U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF S-, INC.

DATE: APR. 13, 2018

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, an invoice management software solutions provider, seeks to continue the Beneficiary's temporary employment as its chief executive officer under the L-1A nonimmigrant classification for intracompany transferees.[1] *See* Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L). The L-1A classification allows a corporation or other legal entity (including its affiliate or subsidiary) to transfer a qualifying foreign employee to the United States to work temporarily in a managerial or executive capacity.

The Director of the California Service Center denied the petition, concluding that the Petitioner did not establish, as required, that it would employ the Beneficiary in a managerial or executive capacity under the extended petition. The Director also found that the Petitioner did not establish it has been doing business because one of its offices "is located in a residential area where commercial activities are not authorized."

On appeal, the Petitioner asserts that the Director's decision was "based on a partial and selective review of the evidence," and failed to take into account the depth and complexity of the petitioning organization and its need for an executive to direct its management. The Petitioner also maintains that it provided sufficient evidence of its ongoing business activities and growth at two separate business locations.

Upon *de novo* review of the record, we will sustain the appeal. The Petitioner has established by a preponderance of the evidence that the Beneficiary will be employed in an executive capacity. It provided a detailed and credible description of the Beneficiary's job duties, as well as extensive supporting evidence showing that he has many resources available to remove him from involvement in the day-to-day operational duties of the business. These resources include managers and professionals employed by the Petitioner and its parent company, who in turn oversee subordinate employees, contractors, and other service providers responsible for product development, marketing,

[1] The Petitioner previously filed a "new office" petition on the Beneficiary's behalf which was approved for the period August 15, 2016, until August 14, 2017. The Petitioner's initial request for an extension of its new office petition was filed on June 21, 2017, and denied on July 26, 2017. A "new office" is an organization that has been doing business in the United States through a parent, branch, affiliate, or subsidiary for less than one year. 8 C.F.R. § 214.2(l)(1)(ii)(F). The regulation at 8 C.F.R. § 214.2(l)(3)(v)(C) allows a "new office" operation one year within the date of approval of the petition to support an executive or managerial position.

sales, and customer support duties, as well as ancillary human resources, administrative, and finance functions. The evidence is sufficient to establish that the Beneficiary will primarily perform executive duties as defined at section 101(a)(44)(B) of the Act, will mainly focus on the company's policies and goals for development, and will be able to delegate management of most company functions to his subordinates.

Moreover, we find no reason to doubt the credibility of the evidence the Petitioner submitted to corroborate its business activities during the previous year.[2] The Petitioner established that it is doing business as defined by the regulations. *See* 8 C.F.R. § 214.2(l)(1)(ii)(H).

ORDER: The appeal is sustained.

Cite as *Matter S-, Inc.*, ID# 1095834 (AAO Apr. 13, 2018)

[2] The Director raised a concern that one of the two offices leased by the Petitioner is located in a residential area. The regulations do not specify the type of physical premises that an L-1 petitioner must secure. *See* 8 C.F.R. § 214.2(l)(3)(v)(A). Here, the Petitioner provided evidence that the landlord has authorized the use of residential space for commercial purposes, as well as photographs and business documents showing that the office in question accommodates the Petitioner's employees and business operations.