U.S. Department of Homeland Security
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U.S. Citizenship and Immigration Services

PUBLIC COPY

[redacted]

JAN 28 2005

FILE: SRC 02 191 51805 Office: TEXAS SERVICE CENTER Date:

IN RE: Petitioner: [redacted]
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:

SELF-REPRESENTED

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, Director
Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the petition for a nonimmigrant visa. On February 27, 2003, the petitioner filed an untimely appeal, which, pursuant to Citizenship and Immigration Service (CIS) regulations, the director treated as a motion to reopen and reconsider. The director affirmed her previous decision.[1] The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will dismiss the appeal.

The petitioner filed the nonimmigrant petition seeking to employ the beneficiary 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 is a corporation organized in the State of Florida that is engaged in the import and export of arts and craft items. The petitioner claims that it is the subsidiary of the beneficiary's foreign employer, located in Cochabamba, Bolivia. The petitioner now seeks to employ the beneficiary as its operations manager.

The director denied the petition concluding that the petitioner had not demonstrated: (1) that the foreign and United States entities are qualifying organizations; (2) that the petitioner had secured sufficient physical premises to house the new United States office; (3) that the beneficiary had been employed abroad in a primarily managerial or executive capacity; and (4) that the United States entity would support the beneficiary in a primarily managerial or executive capacity within one year of approval of the petition.

On appeal, the petitioner claims that a qualifying parent-subsidiary relationship exists between the foreign and U.S. entities as the beneficiary's foreign employer owns 51% of the petitioner's stock. The petitioner also states that the foreign entity will continue to do business abroad during the beneficiary's assignment in the United States. The petitioner further asserts that the beneficiary would be employed as president of the petitioning organization and would be responsible for the start-up, initial operation, and development of the petitioner's objectives. The petitioner submits a letter and documentary evidence in support of the appeal.

To establish L-1 eligibility, the petitioner must meet the criteria outlined in section 101(a)(15)(L) of the Act, 8 U.S.C. § 1101(a)(15)(L). Specifically, within three years preceding the beneficiary's application for admission into the United States, 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. 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.

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[1] The director issued a "Notice of Dismissal of Appeal" on July 3, 2003. The Administrative Appeals Office notes that the director does not have the authority to dismiss an appeal. *See* 8 C.F.R. § 103.3.

(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.

Pursuant to the regulation at 8 C.F.R. § 214.2(l)(3)(v), if the petition indicates that the beneficiary is coming to the United States as a manager or executive to open or be employed in a new office in the United States, the petitioner shall submit evidence that:

(A) Sufficient physical premises to house the new office have been secured;

(B) The beneficiary has been employed for one continuous year in the three year period preceding the filing of the petition in an executive or managerial capacity and that the proposed employment involved executive or managerial authority over the new operation;

(C) The intended United States operation, within one year of the approval of the petition, will support an executive or managerial position as defined in paragraphs (l)(1)(ii)(B) or (C) of this section, supported by information regarding:

(1) The proposed nature of the office describing the scope of the entity, its organizational structure, and its financial goals;

(2) The size of the United States investment and the financial ability of the foreign entity to remunerate the beneficiary and to commence doing business in the United States; and

(3) The organizational structure of the foreign entity.

The AAO will first address the issue of whether the foreign and United States entities are qualifying organizations as required in the Act at § 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L).

The pertinent regulations at 8 C.F.R. § 214.2(l)(1)(ii) define the term "qualifying organization" and related terms as follows:

(G) *Qualifying organization* means a United States or foreign firm, corporation, or other legal entity which:

(1) Meets exactly one of the qualifying relationships specified in the definitions of a parent, branch, affiliate or subsidiary specified in paragraph (l)(1)(ii) of this section;

(2) Is or will be doing business (engaging in international trade is not required) as an employer in the United States and in at least one other country

directly or through a parent, branch, affiliate or subsidiary for the duration of the alien's stay in the United States as an intracompany transferee; and,

(3) Otherwise meets the requirements of section 101(a)(15)(L) of the Act.

(H) *Doing business* means the regular, systematic, and continuous provision of goods and/or services by a qualifying organization and does not include the mere presence of an agent or office of the qualifying organization in the United States and abroad.

(I) *Parent* means a firm, corporation, or other legal entity which has subsidiaries.

(J) *Branch* means an operating division or office of the same organization housed in a different location.

