U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF P-A- INC.

DATE: SEPT. 17, 2018

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, an importer and distributor of specialty eyewear, seeks to temporarily employ the Beneficiary as its chief executive officer (CEO) 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 Petitioner did not establish, as required that it would employ the Beneficiary in a managerial or executive capacity. The matter is now before us on appeal.

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 would be employed in the United States in an executive capacity as defined at section 101(a)(44)(B) of the Act. The record does not support the Director's finding that the Beneficiary would "primarily assist with the day-to-day non-supervisory duties of the business." The Petitioner described the Beneficiary's role as one in which he is primarily responsible for directing the management of an essential function of its international organization – the sales operations for the parent company's successful brand of specialty eyewear in multiple markets worldwide. With respect to the U.S. operations, the Petitioner documented that it has a well-established structure in place for marketing, sales, ordering, warehousing, logistics, and fulfillment, and demonstrated that contracted U.S. companies perform these activities. Further, the Petitioner established that the foreign parent entity's personnel, who report to the Beneficiary, handle routine day-to-day interactions with these contractors, while the Beneficiary's services would be needed in the United States intermittently to perform higher-level duties associated with the company's expansion plans. As such, the Petitioner has established that his services would be primarily executive in nature.

ORDER: The appeal is sustained.

Cite as *Matter of P-A- Inc.*, ID# 1626885 (AAO Sept. 17, 2018)