U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF R- CORP.

DATE: MAY 3, 2019

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, a company engaged in the development manufacturing, and marketing of devices for the treatment of disorders, seeks to extend the Beneficiary's temporary employment as its "Senior Manager, Inside Sales," 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 Petitioner did not establish, as required, that it would employ the Beneficiary in a managerial or executive capacity in the under the extended petition, or that the Beneficiary was employed in a managerial or executive capacity abroad prior to his transfer to the United States.

On appeal, the Petitioner submits additional evidence, contends that the Director applied an overly strict interpretation of the relevant law, and asserts that the Beneficiary was employed abroad, and will be employed in the United States, in a managerial capacity.

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

The denial decision was based on a finding that there were evidentiary deficiencies in the record with respect to the Beneficiary's placement in each entity's respective organizational structure, and with respect to the nature of the function, department or activities the Beneficiary manages. The Petitioner has sufficiently addressed these deficiencies by supplementing the record on appeal with a more detailed explanation of how the Beneficiary's last position abroad, and proposed position in the United States, meet the statutory definition of "managerial capacity" at section 101(a)(44)(A) of the Act.

The record now establishes by a preponderance of the evidence that the Beneficiary's former role as the territory manager for Canada required him to manage the marketing and business development function for the company's products in the region with the support of internal sales and marketing departments and teams, and to act at a senior level in the company hierarchy with respect to this function. Further, the Petitioner has established that the Beneficiary's role in the United States will require him to oversee a department with 18 employees, including four subordinate supervisors, with

authority to recommend hiring and firing decisions and other personnel actions, as well as discretionary authority over the day-to-day operations of his department. The Petitioner has also demonstrated that the Beneficiary has been and would be relieved from significant involvement in the day-to-day operational tasks of the sales, marketing and business development functions under his responsibility, such that his primary duties have been and would be primarily managerial in nature. Accordingly, we find that the Petitioner has established that the Beneficiary was employed abroad, and would be employed in the United States, in a managerial capacity.

ORDER: The appeal is sustained.

Cite as *Matter of R-Corp.*, ID# 2650302 (AAO May 3, 2019)