(K) *Subsidiary* means a firm, corporation, or other legal entity of which a parent owns, directly or indirectly, more than half of the entity and controls the entity; or owns, directly or indirectly, half of the entity and controls the entity; or owns, directly or indirectly, 50 percent of a 50-50 joint venture and has equal control and veto power over the entity; or owns, directly or indirectly, less than half of the entity, but in fact controls the entity.

(L) Affiliate means

(1) One of two subsidiaries both of which are owned and controlled by the same parent or individual, or

(2) One of two legal entities owned and controlled by the same group of individuals, each individual owning and controlling approximately the same share or proportion of each entity.

The petitioner filed the nonimmigrant petition on June 5, 2002 stating that it is the subsidiary of the beneficiary's foreign employer. The petitioner explained that the foreign entity owns 51% of the petitioning organization, while the remainder is held individually by [redacted]. In the petitioner's attached articles of incorporation, the stock ownership of the petitioning organization was outlined in the same manner.

As evidence of the foreign entity's business operations abroad, the petitioner submitted untranslated sales invoices, the most recent dated April 2001. The petitioner also provided photographs of its products and an invoice verifying participation in an international artisan show in April 2002.

In a request for evidence dated July 29, 2002, the director asked that the petitioner provide documentation of the ownership of the United States entity including stock certificates, corporate by-laws or agreements identifying stock ownership, or annual reports indicating the foreign entity's percentage of stock ownership. The director also asked that the petitioner submit the following evidence establishing business operations abroad: (1) documentation, such as tax returns, annual reports, profit and loss statements, banking records, employee rosters, invoices, bills of sale, or brochures, related to the foreign company's current business; and (2) an explanation as to who would manage the company during the beneficiary's absence.

The petitioner responded in a letter dated October 10, 2002 and submitted copies of its Form SS-4, Application for Employer Identification Number, its corporate by-laws, and a stock certificate identifying [redacted] as the owner of 49 of the petitioner's 100 shares of issued stock. In an attached business plan for the petitioning organization, the petitioner again identified the beneficiary's foreign employer and [redacted] as the owners of 51% and 49%, respectively, of the issued stock.

With regard to the foreign business, the petitioner provided several untranslated documents which the petitioner referred to as its 2002 customs importation and exportation taxes, its certificate of registry as an import and export company for 2002 through 2004, a letter from the Interior of Ministry of Bolivia, a year 2000 transportation bill that the petitioner stated identifies items to be sold in 2002, and a year 2002 invoice of sale. The petitioner explained that during the beneficiary's assignment in the United States the foreign company would be managed by an administrator-operational manager.

In a decision dated January 10, 2003, the director determined that the petitioner did not demonstrate that the foreign and United States entities are qualifying organizations. The director stated that although the beneficiary's foreign employer is identified as the owner of 51% of the petitioner's stock, there is no evidence in the record demonstrating the current existence the foreign company, and therefore its ownership of the claimed stock. The director also stated that the petitioner provided a stock certificate for only one shareholder rather than the two claimed shareholders. Lastly, the director noted "[i]t also appears that the person who is alleged to hold 49% of the US new office shares may be a dependent child as defined in immigration terms." Consequently, the director denied the petition.

The petitioner subsequently filed an untimely appeal and submitted two blank stock certificates for the petitioning organization. The petitioner also provided a certification from the department manager of the Chamber of Exporters in Cochabamba, Bolivia, dated September 25, 2001, certifying the foreign entity's activities as an export company.

In the instant appeal filed on August 4, 2003, the petitioner again asserts that a parent-subsidiary relationship exists between the two organizations as a result of the foreign entity's ownership of 51% of the petitioner's stock. The petitioner submits a copy of stock certificate number 00 identifying [redacted] as the owner of 49 shares of common stock and an undated stock certificate number 02 listing the foreign entity as the owner of 51 shares of common stock. The petitioner also provides January through April 2003 invoices from the foreign company, a translated copy of the foreign entity's deed of incorporation, an untranslated December 2002 balance sheet for the foreign company, and various untranslated bank statements and invoices.

On review, the petitioner has not demonstrated that the two entities are qualifying organizations as required in the Act at § 101(a)(15)(L). The regulations and case law confirm that the key factors for establishing a qualifying relationship between the U.S. and foreign entities are ownership and control. *Matter of Siemens Medical Systems, Inc.* 19 I&N Dec. 362 (BIA 1986); *Matter of Hughes*, 18 I&N Dec. 289 (Comm. 1982); *see also Matter of Church Scientology International*, 19 I&N Dec. 593 (BIA 1988) (in immigrant visa proceedings). In the context of this visa petition, ownership refers to the direct and indirect legal right of possession of the assets of an entity with full power and authority to control; control means the direct or indirect legal right and authority to direct the establishment, management, and operations of an entity. *Matter of Church Scientology International,* 19 I&N Dec. at 595.

