

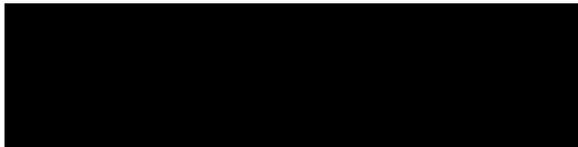
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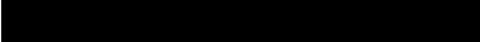
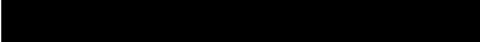
U.S. Citizenship
and Immigration
Services

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PUBLIC COPY



File: SRC 04 022 51874 Office: TEXAS SERVICE CENTER Date: **JUL 05 2007**

IN RE: Petitioner: 
Beneficiary: 

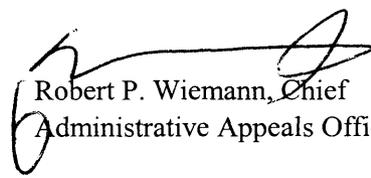
Petition: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the petition for a nonimmigrant visa. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will dismiss the appeal.

The petitioner filed this nonimmigrant petition seeking to extend the employment of its manager and sales representative as an L-1A nonimmigrant intracompany transferee pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner, a Florida corporation, states that provides wedding and event planning services and exports wedding and party apparel to Ecuador. The petitioner claims that it is the subsidiary of Remy Producciones, located in Guayaquil, Ecuador. The beneficiary was initially granted a one-year period of stay to open a new office in the United States and the petitioner now seeks to extend her stay for four additional years.

The director denied the petition concluding that the petitioner did not establish that the beneficiary would be employed in the United States in a primarily managerial or executive capacity.

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review. On appeal, counsel for the petitioner asserts that the petitioner provided ample evidence that the beneficiary is employed in a managerial or executive capacity. Counsel contends that the director placed undue emphasis on the size of the petitioning company, and failed to take into account the beneficiary's supervision of outside suppliers and service providers. Counsel submits a brief in support of the appeal.

To establish eligibility for the L-1 nonimmigrant visa classification, the petitioner must meet the criteria outlined in section 101(a)(15)(L) of the Act. Specifically, a qualifying organization must have employed the beneficiary in a qualifying managerial or executive capacity, or in a specialized knowledge capacity, for one continuous year within three years preceding the beneficiary's application for admission into the United States. 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, executive, or specialized knowledge capacity.

The regulation at 8 C.F.R. § 214.2(l)(3) states that an individual petition filed on Form I-129 shall be accompanied by:

- (i) Evidence that the petitioner and the organization which employed or will employ the alien are qualifying organizations as defined in paragraph (l)(1)(ii)(G) of this section.
- (ii) Evidence that the alien will be employed in an executive, managerial, or specialized knowledge capacity, including a detailed description of the services to be performed.
- (iii) Evidence that the alien has at least one continuous year of full time employment abroad with a qualifying organization within the three years preceding the filing of the petition.

- (iv) Evidence that the alien's prior year of employment abroad was in a position that was managerial, executive or involved specialized knowledge and that the alien's prior education, training, and employment qualifies him/her to perform the intended services in the United States; however, the work in the United States need not be the same work which the alien performed abroad.

The regulation at 8 C.F.R. § 214.2(l)(14)(ii) also provides that a visa petition, which involved the opening of a new office, may be extended by filing a new Form I-129, accompanied by the following:

- (A) Evidence that the United States and foreign entities are still qualifying organizations as defined in paragraph (l)(1)(ii)(G) of this section;
- (B) Evidence that the United States entity has been doing business as defined in paragraph (l)(1)(ii)(H) of this section for the previous year;
- (C) A statement of the duties performed by the beneficiary for the previous year and the duties the beneficiary will perform under the extended petition;
- (D) A statement describing the staffing of the new operation, including the number of employees and types of positions held accompanied by evidence of wages paid to employees when the beneficiary will be employed in a managerial or executive capacity; and
- (E) Evidence of the financial status of the United States operation.

The primary issue in this matter is whether the petitioner established that the beneficiary would be employed in a primarily managerial or executive capacity under the extended petition.

