U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40012004

Date: OCT. 22, 2025

Appeal of Service Center Operations (SCOPS) Decision

Form I-129, Petition for a Nonimmigrant Worker (L-1A Manager or Executive)

The Petitioner,[1] which intends to provide educational support services to foreign exchange students, seeks to temporarily employ the Beneficiary as chief executive officer (CEO) of its new office under the L-1A nonimmigrant classification for intracompany transferees.[2] *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.

SCOPS denied the petition, concluding that the record did not establish that the Beneficiary has been employed abroad in a managerial or executive capacity. The matter is now before us on appeal under 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

To establish eligibility for the L-1A nonimmigrant visa classification in a petition involving a new office, a qualifying organization must have employed the beneficiary in a managerial or executive capacity for one continuous year within three years preceding the beneficiary's application for admission into the United States. 8 C.F.R. § 214.2(l)(3)(v)(B). In addition, the beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial or executive capacity. *Id*.

[1] The record indicates that the name of the petitioning entity is misspelled on the petition and appeal forms. For consistency in recordkeeping, we have kept that spelling on the decision's cover page, but other materials in the record, including copies of state filings and the Petitioner's own printed letterhead, show that the correct spelling is [redacted]

[2] 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). A "new office" must support an executive or managerial position within one year of the petition's approval. 8 C.F.R. § 214.2(l)(3)(v)(C).

The petitioner must submit evidence to demonstrate that the new office will be able to support a managerial or executive position within one year. This evidence must establish that the petitioner secured sufficient physical premises to house its operation and disclose the proposed nature and scope of the entity, its organizational structure, its financial goals, and the size of the U.S. investment. *See generally*, 8 C.F.R. § 214.2(l)(3)(v).

II. ANALYSIS

SCOPS determined that the Petitioner did not establish that the Beneficiary has been employed abroad in an executive capacity. The Petitioner does not claim that the Beneficiary has been employed in a managerial capacity. Therefore, we restrict our analysis to whether the Beneficiary has been employed in an executive capacity.

"Executive capacity" means an assignment within an organization in which the employee primarily directs the management of the organization or a major component or function of the organization; establishes the goals and policies of the organization, component, or function; exercises wide latitude in discretionary decision-making; and receives only general supervision or direction from higher-level executives, the board of directors, or stockholders of the organization. Section 101(a)(44)(B) of the Act.

On the Form I-129 petition, the Petitioner indicated that the Beneficiary had worked without interruption for [redacted] in Nigeria since 2009. The Beneficiary signed the petition form in his capacity as CEO of the petitioning employer.

Letters from [redacted] indicate that the Beneficiary served as [redacted] CEO, with the following responsibilities:

- **Strategic Planning and Vision:** Dedicated approximately 40% of his time to developing long-term strategic plans, setting annual objectives, and identifying growth opportunities.
- **Partnership Development:** Spent 30% of his time cultivating and maintaining partnerships with universities, service providers, and stakeholders.
- **Financial Oversight:** Allocated 20% of his time to reviewing financial performance, approving budgets, and ensuring compliance with fiscal policies.
- **Board Reporting and Governance:** Spent 10% of his time preparing and presenting reports to the board, ensuring alignment with organizational goals.

A separate document included a "Detailed Overview" of the "CEO's Hourly Activities," devoting three pages to a sample schedule with activities such as meetings, mentoring sessions, and visits to schools.

A copy of the Beneficiary's résumé indicates that he worked for [redacted] as a tutor from 2009 to 2015, and as CEO from 2015 to 2023. The résumé shows no other employment.

In the denial notice, SCOPS observed that, in a 2022 application for a B-1/B-2 nonimmigrant visa, the Beneficiary stated that he had run a "real estate development and construction company" since 2013. Asked "[w]ere you previously employed?," the Beneficiary answered "no." SCOPS observed that

these claims contradict the Petitioner's later claim that the Beneficiary had worked for [redacted] since 2009. SCOPS concluded that these conflicting assertions raise serious questions of credibility.

On appeal, the Beneficiary asserts that he took over his father's real estate development company in 2013, but continued to lead [redacted] and "held simultaneous leadership roles at [both] companies." The Beneficiary states that he listed the real estate company on an earlier visa application, and repeated that information on later applications "out of consistency and simplicity, given that it was the original company under which [he] was first granted a visa." The Beneficiary asserts that he "remained active in both capacities and had no intent to mislead or withhold information," and that he had "day-to-day responsibilities at both Nigerian companies" before establishing the petitioning U.S. entity in 2023.

The Beneficiary does not explain why he answered "no" on the visa application when asked if he had been employed before he began running the real estate company in 2013. Likewise, he does not explain why the résumé submitted in support of the petition does not mention the real estate company. The Petitioner is responsible to resolve inconsistencies in the record with independent objective evidence. Attempts to explain or reconcile the conflicting accounts, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Doubt cast on any aspect of the petitioner's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Id.* at 591.[3]

On its face, the Beneficiary's assertion that he "remained active in both capacities" also raises questions about [redacted] claim that the Beneficiary "has been employed full-time with [redacted] . . [since] January 2009," working every weekday from 9:00 a.m. to 4:00 or 5:00 p.m. The Petitioner's submissions do not mention the real estate development company or explain how the Beneficiary divided his time between the two claimed employers. This is a material issue because the regulation at 8 C.F.R. § 214.2(l)(3)(iii) requires "one continuous year of full-time employment abroad with a qualifying organization within the three years preceding the filing of the petition."