Here, the petitioner has not established that the beneficiary's foreign employer owns or controls the petitioning organization. While the petitioner claims that the foreign entity owns 51% of the petitioner's issued common stock, the petitioner was either unable or neglected to produce the requested stock certificate reflecting the foreign entity's ownership interest until the present appeal. The regulations affirmatively require a petitioner to establish eligibility for the benefit it is seeking at the time the petition is filed. *See* 8 C.F.R. § 103.2(b)(12). The purpose of the request for evidence is to elicit further information that clarifies whether eligibility for the benefit sought has been established. 8 C.F.R. § 103.2(b)(8). Additionally, the stock certificate submitted on appeal contains two discrepancies as it reflects certificate number "two," and it is not entirely completed. The petitioner has not offered an explanation as to the irregularity in the sequence of the issued stock certificates. 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. 582, 591-92 (BIA 1988). Moreover, there is no evidence in the record, such as wire transfers, bank statements, or the stock certificate ledger, that the foreign entity furnished consideration in exchange for the claimed stock ownership. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

Furthermore, the petitioner has not demonstrated that the foreign entity has been doing business abroad and would continue to do business during the beneficiary's assignment in the United States. As noted by the director in her decision, the most recent evidence submitted by the petitioner of the foreign entity's business operations was from April 2001. While the petitioner subsequently provided invoices from April 2003 and the foreign entity's balance sheet dated December 2002, the documentation has not been translated. Because the petitioner failed to submit certified translations of the documents, the AAO cannot determine whether the evidence supports the petitioner's claims. *See* 8 C.F.R. § 103.2(b)(3). Accordingly, the evidence is not probative and will not be accorded any weight in this proceeding. Also, the petitioner has not offered any documentary evidence, such as business licenses and certifications, invoices, or sales receipts, of the foreign entity's business operations during the year 2002, which is the time during which the instant petition was filed. 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 failed to establish that a qualifying relationship exists between the foreign and United States entities, and that the foreign entity is doing business abroad. Therefore, the AAO cannot conclude that the entities are qualifying organizations. For this reason, the appeal will be dismissed.

The AAO will next address the issue of whether the petitioner had secured sufficient premises to house the new United States office at the time of filing the petition.

The petitioner did not submit with the nonimmigrant petition evidence of obtaining premises to house its U.S. office. The director therefore requested that the petitioner provide a current lease for its business premises. In its October 10, 2002 response to the director's request, the petitioner provided two lease agreements, one for an apartment, where, the petitioner explained, products would be stored, and a second "monthly occupancy agreement" for a booth in a marketplace. The "house lease," dated July 25, 2002, stipulated that it

would be occupied by two adults only, and would not be used "for any illegal purpose or any purpose which will increase the rate of insurance and shall not cause a nuisance for Landlord or neighbors."

The director determined in her January 2003 decision that the petitioner had not obtained sufficient office space at the time of filing the petition. The director noted that the petitioner's "house lease" appeared to be for a residential unit rather than office space, and further noted that the petitioner "reported a new address for which no lease was submitted."

On appeal, the petitioner submits a third lease, dated July 1, 2003, for commercial space to be used for the purpose of importing and exporting.

On review, the petitioner has not established that as a new office it secured sufficient premises in the United States from which to operate its business. As noted by the director, the "house lease" submitted by the petitioner appears to be for residential use only. There is no indication in the lease agreement that the petitioner is authorized to conduct business from the premises. Moreover, the lease was executed in July 2002, one month after the filing of the instant petition. 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). The petitioner's lease for space at a local marketplace is not sufficient to establish that the petitioner has secured premises in which to house the new U.S. office. The petitioner has therefore failed to comply with the regulatory requirement at 8 C.F.R. § 214.21(l)(3)(v)(A). For this additional reason, the appeal will be dismissed.

The AAO will next consider whether the beneficiary would be employed by the United States entity in a primarily managerial or executive capacity within one year of approval of the petition.