Section 101(a)(44)(A) of the Act, 8 U.S.C. § 1101(a)(44)(A), defines the term "managerial capacity" as an assignment within an organization in which the employee primarily:

- (i) manages the organization, or a department, subdivision, function, or component of the organization;
- (ii) supervises and controls the work of other supervisory, professional, or managerial employees, or manages an essential function within the organization, or a department or subdivision of the organization;
- (iii) if another employee or other employees are directly supervised, has the authority to hire and fire or recommend those as well as other personnel actions (such as promotion and leave authorization), or if no other employee is directly supervised, functions at a senior level within the organizational hierarchy or with respect to the function managed; and

- (iv) exercises discretion over the day to day operations of the activity or function for which the employee has authority. A first line supervisor is not considered to be acting in a managerial capacity merely by virtue of the supervisor's supervisory duties unless the employees supervised are professional.

Section 101(a)(44)(B) of the Act, 8 U.S.C. § 1101(a)(44)(B), defines the term "executive capacity" as an assignment within an organization in which the employee primarily:

- (i) directs the management of the organization or a major component or function of the organization;
- (ii) establishes the goals and policies of the organization, component, or function;
- (iii) exercises wide latitude in discretionary decision making; and
- (iv) receives only general supervision or direction from higher level executives, the board of directors, or stockholders of the organization.

The nonimmigrant petition was filed on October 29, 2003. The petitioner stated on the Form I-129 that the beneficiary would continue to serve as the manager and sales representative of the two-person U.S. company, and described her proposed duties as follows:

Solicit purchase of wedding clothing and party costumes (i.e. for musical groups) from U.S. suppliers. Export wedding clothing and party costumes to Ecuador parent company. Solicit clients for wedding planning and party planning. Contract and retain independent contractors for musical entertainment. Supervise employee's daily work and supervise employee's [sic]

The petitioner's president submitted a letter dated October 25, 2003, in which he described his role and the beneficiary's role within the company as follows:

Since [the beneficiary] was approved for L1A status on October 29, 2002, she has entered into business deals on behalf of the company for wedding and party planning. She made a deal with me so that I could be president in exchange for future stock in the company and a percentage of profits. She has retained independent contractors for the business to perform the tasks required for parties and special events. [The beneficiary] is very dedicated to her work and when one of the singers for a planned event in Washington, D.C. could not sing because she was ill, [the beneficiary] took the initiative and sang in place of the lead singer.

Although I am the president of the company, my responsibilities are to do the office work, throw out the trash, purchase office supplies, etc. [The beneficiary] spends her days discussing business deals for the company, telling me who I need to collect bills from, taking messages from me, and giving me the deposits for the bank. She also manages the activities

of the independent contractors that the company retains. I will eventually take over the business in the future upon [the beneficiary] completing her L-1A status.

Finally, [the beneficiary] has sought the purchase of wedding apparel and party items for our parent company, Remy Producciones, in Ecuador. She is trying to also purchase party apparel and party supplies in bulk for the parent company in Ecuador. . . .

The petitioner submitted a copy of its Florida Form UCT-6, Employer's Quarterly Report, for the third quarter of 2003, which indicates wages paid to the beneficiary and the company president. The petitioner also provided a copy of the beneficiary's business card for the U.S. company, on which she is identified as "Pianist-Keyboardsinger-Singer." According to the business card, the petitioner provides music and entertainment for weddings and celebrations.

The petitioner also provided a summary translation of the web site for the petitioner's group, which provides the following information regarding the beneficiary's activities in the United States:

While in the United States [the beneficiary] has continued her professional development by participating in high-level singing, acting and English courses. She has also taken part in different auditions that have opened up new opportunities for her as a lyrical soprano, both in the United States and Europe.

The web site information further indicated that the company president, Jorge Rodriguez, became a shareholder of the corporation in 2002 "and has always accepted responsibility for operations in the United States."

On December 30, 2003, the director requested additional evidence. Specifically, the director requested additional explanation as to how the beneficiary is eligible for classification as a manager or executive in light of the petitioner's staffing levels and modest gross income figures. The director instructed the petitioner to indicate the job titles and job duties for any employees supervised by the beneficiary.

