U.S. Citizenship and Immigration Services

**Non-Precedent Decision of the Administrative Appeals Office**

In Re: 8774488

Date: JULY 14, 2020

Appeal of Vermont Service Center Decision

Form I-129, Petition for L-1A Manager or Executive

The Petitioner, describing itself as "a health/scientific research/sale business," sought to continue the Beneficiary's temporary employment as its president and chief executive officer under the L-1A nonimmigrant classification for intracompany transferees. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L).

The Director of the Vermont Service Center approved the petition, but later revoked the approval following the issuance of a notice of intent to revoke (NOIR). The Director concluded that the Beneficiary was no longer employed in a managerial or executive capacity in the United States. The Petitioner later appealed this decision and we remanded the matter for entry of a new decision. The Director again issued a decision determining that the Petitioner did not overcome the previous grounds for revocation. The matter is now before us again on appeal.

Upon *de novo* review, we conclude that the record now contains sufficient evidence to overcome the grounds for revocation. In withdrawing the Director's initial decision and remanding the matter, we stated that the Director did not sufficiently review the totality of the evidence or explain how it concluded that the Beneficiary was not, and would not, act in a managerial or executive capacity. Specifically, we noted that the Director should have reviewed the Petitioner's organizational structure, the duties of the Beneficiary's subordinates, the nature of the business, as well as other evidence; such as its organizational chart, staffing levels, subordinate duty descriptions, payroll records, or other relevant evidence. In affirming the revocation in a later decision, the Director stated that the Petitioner had "four (5) [*sic*] workers including the beneficiary;" and as a result, did "not have the organizational complexity to support the managerial or executive position for the beneficiary and guarantee that the beneficiary is relieved from primarily performing menial tasks associated with a small scale sales operation."

First, we find that the Director did not sufficiently analyze of the Petitioner's organizational structure and the other supporting evidence on the record. For instance, the Director only generically stated that the Petitioner had four or five employees and did not discuss these subordinates, their duties, or any of the other specific supporting documentation on the record. Further, the supporting documentation submitted in response to the Director's NOIR in November 2017 indicated that the Petitioner had more

than four or five employees. In fact, the Petitioner provided state employer's quarterly wage and payroll documentation reflecting that it had nine employees in place in November 2017.

Upon review of the entire record, we conclude that the Petitioner has provided sufficient evidence to establish that the Beneficiary more likely than not acted, and would act, in an executive capacity. The Petitioner submitted a credible and detailed duty description for the Beneficiary and substantial supporting evidence indicating that her subordinates were relieving her from primarily performing non-qualifying operational tasks as of the time of the NOIR response. The evidence credibly demonstrates that the Beneficiary's subordinates, with support from its Brazilian parent company, allowed her to primarily focus on the broad goals and policies of the Petitioner company rather than the day-to-day operations of the enterprise and that she had wide latitude in discretionary decision making over the organization. Section 101(a)(44)(B) of the Act.

As such, the totality of the evidence establishes that the Beneficiary more likely than not was acting in an executive capacity when the Petitioner responded to the Director's NOIR; therefore, we will withdraw the Director's revocation of the approved petition. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. The Petitioner has met that burden.

**ORDER:** The appeal is sustained.