U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF F-M- LLC

DATE: MAR. 1, 2019

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, a peanut export and peanut product processing business, seeks to continue the Beneficiary's temporary employment as its chief executive officer under the L-1A nonimmigrant classification for intracompany transferees. 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 record did not establish, as required, that the Beneficiary would be employed in a managerial or executive capacity under the extended petition.

On appeal, the Petitioner asserts that it has established by a preponderance of the evidence that the Beneficiary will be employed in an executive or a managerial capacity. Upon *de novo* review, we will sustain the appeal.

The Petitioner has established by a preponderance of the evidence that the Beneficiary would be employed in the United States in an executive capacity as defined at section 101(a)(44)(B) of the Act. The record does not support the Director's conclusion that non-qualifying tasks will constitute the primary share of the Beneficiary's duties. Rather, the Petitioner described the Beneficiary's role as one in which he is primarily responsible for directing the management of the petitioning organization. The record demonstrates that the Beneficiary oversees a multi-layered entity, including four managers in charge of specific operational aspects of the business and additional subordinate staff that is sufficient to relieve the Beneficiary from primarily performing operational duties. The record also indicates that the Beneficiary has broad decision-making authority and receives only general supervision from the Petitioner's parent company in China. As such, the Petitioner has established that his services would be primarily executive in nature.

The appeal will be sustained because the Petitioner has established that it will employ the Beneficiary in an executive capacity under the extended petition.

ORDER: The appeal is sustained.

Cite as *Matter of F-M- LLC*, ID# 2357444 (AAO Mar. 1, 2019)