In a response dated December 30, 2003, the petitioner provided the following additional explanation regarding the beneficiary's employment capacity:

The beneficiary has managed the company by directing the areas of marketing and sales, not only in the United States but also in the relationship between the United States and Ecuador. She has also determined the correct functioning of directives for each of the companies because both companies maintain close commercial relations, and therefore must be run by only one directive so that there is cohesion in the actions undertaken.

The petitioner stated that the beneficiary had the authority to hire, fire, supervise and control the work of employees in Ecuador and the United States, including her assistant and various vendors, independent contractors, and external advisors. The petitioner further indicated that the beneficiary has been responsible "for the definition of which companies will provide products for future exports, as well as the companies that

manufacture the accessories." The petitioner indicated that the beneficiary "must be considered a manager because she is not the one who carries out the tasks necessary to produce the services and products provided by the company."

The petitioner provided a list of suppliers of photographic, graphic design and musical services as well as a list of "external advisors" including an accountant, a translator, and a systems engineer. The petitioner indicated that the beneficiary's assistant, an unpaid intern, has been responsible for sales and marketing, and would become a payroll employee in April 2004. The petitioner indicated that upon approval of the petition, the beneficiary would report to the petitioner's newly hired manager of commercial operations, who joined the company in November 2003.

The petitioner stated that the beneficiary's position title is "manager, marketing director, and sales representative." The petitioner provided a lengthy list of job duties, which included several duties that were likely performed during the first year of operations, including opening corporate accounts, obtaining internet and phone services, obtaining professional insurance, obtaining a business credit card, selecting and purchasing a business vehicle, and establishing office operations. The remaining proposed duties included the following:

- Manage daily business operations
- Ensure payment of business expenses and taxes.
- Solicit client business
- Solicit purchase of wedding clothing and party costumes
- Plan weddings and party events
- Manage employees
- Solicit purchase of wedding clothing and party costumes from U.S.
- Send and receive e-mails to clients in Ecuador within the sales process
- Analyze, on a periodic basis, workload and personnel needs of an organizational unit.
- Implement the financial resources plan
- Decide on staff requirements and each member/manager/s roles and responsibilities the new office
- Recruit, hire and train staff for the business
- Review all about local codes and wedding industry specific regulations.
- Develop completely our corporate and product brands.
- Establish how and what are our record keeping procedures.
- Obtain all products and services. . .
- Support the company Infopulsa Group for preparation, marketing, and development of the [the foreign entity's] website, and define all e-commerce services through the website, as well as reveal the website as the brand presence on the various internet search engine.
- Establish various strategic alliances with different companies related to the world of weddings.
- Organize the first international wedding exposition in Guayaquil, with Ecuadorian and American exhibitors.

- Carry out all types of calls to clients, consisting of cold calling and hot calling regarding the service.
- Create and send flyers and brochures promoting products and services
- Keep records up to date records on all clients and potential clients.
- Create list of satisfied past clients

The petitioner also listed an additional 16 duties related to the beneficiary's claimed personnel responsibilities, including duties related to interviewing, hiring, orienting, assigning, reviewing, motivating and disciplining subordinates, as well as communicating personnel programs, and maintaining employee documentation.

The director denied the petition on April 12, 2004, concluding that the petitioner failed to establish that the beneficiary would be employed in a managerial or executive capacity under the extended petition. The director observed that based on the evidence submitted, the beneficiary is responsible for maintaining the petitioner's office, making sales and advertising the petitioner's services, and does not have a subordinate staff to relieve her from performing these non-qualifying tasks. The director determined that the beneficiary is performing, rather than managing, the various functions of the petitioner's business.

On appeal, counsel for the petitioner asserts that the director's decision was in error. Counsel asserts that the beneficiary: (1) manages the petitioning organization; (2) supervises and controls the work of her assistant, vendors and independent contractors and subcontractors who are managerial employees; (3) manages an essential function of the organization; and (4) has "ample discretion" to hire and fire contractors who are involved in the "preparation, organizing and ultimately performing at any given event in which she is involved." Counsel cites an unpublished AAO decision, as well as *National Hand Tool Corp. v. Pasquarell*, 889 F.2d 1472 (1979) and *Mars Jewelers, Inc. v. INS*, 702 F. Supp. 1570 (1988) in support of the proposition that the sole employee of a company may be a manager or executive if she utilizes independent contractors or where the business is complex.

