



U.S. Department of Justice
Immigration and Naturalization Service

HQ 1815-C

425 I Street NW.
Washington, DC 20536

FEB - 5 1996

Mr. Joseph C. Grasmick
Cyclorama Building
Suite 300
369 Franklin Street
Buffalo, New York 14202-1725

Dear Mr. Grasmick:

This is in response to your letter of November 9, 1995, concerning prohibited self-employment for a Canadian TN management consultant. I apologize for the delay in responding to you and hope that you were not unduly inconvenienced as a result.

For the purpose of your question, you state that a Canadian company provides services exclusively to an existing U.S. company. The prospective TN nonimmigrant is an employee of the Canadian company and also has an ownership share in that company. You ask whether the Canadian citizen would be permitted to perform services as a TN nonimmigrant for the U.S. company if he owns, respectively, less than 50 per cent, more than 50 per cent, or 100 percent of the Canadian company.

The nature of the prospective TN nonimmigrant's Canadian employer does not matter as long as the Canadian citizen is seeking entry to provide prearranged services for a U.S. entity. In order to obtain "TN" classification, a business person, including one who is self-employed in Canada, must be seeking entry to render pre-arranged professional services in the receiving NAFTA Party. To constitute pre-arranged professional services, there must exist, prior to the time at which classification as a NAFTA Professional is sought, a formal arrangement to render professional service to an individual or an enterprise in the receiving NAFTA Party. The formal arrangement may be through an employee-employer relationship, or through a signed contract between the business person or the business person's employer and an individual or an enterprise in the receiving NAFTA Party.

Therefore, in the example that you have cited in your letter, the Canadian citizen would be eligible to apply for admission as a TN nonimmigrant no matter what his or her ownership share is in the

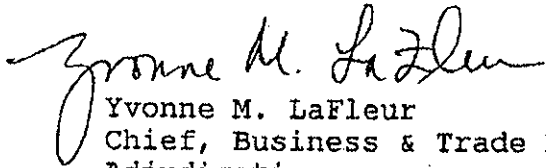
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Canadian company. However, his or her business activities in the United States must not include establishment of a business or practice or any other type of activity in which he or she will be self-employed.

I hope that this is responsive to your concerns.

Sincerely,

A handwritten signature in cursive script that reads "Yvonne M. LaFleur". The signature is written in dark ink and is positioned above the typed name and title.

Yvonne M. LaFleur
Chief, Business & Trade Branch
Adjudications