U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF W-M-C-., LTD.

DATE: NOV. 6, 2019

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, a producer and seller of machine tools, industrial machinery, measuring instruments, and controllers, seeks to temporarily employ the Beneficiary as branch manager of its new office[1] 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: (1) the Beneficiary has been employed abroad in a managerial or executive capacity; and (2) the new office will support a managerial or executive position within one year.

The matter is now before us on appeal. On appeal, the Petitioner asserts that the Director erred by failing to consider the entire record and disregarding qualifying evidence. Upon *de novo* review, we will sustain the appeal.

On appeal, the Petitioner has established by a preponderance of the evidence that the Beneficiary has been employed abroad and will be employed in the United States in a managerial capacity as defined at section 101(a)(44)(A) of the Act. With respect to the Beneficiary's position abroad and his intended positon in the United States, the Petitioner provided specific examples of the types of managerial duties delegated to the Beneficiary and the types of non-managerial duties delegated to his subordinates. It has established that the Beneficiary has been and will be operating at a senior level in the organization, and that he has been and will be exercising discretion over day-to-day activities of the sales function of the organization. With respect to his intended U.S. employment, the Petitioner's business plan and sales and employment targets are reasonable with the resources shown to be available. The Director's findings about the small initial size of the Petitioner's staff did not take into account an independent contractor who will be supervised by the Beneficiary in the United States and foreign workers who, although working abroad, would continue to fall under the Beneficiary's chain of authority.

[1] The term "new office" refers to an organization which has been doing business in the United States for less than one year. 8 C.F.R. § 214.2(l)(1)(ii)(F). The regulation at 8 C.F.R. § 214.2(l)(3)(v)(C) allows a "new office" operation no more than one year within the date of approval of the petition to support an executive or managerial position.

The Petitioner has provided sufficient information and evidence to establish the Beneficiary's managerial capacity, both in his past employment abroad and in his intended employment in the new office in the United States.

ORDER: The appeal is sustained.

Cite as *Matter of W-M-C-., Ltd.*, ID# 6407208 (AAO Nov. 6, 2019)