Counsel suggests that the director failed to take into account the reasonable needs of the petitioning company in light of its overall purpose and stage of development, and emphasizes that the number of employees supervised is not determinative. Finally, counsel asserts that the director did not review the petitioner's response to the request for evidence in which counsel claims the petitioner "provided ample evidence . . . of the various functions [the beneficiary] performs all of which are managerial."

Upon review, counsel's assertions are not persuasive. When examining the executive or managerial capacity of the beneficiary, the AAO will look first to the petitioner's description of the job duties. See 8 C.F.R. § 214.2(l)(3)(ii). The petitioner's description of the job duties must clearly describe the duties to be performed by the beneficiary and indicate whether such duties are either in an executive or managerial capacity. *Id.*

The definitions of executive and managerial capacity have two specific requirements. First, the petitioner must show that the beneficiary performs the high-level responsibilities that are specified in the definitions. Second, the petitioner must prove that the beneficiary *primarily* performs these specified responsibilities and

does not spend a majority of his or her time on day-to-day functions. *Champion World, Inc. v. INS*, 940 F.2d 1533 (Table), 1991 WL 144470 (9th Cir. July 30, 1991).

In this case, the evidence submitted does not clearly establish that the beneficiary exercises a level of authority consistent with the statutory definitions, or that she performs primarily managerial or executive duties. The petitioner initially stated that the beneficiary solicits purchases of wedding clothing and party costumes from U.S. suppliers, exports these items to Ecuador, and solicits clients for wedding planning and party planning. These duties indicate that the beneficiary is responsible for the petitioner's purchasing, export and sales tasks, duties which are clearly not managerial or executive in nature.

In the response to the director's request for evidence the petitioner gave a very lengthy list of the beneficiary's activities. The two-page list of 46 duties is repetitive and not supported by the documentary evidence provided for the record. For example, nearly half of the listed duties relate to the beneficiary's claimed role as a personnel manager and suggest that she supervises a significant subordinate staff of direct employees; however, as noted by the director, the beneficiary's only claimed subordinate is an unpaid intern, an "assistant" whose employment has not been verified through documentary evidence, and whose role within the company has not been explained. The beneficiary's claimed supervisory responsibilities are at best speculative, and are not credible in light of a review of the totality of the record. Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).

The petitioner did not provide a breakdown by percentage of how the beneficiary's time is allocated among the 46 duties listed. However, if the AAO excludes the implausible personnel-related responsibilities, and the duties associated with the initial set up of the petitioner's operations, the majority of the remaining recurring duties are non-managerial in nature. For example, the petitioner indicates that the beneficiary solicits client business, solicits purchases, plans weddings and party events, sends and receives e-mails to clients during the sales process, carries out "all types of calls to clients" including cold calls, obtains products and services necessary to operate the business, creates and sends flyers and brochures promoting the petitioner's products and services, keeps records up-to-date, and maintains client lists. The petitioner's description reveals that the beneficiary is actually performing the routine duties necessary to provide the petitioner's products and services, such as purchasing, sales, marketing and promotion, wedding and event planning, and coordination of events. An employee who "primarily" performs the tasks necessary to produce a product or to provide services is not considered to be "primarily" employed in a managerial or executive capacity. See sections 101(a)(44)(A) and (B) of the Act (requiring that one "primarily" perform the enumerated managerial or executive duties); see also *Matter of Church Scientology Int'l.*, 19 I&N Dec. 593, 604 (Comm. 1988).

Furthermore, there is evidence in the record that strongly suggests that the beneficiary herself performs at events and weddings, rather than merely hiring outside performers as claimed by the petitioner. The beneficiary's business card identifies her as a "Pianist-Keybordist-Singer," rather than as "Manager, Marketing Director and Sales Representative." The petitioner has either provided an inaccurate or incomplete description of the beneficiary's role within the company. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where

the truth lies. *Matter of Ho*, 19 I&N Dec. at 591-92. Again, doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Id.* at 591.

