U.S. Department of Justice

Immigration and Naturalization Service

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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

[redacted]

File: LIN 02 048 55641 Office: NEBRASKA SERVICE CENTER Date: JAN 30 2003

IN RE: Petitioner: [redacted]
Beneficiary:

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)

IN BEHALF OF PETITIONER: SELF-REPRESENTED

PUBLIC COPY

INSTRUCTIONS:
This is the decision 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.

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

Myra L. Olsen

for Robert P. Wiemann, Director
Administrative Appeals Office

JAN 3002 050101

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Nebraska Service Center. The matter is now before the Associate Commissioner for Examinations on appeal. The decision of the director will be withdrawn and the petition remanded for further consideration.

The petitioner, a trading company, seeks to employ the beneficiary temporarily in the United States as a "volatility arbitrage trading and development manager." The director determined that the record does not show that the petitioner is providing a systematic provision of goods or services and is financially able to support an executive or manager.

On appeal, the petitioner submits a letter from a Certified Public Accountant, [redacted] dated March 15, 2002. [redacted] explains that he has known the principal owners of the petitioner for more than ten years, that he has reviewed the financial statements of the entities that they own in the United States, and that he has found these statements to be consistent with generally accepted accounting principles. Among other documents, [redacted] submits the income tax returns for the petitioner for 1999 and 2000 and a letter from the owners of the enterprise dated March 14, 2000. In their letter to the Service, the owners state the following:

> This letter is to verify to the department that it is the intention of the owners of CMT Securities, LLC to deposit working capital of up to $2 million to support the business activity of the company. We hold sufficient recources in our other businesses to move capital into CMT Securities, LLC as needed. Provided we can obtain the requested Visa for [redacted] we are confident this company will be a profitable business entity.

It is determined that on appeal, the petitioner has established that it would be financially able to support an executive or manager and that it has been providing goods or services since it was established on December 31, 1997.

Consequently, the petitioner has overcome the director's objections. However, the petition may not be approved as the petitioner has not established that the beneficiary meets the eligibility requirements for classification as an L-1 intracompany transferee.

To establish L-1 eligibility under section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(L), 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.

Inasmuch as it appears that the beneficiary's eligibility for L-1 classification was not fully considered, this case will be remanded for the director to again review the record for a determination as to whether the petitioner has met the eligibility requirements under section 101(a)(15)(L) of the Act to classify the beneficiary as an L-1 intracompany transferee. For example, the petitioner must demonstrate whether there is an existing qualifying relationship between the U.S. and foreign entities and whether the beneficiary has been or will be employed in a primarily managerial or executive capacity. The director may request any additional evidence deemed necessary to assist him with his determination. As always in these proceedings, the burden of proof rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361.

ORDER: The director's decision of February 15, 2002 is withdrawn. The petition is remanded to the director for further consideration in accordance with the foregoing and entry of a new decision.