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U.S. Department of Homeland Security  
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U.S. Citizenship  
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Services

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FILE: [REDACTED]  
EAC 05 233 53052

Office: VERMONT SERVICE CENTER

Date: JUL 03 2007

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

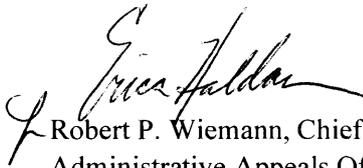
PETITION: Immigrant Petition for Alien Worker as a Multinational Executive or Manager Pursuant to Section 203(b)(1)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(C)

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

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 New Jersey that is engaged in the import and wholesale of silk garments. The petitioner seeks to employ the beneficiary as its general manager.

The director denied the petition concluding that the petitioner had failed to demonstrate that the beneficiary would be employed by the United States entity in a primarily managerial or executive capacity.

On Form I-290B, Notice of Appeal, counsel requests thirty days from the date of filing the appeal on September 28, 2006 to submit an appellate brief. Counsel states:

The decision of the center director is incorrect in both fact and law. The duties to be performed by [the] beneficiary are primarily executive/managerial. The center director reached his conclusion based on assumption and improper application/interpretation of law.

As of this date, counsel has not submitted any additional documentation. The AAO notes that on June 4, 2007, a request was sent to counsel via facsimile for an appellate brief or additional evidence. Counsel did not respond to the AAO's request. Accordingly, the record will be considered complete.

To establish eligibility under section 203(b)(1)(C) of the Act, the petitioner must meet certain criteria. Specifically, within three years preceding the beneficiary's application for admission into the United States, a firm, corporation, or other legal entity, or an affiliate or subsidiary thereof, must have employed the beneficiary for one continuous year. Furthermore, the beneficiary must seek to enter the United States to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial or executive capacity.

Upon review, the AAO concurs with the director's decision and affirms the denial of the petition. Counsel's brief statement on Form I-290B fails to acknowledge, much less resolve, the inadequacies that are discussed in great detail in the director's denial, particularly with respect to the petitioner's staffing levels on the date of filing. As noted by the director, it is not clear from the employee records and documentation in the present record which workers were employed by the petitioner on the filing date. This information is especially relevant because the wages reflected on the petitioner's 2005 Internal Revenue Service Forms W-2 suggest that several of its claimed employees were either working on a part-time basis or were not employed until after the petition was filed in August 2005. The petitioner is obligated to demonstrate that the beneficiary's time would be devoted to performing primarily managerial or executive tasks and not to performing the tasks associated with the warehouse, sales or marketing functions of the business. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).

Counsel's general objections to the denial of the petition, without identifying any specific errors on the part of the director, are simply insufficient to overcome the well-founded and logical conclusions the director reached based on the evidence submitted by the petitioner. The unsupported statements of counsel on appeal or in a motion are not evidence and thus are not entitled to any evidentiary weight. *See INS v. Phinpathya*, 464 U.S. 183, 188-89 n.6 (1984); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503 (BIA 1980).

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.

Inasmuch as counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the appeal must be summarily dismissed.

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. The petitioner has not met this burden.

**ORDER:** The appeal is summarily dismissed.