U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 13261038

Date: NOV. 27, 2020

Appeal of Texas Service Center Decision

Form I-129, Petition for L-1A Manager or Executive

The Petitioner is an international jewelry company with over 500 employees worldwide. It seeks to employ the Beneficiary temporarily at a proffered annual wage of $194,000 as its "National Account Director" under the L-1A nonimmigrant classification for intracompany transferees who are coming to be employed in the United States in a managerial or executive capacity. 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 Texas Service Center denied the petition concluding that the Petitioner did not establish, as required, that the Beneficiary was employed abroad and would be employed in the United States in a managerial or executive capacity because it did not demonstrate that the Beneficiary's foreign and proposed positions meet all four prongs of the statutory definition of managerial capacity. Namely, the Director determined that the Petitioner did not demonstrate that the Beneficiary (1) managed and would manage subordinates who are degreed professionals, and (2) had and would have hiring and firing authority over her subordinates.

On appeal, the Petitioner asserts that the Beneficiary has and would continue to manage its sales and business development by opening additional store locations and expanding the Petitioner's brand to other retailers. The Petitioner argues that the Director did not adequately consider previously submitted supporting evidence, such as the Beneficiary's employee performance evaluations and organizational charts, which show that the Beneficiary has and would continue to occupy a senior management position alongside six other top-level directors within the organization and that she would continue to oversee seven jewelry stores that are part of the Petitioner's international organization and are each staffed with managers and sales employees.

The Petitioner also challenges the Director's focus on the educational credentials of the Beneficiary's subordinates, asserting that the Beneficiary has and would continue to oversee the work of managerial employees at the Petitioner's jewelry stores in Canada and that each jewelry store subject to the Beneficiary's authority is comprised of managers who oversee their own teams of subordinate employees. The Petitioner further explains that while the Beneficiary would continue overseeing the seven stores in Canada, she has and would continue to expand its brand presence in the United States,

pointing out her successful expansion of its products to [redacted] a large U.S. [redacted] store chain, and her ongoing effort to "lead the opening [of] additional locations through the [redacted] United States." In sum, the Petitioner contends that the previously submitted documents adequately demonstrate that the Beneficiary has and would continue to occupy a senior leadership role both within the broader organization and with respect to each of the seven jewelry stores whose managers reported and will continue to report directly to the Beneficiary.

Upon de novo review, we conclude that the Director did not adequately consider the Petitioner's claims regarding the Beneficiary's oversight of managerial personnel, her discretionary authority over the organization's sales at the local and national level, and her role in assisting with the opening and staffing of additional stores in Canada in furtherance of the organization's brand expansion efforts. In sum, the record demonstrates that the Beneficiary has and would continue to occupy a senior management role within a complex organization and that the duties she performed and would perform are more likely than not managerial in nature.

We conclude that the Petitioner established by a preponderance of the evidence that the Beneficiary was and would more likely than not be employed in a managerial capacity. Therefore, we will sustain the appeal.

ORDER: The appeal is sustained.