U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF E-USA, INC.

DATE: MAY 22, 2018

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, a manufacturer and distributor of thermoplastic elastomer products, seeks to temporarily employ the Beneficiary as its North American business manager 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 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 that the Beneficiary was employed abroad in a managerial or executive capacity. Further, the Petitioner determined that the Petitioner did not demonstrate that the Beneficiary would be employed in a managerial or executive capacity in the United States.

Upon *de novo* review, we conclude that the record now contains sufficient evidence to overcome the Director's denial. First, the submitted evidence reflects that the Beneficiary more likely than not acts in a managerial capacity abroad overseeing the foreign entity's sales and marketing in Romania and Bulgaria. The Petitioner has provided a sufficiently detailed duty description for the Beneficiary abroad and supporting evidence indicating that he supervises a sales manager overseeing subordinate sales representatives. The record also indicates that the foreign employer is just one of a group of affiliated companies working to sell and distribute the foreign parent company's products, and that the Beneficiary relies on the support of several operational employees from other foreign entities to primarily relieve him from non-qualifying tasks. This foreign organizational structure qualifies the Beneficiary as a personnel manager based on his supervision of other managers. Section 101(a)(44)(A)(iv) of the Act.

In addition, the Petitioner has provided sufficient evidence to establish that the Beneficiary will be employed in a managerial capacity in the United States. The Petitioner has submitted a credible and detailed duty description for the Beneficiary indicating that he will more likely than not supervise professional employees holding bachelor's degrees required for their positions including a business development manager, a plant manager, and a technical sales manager. Further, the Petitioner submits substantial supporting evidence indicating that the business development manager oversees an extensive network of independent contractors in North America performing sales, warehousing, product delivery, and manufacturing plant construction, amongst other operational tasks. This

organizational structure qualifies the Beneficiary as a personnel manager based on his supervision of other supervisors and professionals. Section 101(a)(44)(A)(iv) of the Act. The provided evidence indicates that the Beneficiary's subordinates and the company's independent contractors will relieve him from primarily performing non-qualifying operational tasks and allow him to primarily perform managerial duties related to the sale and distribution of the company's products in North America and the building of a manufacturing plant in the United States.

The totality of the evidence establishes that the Beneficiary is more likely than not employed in a managerial capacity abroad and that he will be employed in a managerial capacity in the United States.

ORDER: The appeal is sustained.

Cite as *Matter of E-USA, Inc.*, ID# 1235283 (AAO May 22, 2018)