U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF Q-B-T- INC.

DATE: JULY 27, 2017

APPEAL OF VERMONT SERVICE CENTER DECISION

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

The Petitioner, which owns rental property and claims to operate a restaurant, seeks to temporarily employ the Beneficiary as president and director of its new office under the L-1A nonimmigrant classification for intracompany transferees. *See* Immigration and Nationality 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 Vermont Service Center denied the petition. The Director concluded that the evidence of record did not establish that: (1) the Beneficiary has been employed abroad in a managerial or executive capacity; and (2) the new office will be able to support a managerial or executive position within a year of approval of the petition. The matter is now before us on appeal. Upon review, we will summarily dismiss the appeal.

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically an erroneous conclusion of law or statement of fact for the appeal. 8 C.F.R. § 103.3(a)(1)(v). The Petitioner did not provide a statement in support of the appeal that specifically identifies an erroneous conclusion of law or fact in the decision being appealed. The Petitioner submitted several documents, some of them new, others copies of previous submissions. The Petitioner provided no statement to provide context to these documents, or to identify any specific, erroneous conclusion of law or statement of fact in the Director's decision; thus, the appeal is summarily dismissed.

Even though the appeal is summarily dismissed, we will briefly discuss the evidence submitted on appeal. The documents submitted on appeal, without explanation, do not overcome the Director's finding regarding the Beneficiary's foreign employment. The documents include copies of an amended stockholders agreement for the petitioning company; foreign and U.S. job descriptions for the Beneficiary; the Beneficiary's employment contract, dated October 1, 2015, but also dated August 1, 2013; letters verifying the Beneficiary's past employment with the Petitioner's foreign parent company; a partial list of the foreign parent company's employees; and financial documentation from the foreign parent company. The Petitioner has submitted conflicting accounts of the Beneficiary's duties overseas, first indicating that almost all of the Beneficiary's responsibilities concerned the company's finances, and later stating that he controlled the company's

manufacturing, marketing, and sales operations. The Petitioner listed the Beneficiary's general areas of responsibility, but did not show the specific duties he performed to fulfill those responsibilities. The appeal includes a copy of a previously submitted job description which the Director had already found to be deficient.

The new documents also do not address or show error in the Director's finding concerning the new office's ability to support a managerial or executive position within a year. The Petitioner stated that it intends to sell kitchen supplies manufactured by its foreign parent company, but the record does not show that it has engaged in this activity. Instead, the Petitioner has purchased commercial rental properties in Florida, including a restaurant called the at The staff of the accounted for almost all of the Petitioner's reported employees.[1]

The Petitioner stated that it had 33 employees and predicted that it would pay $100,000 in salaries the first year. The Director questioned the accuracy of the salary figure, but the Petitioner stated that the figure was accurate because most of the restaurant jobs were part-time. The record shows that the Petitioner paid $10,831.76 in salaries and wages to 26 employees during a single two-week pay period. At that rate, the Petitioner would pay over $280,000 in salaries over a full year.

Other financial figures are also unsupported or questionable. The Petitioner anticipated over $1 million in first-year sales, but when asked to substantiate that figure, the Petitioner repeated the number and called it "evidence that Petitioner is on a path to success [and] profitability." The Petitioner stated that the foreign parent company would provide $938,925 in "startup funding," but acknowledged that the company had, so far, provided only about $52,000. A bank statement from July 2016 showed that the Petitioner received $31,980 on June 30, 2016, and $20,980 the next day. The same statement, however, shows two outgoing wire transfers to the parent company: $32,000 on July 8, 2016, and $21,000 on July 25, 2016. Again, the Petitioner, on appeal, has not explained how the Director's findings were in error.

Because the Petitioner has not identified a specific, erroneous conclusion of law or statement of fact in the Director's decision below, the appeal must be summarily dismissed.

[1] We note that public records show that the no longer operates at The Petitioner held food and beverage licenses for that property, but those same licenses are now held by a different company with no documented affiliation to the Petitioner or its foreign parent company. The restaurant was already operating under a different name in August 2016, the month the Petitioner filed the petition. As late as November 2016, the Petitioner claimed that it was still operating the and the January 2017 appeal includes an employee list consisting almost entirely of restaurant workers (the exceptions being the Beneficiary and a bookkeeper/office manager). The documented closure and replacement of the undermines the credibility of these documents and the Petitioner's related claims.

ORDER: The appeal is summarily dismissed pursuant to 8 C.F.R. § 103.3(a)(1)(v).

Cite as *Matter of Q-B-T- Inc.*, ID# 522263 (AAO July 27, 2017)