Section 101(a)(44)(A) of the Act, 8 U.S.C. § 1101(a)(44)(A), provides:

> The term "managerial capacity" means 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) Has the authority to hire and fire or recommend those as well as other personnel actions (such as promotion and leave authorization) if another employee or other employees are directly supervised; 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), provides:

The term "executive capacity" means 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.

In a letter submitted with the nonimmigrant petition, dated May 7, 2002, the petitioner provided the following explanation of the beneficiary's proposed position in the United States:

[The beneficiary] will have the responsibility and oversight authority over financial planning, budgeting, budget analysis and implementation. She will plan, direct, and coordinate activities related to contract negotiations, administration, marketing, human resources, importation, exportation, selection of products to sale [sic] in the U.S. market, pricing and markup of products, and establishment of business in the United States.

Other responsibilities include keeping foreign business and traveling to world wide Arts and Crafts fairs to exhibit company product[s]. She will still be the representative to our foreign markets while establishing a new market in the United States for our products.

In her July 29, 2002 request for evidence, the director asked that the petitioner provide a statement of the current activities of the beneficiary and a description of the petitioner's proposed staffing, including position titles and the job duties and qualifications associated with each.

In the petitioner's October 10, 2002 response, the petitioner stated that the beneficiary's current activities include determining the location of the business, selecting products, and implementing business contacts. The petitioner referenced its attached business plan, which identified the beneficiary's position as president and chief executive officer and outlined the following tasks of the beneficiary:

Identify potential export markets. Develop an import and export marketing plan. Manage the company's overseas branch office(s)/export agencies. Keep informed of foreign market and political news. Stay abreast of trade treaties. Supervise the implementation of [the petitioner's] advertising and publicity plan. Work with marketing communications suppliers to create a corporate identity and brand image, and develop information interface with the media and our customers. Develop all relevant free and paid advertising opportunities and

> materials. Manage our customer service operation. This will include product selection, location selection, customer service, sales and shipment of products, supervising returns and adjustments.

With regard to the proposed organizational structure of the United States company, the petitioner noted in its business plan that the initial management team would include the founders of the organization "with little back-up." The petitioner explained that the beneficiary would contract with workers for administration and accounting services according to the petitioner's performance and needs, and stated:

> Upon [s]tart [u]p of the company and solid stability the company will hire additional staff to sale [sic] products and administer the company. As it functions currently, we see no gaps in the management of this organization. Should [the petitioner] grow beyond its estimated size; more positions in specialized areas will need to be added as well as additional site support and office assistance. To fill these positions, [the petitioner] will look in the future for energetic, teachable, detail-oriented persons who want to grow and improve their skills within the organization.

The attached organizational chart identified the beneficiary as the president and sole employee of the organization.

In her January 2003 decision, the director determined that the petitioner had not demonstrated that the beneficiary would be employed in the United States in a primarily managerial or executive capacity. The director noted that the petitioner did not identify on its SS-4 application an intent to hire additional employees. The director also stated that the petitioner's lease for market space "indicates that the beneficiary and possibly her dependent will be selling arts and crafts projects themselves to the general public." The director stated that an employee who performs the tasks necessary to produce a product or provide services is not considered to be a manager or executive. The director also stated that the petitioner "did not show that [the beneficiary] supervised professionals who directly supervised other employees who performed the tasks necessary to sell sewing supplies." The director also determined that the beneficiary would not perform an essential function of the petitioning organization. Accordingly, the director denied the petition.

In its August 4, 2003 appeal, the petitioner states that as president of the petitioning organization, the beneficiary would be responsible for the start-up and initial operation of the company, including the import, export and promotion of artisan products, the development of contacts in the United States, and the sale of products to aid in the growth of the company. The petitioner further states:

> In this capacity, [the beneficiary] would be responsible for strengthening relations he [sic] has established with American clients, overseeing company operations and directing its growth. These duties are essentially similar to the duties she has performed for the Bolivian parent company. . . .
>
> During this recent period, [the beneficiary] established goals and policies and exercised wide latitude in discretionary decision-making. After guiding [the petitioning organization] through this period of establishment and growth, [the beneficiary] intends to return to Bolivia to resume his [sic] duties as General Executive Manager of [the foreign entity].

The petitioner also explains that the beneficiary's knowledge, international experience, and prior employment with the foreign entity make her essential to the United States company.

On review, the petitioner has not established that within one year of approval of the petition the beneficiary would be employed by the United States entity in a primarily managerial or executive capacity.

