U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF PWCU-, LLC

DATE: MAR. 27, 2019

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, a designer, manufacturer, wholesaler, and distributor of alloy rings used in the manufacturing of automobile wheels, seeks to temporarily employ the Beneficiary as president of its new office under 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 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 Petitioner would employ the Beneficiary in a managerial or executive capacity in the United States. The Director acknowledged that the Petitioner indicated on the petition that the Beneficiary is coming to the United States for employment in a new office, but determined that the company does not qualify as a new office.

On appeal, the Petitioner asserts that it has not been doing business as defined in the regulations for at least one year, and, as such, it meets the definition of a "new office." The Petitioner maintains that it submitted sufficient evidence to establish that it would be able to support the Beneficiary in a managerial capacity within one year of the approval of the petition.

Upon *de novo* review, we will sustain the appeal.

Specifically, the totality of the evidence now establishes that the Petitioner qualifies as a new office and will support the Beneficiary in a managerial or executive capacity within one year. The Petitioner provided a detailed explanation of the Beneficiary's proposed duties, and explained that, as part of the expansion efforts, the Beneficiary will establish four departments for the distribution, design, development, and manufacturing of aluminum rims and wheels for the automobile aftermarket business. The Petitioner also provided evidence that the foreign entity's support staff will perform accounting, production, quality control, and research- and development-driven tasks, which will relieve the Beneficiary from having to primarily carry out non-qualifying job duties.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The Petitioner in the instant case has sustained that burden.

ORDER: The appeal is sustained.

Cite as *Matter of PWCU-, LLC*, ID# 2651321 (AAO Mar. 27, 2019)