As noted above, the record does not clearly establish the beneficiary's level of authority within the petitioning organization. At the time of filing, the petitioner claimed that the beneficiary actually performed duties at a higher level than the company president, [REDACTED] who stated that he was charged with such duties as emptying trash, taking messages for the beneficiary, and performing clerical work. However, the petitioner's company overview as provided on its website indicates that the president "has always accepted responsibility for the operations in the United States" and suggests that [REDACTED] develops the petitioner's business strategies. Upon review of the record as a whole, the AAO finds insufficient evidence to establish that the beneficiary actually exercised authority over the company at the time of filing. In response to the request for evidence, the petitioner indicated that the beneficiary now reports to the newly-hired "manager of commercial operations," who presumably in turn reports to the president, yet still asserts that the beneficiary primarily manages the company, particularly its sales and marketing operations. Again, the AAO finds no evidence to corroborate the petitioner's contention that the lowest-level employee of a three-person company in fact manages the company. If CIS fails to believe that a fact stated in the petition is true, CIS may reject that fact. *See, e.g. also Anetekhai v. I.N.S.*, 876 F.2d 1218, 1220 (5th Cir.1989); *Lu-Ann Bakery Shop, Inc. v. Nelson*, 705 F. Supp. 7, 10 (D.D.C.1988); *Systronics Corp. v. INS*, 153 F. Supp. 2d 7, 15 (D.D.C. 2001). The AAO recognizes the petitioner's claim that the beneficiary's assistant is "the person in charge of marketing and sales," however, as noted above, the petitioner has not documented the employment of its unpaid intern. Furthermore, as already discussed, the petitioner stated that the beneficiary herself is responsible for performing the petitioner's sales and marketing tasks.

The petitioner also fails to provide documentary evidence, such as receipts, contracts, purchase orders, invoices, etc., to support its claims that the beneficiary manages suppliers, vendors and independent contractors. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). Furthermore, there is no evidence that the claimed contractors, which include an accountant, photographers, a translator, a systems engineer and musicians, would relieve the beneficiary from performing the petitioner's purchasing, sales, marketing and event planning tasks.

Counsel correctly observes that a company's size alone, without taking into account the reasonable needs of the organization, may not be the determining factor in denying a visa to a multinational manager or executive. *See* § 101(a)(44)(C) of the Act, 8 U.S.C. § 1101(a)(44)(C). However, it is appropriate for CIS to consider the size of the petitioning company in conjunction with other relevant factors, such as a company's small personnel size, the absence of employees who would perform the non-managerial or non-executive operations of the company, or a "shell company" that does not conduct business in a regular and continuous manner. *See, e.g. Systronics Corp. v. INS*, 153 F. Supp. 2d 7, 15 (D.D.C. 2001). The size of a company may be especially relevant when CIS notes discrepancies in the record and fails to believe that the facts asserted are true. *Id.*

Furthermore, in the present matter, the regulations provide strict evidentiary requirements for the extension of a "new office" petition and require CIS to examine the organizational structure and staffing levels of the petitioner. *See* 8 C.F.R. § 214.2(l)(14)(ii)(D). The regulation at 8 C.F.R. § 214.2(l)(3)(v)(C) allows the "new office" operation one year within the date of approval of the petition to support an executive or managerial position. There is no provision in CIS regulations that allows for an extension of this one-year period. If the business does not have sufficient staffing after one year to relieve the beneficiary from primarily performing operational and administrative tasks, the petitioner is ineligible by regulation for an extension. In the instant matter, the petitioner indicates that the beneficiary is responsible for the company's purchasing, sales, marketing and event planning tasks, and she is clearly not relieved from primarily performing non-managerial duties.

On appeal, counsel asserts that the beneficiary manages an essential function of the petitioning organization. The term "function manager" applies generally when a beneficiary does not supervise or control the work of a subordinate staff but instead is primarily responsible for managing an "essential function" within the organization. *See* section 101(a)(44)(A)(ii) of the Act, 8 U.S.C. § 1101(a)(44)(A)(ii). While performing non-qualifying tasks necessary to produce a product or service will not automatically disqualify the beneficiary as long as those tasks are not the majority of the beneficiary's duties, the petitioner still has the burden of establishing that the beneficiary is "primarily" performing managerial or executive duties. Section 101(a)(44) of the Act. Whether the beneficiary is an "activity" or "function" manager turns in part on whether the petitioner has sustained its burden of proving that his duties are "primarily" managerial. As discussed above, the record does not support a conclusion that the beneficiary's duties are primarily managerial in nature.

