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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: APR 26 2006
WAC 97 155 51699

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Immigrant Petition for Alien Worker as a Multinational Executive or Manager Pursuant to
Section 203(b)(1)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(C)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to
the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, approved the employment-based petition.¹ Approval of the immigrant visa petition was subsequently revoked by the director on March 10, 2006. The matter is now before the Administrative Appeals Office (AAO) on certification from the director. The record reflects that the petitioner submitted a letter prior to the director's revocation requesting that the immigrant petition be withdrawn. Consequently, the AAO will withdraw the director's decision.

The petitioner filed the instant immigrant petition to classify the beneficiary as a multinational manager or executive pursuant to section 203(b)(1)(C) of the Immigration and Nationality Act (the Act, 8 U.S.C. § 1153(b)(1)(C)). The petitioner is a corporation organized under the laws of the State of California that is engaged in the business of trading textiles. The petitioner seeks to employ the beneficiary as its president.

Counsel for the petitioner submitted a letter, dated February 22, 2006, requesting that the immigrant petition be withdrawn. In a decision dated March 10, 2006, the director revoked approval of the immigrant petition, concluding that the petitioner had not demonstrated that: (1) the beneficiary would be employed by the United States entity in a primarily managerial or executive capacity; (2) a qualifying relationship existed between the foreign and United States entities at the time of filing the petition; or (3) at the time the priority date was established, the petitioner demonstrated its ability to pay the beneficiary his proffered salary. The director certified the matter to the AAO.

Upon review, in view of the petitioner's request that the petition be withdrawn, the director's revocation of approval of the petition is erroneous. As noted in *Matter of Cintron*, 16 I&N Dec. 9 (BIA 1976), "[j]ust as any United States citizen or lawful permanent resident may file a visa petition in behalf of an alien, so may he withdraw the petition before a decision has been rendered." Accordingly, the director's decision is withdrawn. The record will reflect that the immigrant petition was withdrawn by the petitioner.²

ORDER: The director's March 10, 2006 decision is withdrawn. The immigrant visa petition filed by the petitioner in behalf of the beneficiary is withdrawn.

¹ On March 21, 2003, following approval of the immigrant visa petition, the director reopened the matter, and consequently issued a notice of decision in which he determined that the petitioner had not established its eligibility to classify the beneficiary as a multinational manager or executive. On appeal, the AAO withdrew the director's decision, stating that he had failed to comply with the regulation at 8 C.F.R. § 205.2, requiring that Citizenship and Immigration Services (CIS) issue a notice of intent to revoke approval of the petition. The AAO remanded the matter to the director. The record reflects that the director issued a notice of intent to revoke, however, the notice was sent to the petitioner's counsel at an outdated address. The AAO again withdrew the director's decision to revoke approval of the petition, and remanded the matter to the director with instructions to resend the notice of intent to revoke to the correct address of record.

² The AAO notes that while a request for withdrawal precludes a decision on the merits, a withdrawal will not prevent the director from entering a separate finding of fraud on a petition if the petitioner is found to have attempted to procure a visa through misrepresentation or fraud.