



U.S. Department of Justice
Immigration and Naturalization Service

B4

PUBLIC COPY

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



File: EAC 01 231 52791 Office: VERMONT SERVICE CENTER Date: **FEB 28 2003**

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)

IN BEHALF OF PETITIONER: [Redacted]

ing data deleted to
prevent clearly unwarranted
invasion of personal privacy

INSTRUCTIONS:
This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Vermont Service Center. The matter is now before the Associate Commissioner on appeal. The case will be remanded for further action.

The petitioner seeks classification pursuant to section 203(b)(1)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(1)(C), as a multinational executive or manager. The petitioner seeks to employ the beneficiary as its sales manager. The director denied the petition because he determined that the petitioner failed to establish that the beneficiary has been and would be performing duties of a primarily managerial or executive nature. The director based this conclusion on a job description previously submitted by the petitioner.

On appeal, counsel asserts that the director confused the job duties attributed to the beneficiary with the job duties attributed to the beneficiary's subordinate and as a result did not consider those duties used to describe the beneficiary's role with the petitioning organization.

After thorough review of the record, it is concluded that the director's decision is deficient in that it is based on the wrong description of duties. As suggested by counsel on appeal, the director has apparently focused on the job duties of the beneficiary's subordinate and attributed those duties to the beneficiary himself. The director made no mention of duties claimed to be those of the beneficiary. Accordingly, the case will be remanded for proper review and analysis of the beneficiary's job duties and the job duties of his subordinates.

ORDER: The decision of the director, dated December 11, 2001, is withdrawn. The matter is remanded for further consideration consistent with the above discussion and entry of a new decision.