Counsel further refers to an unpublished decision in which the AAO determined that the beneficiary met the requirements of serving in a managerial and executive capacity for L-1 classification even though he was the sole employee. Counsel has furnished no evidence to establish that the facts of the instant petition are analogous to those in the unpublished decision. While 8 C.F.R. § 103.3(c) provides that AAO precedent decisions are binding on all CIS employees in the administration of the Act, unpublished decisions are not similarly binding.

Counsel cites *National Hand Tool Corp. v. Pasquarell*, 889 F.2d 1472, n.2 (5th Cir. 1989), and *Mars Jewelers, Inc. v. INS*, 702 F.Supp. 1570, 1573 (N.D. Ga. 1988), to stand for the proposition that the small size of a petitioner will not, by itself, undermine a finding that a beneficiary will act in a primarily managerial or executive capacity. Counsel has furnished no evidence to establish that the facts of the instant petition are analogous to those in *National Hand Tool Corp. v. Pasquarell* or *Mars Jewelers, Inc. v. INS*. It is noted that both of the cases cited by counsel relate to immigrant visa petitions, and not the extension of a "new office" nonimmigrant visa. As the new office extension regulations call for a review of the petitioner's business activities and staffing after one year, the cases cited by counsel are distinguishable based on the applicable regulations. *See* 8 C.F.R. § 214.2(l)(14)(ii).

The petitioner indicates that it plans to hire additional employees and expects to realize significantly higher profits in the near future. However, the petitioner must establish eligibility at the time of filing the nonimmigrant visa petition. A visa petition may not be approved at a future date after the petitioner or

beneficiary becomes eligible under a new set of facts. *Matter of Michelin Tire Corp.*, 17 I&N Dec. 248 (Reg. Comm. 1978).

Based on the foregoing discussion, the petitioner has not established that the beneficiary would be employed in a primarily managerial or executive position under the extended petition. Accordingly, the appeal will be dismissed.

Beyond the decision of the director, the petitioner has not established that it maintains a qualifying relationship with the foreign entity as required by 8 C.F.R. § 214.2(l)(14)(ii)(A). To establish a "qualifying relationship" under the Act and the regulations, the petitioner must show that the beneficiary's foreign employer and the proposed U.S. employer are the same employer (i.e. one entity with "branch" offices), or related as a "parent and subsidiary" or as "affiliates." See generally section 101(a)(15)(L) of the Act; 8 C.F.R. § 214.2(l).

The petitioner indicated on the L Classification Supplement to Form I-129 that the foreign entity owns 70 percent of the U.S. company, and the beneficiary owns the remainder of the petitioner's stock. However, the petitioner's initial evidence, including a letter from its president and an excerpt of the petitioner's web site information, indicated that [REDACTED] is a shareholder of the U.S. company. The petitioner has not submitted copies of its stock certificates, stock ledger or other documentary evidence of its ownership and control. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165. Based on the minimal evidence and conflicting information provided, the AAO cannot determine whether the petitioner maintains a qualifying relationship with the foreign entity. For this additional reason, the petition cannot be approved.

In addition, there is very little evidence that the petitioner has been doing business for the previous year, as required by 8 C.F.R. § 214.2(l)(14)(ii)(B). The beneficiary was granted L-1A status on October 29, 2002. According to the tax returns and financial statements provided, the petitioner achieved gross sales of \$2,225 in 2002, and less than \$3,000 during the first eight months of 2003. The petitioner has not submitted copies of invoices, purchase orders, receipts or other documentation to support its claims that it has been actively engaged in purchasing and exporting goods, providing wedding and event planning services, or otherwise been engaged in the regular, systematic and continuous provision of goods and services for the previous year. Again, going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165. For this additional reason, the petition cannot be approved.

An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. See *Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003); see also *Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989)(noting that the AAO reviews appeals on a *de novo* basis).

When the AAO denies a petition on multiple alternative grounds, a plaintiff can succeed on a challenge only if he or she shows that the AAO abused its discretion with respect to all of the AAO's enumerated grounds.

See Spencer Enterprises, Inc. v. United States, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*. 345 F.3d 683 (9th Cir. 2003).

The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for the decision. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is dismissed.