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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



DATE: **MAY 28 2015** PETITION RECEIPT #: [REDACTED]

IN RE: Petitioner: [REDACTED]
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:

NO REPRESENTATIVE OF RECORD

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,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
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.

Therefore, petitioner filed this Petition for a Nonimmigrant Worker (Form I-129) 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 seeks to employ the beneficiary as the general manager of its new office in the United States for a period of one year.

In a decision dated August 19, 2014, the director denied the petition concluding that the petitioner failed to establish: (1) that it had acquired sufficient physical premises to house its new office; and (2) that it would support a qualifying managerial or executive position within one year.

On appeal, the petitioner submits a Form I-290B, Notice of Appeal or Motion accompanied by a supporting statement. The petitioner also checked Box 1(b) on the Form I-290B indicating that it intended to provide an appellate brief and/or additional evidence within 30 calendar days of filing the appeal. The record shows that no further evidence has been submitted to supplement the record since the filing of the appeal. Therefore, this record will be considered complete as presently constituted.

To establish L-1 eligibility under section 101(a)(15)(L) of the Act, the petitioner must demonstrate that the beneficiary, within three years preceding the beneficiary's application for admission into the United States, has been employed abroad in a qualifying managerial or executive capacity, or in a capacity involving specialized knowledge, for one continuous year by a qualifying organization. The petitioner must further establish that the beneficiary seeks to enter the United States temporarily in order to continue to render his or her services to the same employer or a subsidiary or affiliate thereof in a capacity that is managerial, executive, or involves specialized knowledge.

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.

On appeal, the petitioner objects to the denial and submits a supporting statement, which consists of the restated regulatory definitions of the terms "affiliate" and "subsidiary" as well as the statutory criteria for managerial capacity. The petitioner asserts that it has the requisite qualifying relationship with the beneficiary's employer abroad and further contends that the beneficiary will assume the top-most position within the U.S. organization, where she would have full discretionary authority to oversee supervisory personnel and to hire, fire, and promote all company employees.

The petitioner's statement on appeal does not address the grounds for denial detailed in the director's decision, which included the following findings: (i) the petitioner failed to establish that the commercial lease that was in effect as of the date the petition was filed provided sufficient physical premises to house the petitioner's new business; (ii) the petitioner failed to differentiate between the beneficiary's job duties during the petitioner's first year of operation and the job duties she would perform after the U.S. entity becomes fully



operational; and (iii) the petitioner submitted a deficient business plan, which the director found to be vague for various reasons enumerated in the decision.

The petitioner neither acknowledges nor addresses any of the director's numerous adverse findings, none of which questioned the existence of a qualifying relationship nor contemplated the beneficiary's lack of discretionary authority or her top-most placement within the petitioner's organizational hierarchy. In other words, while the petitioner objects to the director's denial, the statements submitted on appeal are entirely irrelevant to the grounds that served as the basis for the denial, and do not identify a specific error on the part of the director as a basis for the appeal.

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. 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. Therefore, the appeal will be summarily dismissed.

ORDER: The appeal is summarily dismissed.