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U.S. Department of Justice
Immigration and Naturalization Service

B4

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

[Redacted]

File: [Redacted] Office: TEXAS SERVICE CENTER

Date: JAN 17 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]

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 which 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 which 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 visa petition was denied by the Director, Texas Service Center. The matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be summarily dismissed.

The petitioner is engaged in acquiring and exporting scrap metal. It seeks to employ the beneficiary as its president. Accordingly, it endeavors to classify the beneficiary as an employment-based immigrant 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 director determined that the petitioner had not established that the beneficiary had been or would be employed in a managerial or executive capacity for either the United States petitioner or the beneficiary's foreign employer.

8 C.F.R. 103.3(a)(1)(v) states, 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 the Form I-290B Notice of Appeal, filed on April 9, 2001, counsel indicated that a separate brief or evidence would not be submitted.

The statement on the appeal form reads simply:

Evidence submitted two times for the above captioned case sufficiently demonstrate that:

1. [The beneficiary] performs as an executive in the parent and US-based companies. Company's size is irrelent [sic].
2. The US-based company has been doing business for more than on yeay [sic].
3. Evidence submitted demonstrates that [the beneficiary] is the founder of [redacted] in Taiwan and was the executive and chief executive in other branches in China, Japan, and Taiwan since the beginning all entities.
4. Employees of US-based company constitutes three persons who have their own responsibilities that are closely monitored by [the beneficiary]. In addition, [the beneficiary] is also responsible for overseeing the entire operation of all entities around the world of his companies; and
5. There is no law to regulate the residential and/or commercial region by the City of Houston. Thus, it is not possible to produce any evidence to demonstrate the regulation since there is none.

Thus, all elements required by Act and 8 CFR section 204.5(j) are fulfilled.

Counsel's conclusory statements and reassertion of the claim that the beneficiary qualifies as a manager or executive is not sufficient for the purposes of an appeal. The assertions of counsel do not constitute evidence. Matter of Obaigbena, 19 I&N Dec.533, 534 (BIA 1988); Matter of Ramirez-Sanchez, 17 I&N Dec. 503, 506 BIA 1980). Counsel does not identify any errors made by the Service in making its decision. Inasmuch as counsel does not identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, the regulations mandate the summary dismissal of the appeal.

ORDER: The appeal is summarily dismissed.