When a new business is established and commences operations, the regulations recognize that a designated manager or executive responsible for setting up operations will be engaged in a variety of activities not normally performed by employees at the executive or managerial level and that often the full range of managerial responsibility cannot be performed. In order to qualify for L-1 nonimmigrant classification during the first year of operations, the regulations require the petitioner to disclose the business plans, organizational structure, and the size of the United States investment, and thereby establish that the proposed enterprise will support an executive or managerial position within one year of the approval of the petition. *See* 8 C.F.R. § 214.2(l)(3)(v)(C). This evidence should demonstrate a realistic expectation that the enterprise will succeed and rapidly expand as it moves away from the developmental stage to full operations, where there would be an actual need for a manager or executive who will primarily perform qualifying duties.

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). As required in the regulations, the petitioner must submit a detailed description of the executive or managerial services to be performed by the beneficiary. *Id.* While the petitioner provided a description of the beneficiary's tasks essential to the development of the petitioning organization in the United States, the description does not identify the managerial and executive job duties to be performed the beneficiary following the petitioner's first year of operations. The petitioner's limited explanation on appeal also fails to specifically outline the job duties to be performed by the beneficiary during her employment as a manager or executive. Conclusory assertions regarding the beneficiary's employment capacity are not sufficient. Merely repeating the language of the statute or regulations does not satisfy the petitioner's burden of proof. *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F. 2d 41 (2d. Cir. 1990); *Avyr Associates, Inc. v. Meissner*, 1997 WL 188942 at *5 (S.D.N.Y.). Moreover, it is unclear from the record what position the beneficiary would occupy in the petitioning organization as the petitioner referred to the beneficiary as operations manager, president, and chief executive officer. The petitioner is obligated to clarify the inconsistent and conflicting testimony by independent and objective evidence. *Matter of Ho*, 19 I&N Dec. at 591-92.

The record also fails to demonstrate that within one year of approval of the petition the petitioner would employ a staff sufficient to support the beneficiary in a qualifying capacity. The petitioner indicated in its business plan that its staff would consist of the beneficiary only until the needs of the petitioning organization required the hiring of administrative or accounting personnel. The petitioner likewise concedes that the beneficiary "[would be] responsible for his [sic] own work and management." Other than stating its intention to "look in the future for energetic, teachable and detail-oriented persons," the petitioner has not accounted for the employment of workers who would be responsible for the actual import, export and sale of its arts and crafts products. While the petitioner need not employ additional workers for the beneficiary to be considered a manager or executive, this information is essential to demonstrating that the beneficiary is relieved of performing the business' non-managerial and non-executive operations. *See* 8 C.F.R. § 214.2(l)(3)(v)(C). Based on the petitioner's representations, it is reasonable to assume that the beneficiary would perform all non-qualifying functions of the petitioner's business, including selling the petitioner's products at the market. An employee who primarily performs the tasks necessary to produce a product or to provide services is not

considered to be employed in a managerial or executive capacity. *Matter of Church Scientology International*, 19 I&N Dec. at 604.

Although the petitioner has submitted a detailed business plan for its operations in the United States, including its target market and its proposed steps for development, the record does not contain sufficient evidence to demonstrate that within one year of approval of the petition the beneficiary would be employed in a primarily managerial or executive capacity. For this additional reason, the appeal will be dismissed.

Lastly, the director concluded in her January 10, 2003 decision that the petitioner had failed to demonstrate that the beneficiary had been employed abroad in a primarily managerial or executive capacity. The director stated that although the beneficiary was identified as the foreign company's cultural representative, the record did not establish her employment as a manager or executive. The director noted that the beneficiary had likely performed a wide range of daily functions associated with running the business, and concluded that the time devoted to these functions exceeded that spent on managerial or executive job duties. Consequently, the director denied the petition.

The petitioner failed to specifically address the director's finding on appeal. The petitioner states only that the beneficiary has been employed as the general executive manager of the foreign entity from 1991 to the present. The petitioner also notes that the beneficiary's responsibilities in the U.S. company of strengthening relations with clients, overseeing company operations, and directing the corporation's growth "are essentially similar to the duties she has performed for the Bolivian parent company." The petitioner's limited statements on appeal are not sufficient to establish the beneficiary's prior employment abroad in a qualifying capacity. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. at 193. Absent additional documentary evidence, the AAO cannot conclude that the beneficiary was employed by the foreign entity as a manager or executive. Again, the appeal will be dismissed for this additional reason.

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. Accordingly, the director's decision will be affirmed and the petition will be denied.

ORDER: The appeal is dismissed.