As SCOPS observed in the denial notice, the Petitioner has not submitted objective evidence of the Beneficiary's specific activities abroad. The credibility issues detailed above create significant doubt that [redacted] consistently employed the Beneficiary full-time and in the capacity claimed.

Inconsistencies concerning the nature of [redacted] activities raise further credibility questions about the Beneficiary's claimed employment there. The nature and scope of the employer's business is a relevant factor when determining whether a beneficiary's duties qualify as managerial or executive. *See, generally*, 2 *USCIS Policy Manual* L.3(A), https://www.uscis.gov/policymanual.

A letter written to support the petition states that [redacted] "provid[es] top-tier educational consulting services," including "student placement programs." The Beneficiary's résumé describes "a focus on developing and implementing evidence-based educational strategies that improve student learning

[3] Between his representations to the U.S. Department of State and later to U.S. Citizenship and Immigration Services, the Beneficiary has provided conflicting information about his employment abroad in the course of seeking immigration benefits. SCOPS did not make a formal finding of misrepresentation in the denial notice, and we do not make any finding here as well, but the Beneficiary's conflicting assertions may be considered in any future filings where the Beneficiary's experience is relevant. A finding that the Beneficiary willfully misrepresented material facts relating to his employment abroad, either on his 2022 visa application or in 2025 when he signed the Form I-129 petition in his capacity as the Petitioner's CEO may be considered where material. *See* section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i).

outcomes and prepar[e] student for standardized and proficiency tests." Invoices in the record identify various colleges as [redacted] clients. And a document from the Petitioner without a legible title refers to "the educational consultancy sector" and provides subordinates' job descriptions related to tutoring and testing.

But the record provides little corroboration for these assertions. For example, the record does not include evidence of the services listed on the invoices or of payment received, and the Petitioner did not document the employment and activities of the claimed subordinate employees. This lack of evidence is particularly significant because other materials in the record show different descriptions of the nature of [redacted] business and impact the analysis of the Beneficiary's job duties.

Business-to-business agreements in the record between [redacted] and airline ticketing companies call [redacted] "a travel agency and education consulting company." The agreements indicate that the ticketing companies "will provide airline ticketing services to [redacted] for the purpose of facilitating travel for students, corporate clients, and other customers seeking educational or travel services." The agreements also obligate [redacted] to "[p]romote and sell airline tickets provided by" the ticketing companies. The Beneficiary signed these agreements as [redacted] CEO and therefore was presumably aware of their contents. [redacted] organizational chart does not show any travel agents and the record does not otherwise indicate that [redacted] sells airplane tickets or explain why [redacted] would enter into such agreements with ticketing services.

[redacted] memorandum of association states that the company's objects are:

1. To carry on the business of consultants and advisers on problems relating to the administration and organization of business and training of personnel for industry and business, and to advise on the means and methods for extending, developing and improving all types of business or industries and all systems or process relating to the production, storage distribution, marketing and sale of goods and/or relating to the rendering of services.

2. To engage in research into problems relating to personnel, industrial and business management and distribution marketing and selling. . . .

3. To organize, arrange, hold, promote and sponsor lectures symposia and other fora for the exchange and dissemination of information.

4. To carry on all or any of the business of proprietors and publishers of Journals, magazines, books, catalogues and other literary works and undertakings, printers stationers, lithographers, electrotypers, photographers, colour printers, engravers, book manufacturers, book sellers advertising agent, engineers and dealers in or manufacturers of letters or hirers of any articles or things of a character similar to analogous or any of them, and in particular, maps, models, drawing mathematical and technical instrument and materials, drawing inks, writing machines, typewriter materials electrical instrument and invention of all kind.

5. To undertake and transact all kinds of agency and all kinds of business relatives [sic] to the gathering and distribution of knowledge, and of information of every sort which an individual may legally undertake or transact.

Audited financial statements for 2023 and 2024 both described [redacted] "[p]rincipal activities" in language nearly identical to item 1 above. The financial statements also refer to "the company's premises and her loading stations." The Beneficiary signed these documents in his capacity as [redacted] CEO.

As shown above, the submitted materials include widely divergent and inconsistent descriptions of [redacted] business activities, and the Petitioner has not adequately established which, if any, of these descriptions most accurately depict [redacted] actual activities. The Petitioner has not explained, or even acknowledged, these significant inconsistencies, which add to the existing credibility concerns in this proceeding. As the true nature of the [redacted] business is unclear, we cannot reasonably determine the Beneficiary's job duties to ultimately determine whether he can establish his position fits within the regulatory definition of an executive, and we cannot conclude that the Petitioner has met its burden of proof in this proceeding.

III. CONCLUSION

The Petitioner has not met its burden of proof to establish, by a preponderance of the evidence, that the Beneficiary was employed abroad in an executive capacity that meets all applicable requirements. We will therefore dismiss the appeal.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.