and accepted by the service center prior to the issuance of the NOIR, the withdrawal of the approved petition results in automatic revocation, and would not be "administratively closed" as the petitioner suggests. See 8 C.F.R. §214.2(l)(9)(ii).

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.

In the instant matter, the petitioner has failed to specifically identify any erroneous conclusion of law or fact as a basis for the appeal.

The director revoked the petition, finding that the petitioner failed to establish a qualifying relationship with the beneficiary's foreign employer in Russia. On appeal, the petitioner did not identify any erroneous conclusion of law or fact. In fact, the petitioner concedes that the petition contained "many mistakes" and that it no longer intends to employ the beneficiary in L-1A status. Instead, the petitioner seeks to appeal any findings of fraud.

The FPU at the American Embassy in Moscow made the finding of fraud, not USCIS. The FPU is under the authority of the Department of State; whereas USCIS is under the authority of the Department of Homeland Security. Pursuant to section 221(g) of the Act, 8 U.S.C. 1201(g), a consular officer has the authority to deny an alien a visa or other documentation if it appears from statements in the application or in the papers submitted therewith that such alien is ineligible to receive a visa or such other documentation under section 212, or any other provision of law, or if the application fails to comply with the provisions of the Act, or the regulations issued thereunder. As a component office of the Department of Homeland Security, we are unable to review the State Department's finding of fraud under section 212(a)(6)(C) of the Act.

Because there was no fraud finding by USCIS and the petitioner did not assert that the director made an erroneous conclusion of law or fact, the appeal will be summarily dismissed.

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). Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, it has not sustained that burden.

ORDER: The appeal is summarily dismissed.