U.S. Citizenship and Immigration Services

**Non-Precedent Decision of the Administrative Appeals Office**

In Re: 23608308

Date: JULY 29, 2022

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Multinational Managers or Executives

The Petitioner, which sells oil and gas, seeks to permanently employ the Beneficiary as an operations manager under the first preference immigrant classification for multinational managers or executives. Immigration and Nationality Act (the Act) section 203(b)(1)(C), 8 U.S.C. § 1153(b)(1)(C). This classification allows a U.S. employer to permanently transfer a qualified foreign employee to the United States to work in an executive or managerial capacity.

The Director of the Texas Service Center denied the petition, concluding that the record did not establish that the Petitioner has a qualifying relationship with the Beneficiary's foreign employer.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will sustain the appeal.

## I. LAW

An immigrant visa is available to a beneficiary who, in the three years preceding the filing of the petition, has been employed outside the United States for at least one year in a managerial or executive capacity, and seeks to enter the United States in order to continue to render managerial or executive services to the same employer or to its subsidiary or affiliate. Section 203(b)(1)(C) of the Act.

The Form I-140, Immigrant Petition for Alien Worker, must include a statement from an authorized official of the petitioning United States employer which demonstrates that the beneficiary has been employed abroad in a managerial or executive capacity for at least one year in the three years preceding the filing of the petition, that the beneficiary is coming to work in the United States for the same employer or a subsidiary or affiliate of the foreign employer, and that the prospective U.S. employer has been doing business for at least one year. *See* 8 C.F.R. § 204.5(j)(3).

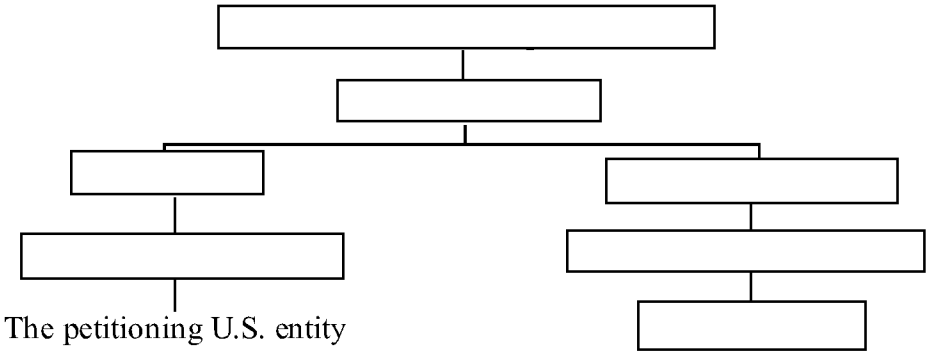
## II. QUALIFYING RELATIONSHIP

The Director denied the petition based on a finding that the Petitioner did not establish that it has the required qualifying relationship with the Beneficiary's foreign employer.

To establish a "qualifying relationship" under the Act and the regulations, a petitioner must show that the beneficiary's foreign employer and the proposed U.S. employer are the same employer (i.e. a U.S. entity with a foreign office) or related as a "parent and subsidiary" or as "affiliates." See generally section 203(b)(1)(C) of the Act; 8 C.F.R. § 204.5(j)(3)(i)(C). The regulation at 8 C.F.R. § 204.5(j)(2) defines the relevant terms. One definition of "affiliate" is "one of two subsidiaries both of which are owned and controlled by the same parent or individual."

The Beneficiary worked for [redacted] before entering the United States as an L-1A nonimmigrant under a blanket L petition.[1] A partial copy of the approval notice for the blanket L petition, filed by the Petitioner in 2019, indicates that [redacted] owns 100% of [redacted] while [redacted] owns 100% of the petitioning U.S. entity.

Because the submitted excerpts of the blanket L petition approval notice do not show the relationship between [redacted] and [redacted], the Director issued a request for evidence and then a notice of intent to deny, instructing the Petitioner to submit evidence to establish a qualifying relationship between the Petitioner and [redacted] In response, the Petitioner described the following ownership chain:




To corroborate the claimed structure, the Petitioner submitted documentation such as business register printouts, share certificates, unanimous consent agreements, and registers of shareholders.

The Director denied the petition, acknowledging that the Petitioner "is wholly owned by [redacted] and [redacted] but concluding "there is no evidence showing that [redacted] or [redacted] owns at least 50% of the common shares of" the Petitioner.

We agree with the Petitioner that the Director's conclusion does not take into account documentation submitted in response to the notice of intent to deny. A "Business Register extract" issued by the [redacted] Chamber of Commerce indicates that [redacted] is [redacted] "[s]ole shareholder." A director's resolution, purchase agreement, securities register, and share certificate all show that [redacted] purchased 100% of [redacted] shares in June 2015. These documents, along with other materials in the record, complete the chain of ownership. The record does not contain, and the Director did not cite, any evidence that contradicts or conflicts with this information.

[1] A petitioner may file a blanket petition to seek continuing approval of itself and some or all of its parent, branches, subsidiaries, and affiliates as qualifying organizations if the petitioner and each of those entities are engaged in commercial trade or services, and if certain other requirements are met. *See* 8 C.F.R. § 214.2(l)(4)(i).

A petitioner must establish that it meets each eligibility requirement of the benefit sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I& N Dec. 369, 375-76 (AAO 2010). In other words, a petitioner must show that what it claims is "more likely than not" or "probably" true. In this case, we conclude that the Petitioner's evidence is credible, consistent, and sufficient to meet this standard.

The Petitioner has established, by a preponderance of the evidence, that it has a qualifying relationship with [redacted] as affiliates through their shared ownership by [redacted]. The Petitioner has therefore overcome the only stated ground for denial of the petition.

**ORDER:** The appeal is sustained.