U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF E- CORP.

DATE: NOV. 8, 2018

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, which is engaged in the sales and distribution of CNC machine tools, seeks to continue the Beneficiary's temporary employment as its "Chief Executive Officer – Group" 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 revoked the approval of the petition,[1] concluding that the Petitioner did not establish, as required, that the Beneficiary would be employed in the United States in a managerial or executive capacity.

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

The Petitioner has established by a preponderance of the evidence that the Beneficiary will continue to be employed in the United States in an executive capacity as defined at section 101(a)(44)(B) of the Act. The record demonstrates that the Beneficiary is the CEO for the Petitioner's multinational group of companies, which includes chief executive roles for the Petitioner, its parent company, and affiliates in several other countries. While he spends most of his time at the group's headquarters in Austria, the Petitioner has established that his duties when in the United States are consistent with the statutory definition of executive capacity, as he primarily directs the management of the company, establishes its goals and policies and oversees their implementation, exercises wide latitude in discretionary decision-making, and reports only to shareholders and the board of directors, of which serves as chairman. The Petitioner's day-to-day operations are managed by the full-time U.S. managerial, professional, and administrative staff and the record reflects that they

[1] The Director issued a notice of intent to revoke the previously approved petition pursuant to 8 C.F.R. § 214.2(l)(9)(iii) after an administrative site visit to the Petitioner's location resulted in a finding that the Beneficiary was not on the Petitioner's payroll and was working in the Petitioner's office only intermittently, with approximately six short visits to the United States annually. We note that the Beneficiary's intermittent employment and retention on the payroll of the Petitioner's Austrian parent company were both disclosed by the Petitioner when it filed the petition and neither of these facts renders the Beneficiary ineligible for the benefit sought under the statute or regulations.

relieve the Beneficiary from performing non-executive duties associated with the sales and distribution of the parent company's products in the United States.

ORDER: The appeal is sustained.

Cite as *Matter of E- Corp.*, ID# 1767328 (AAO Nov. 8, 2018)