

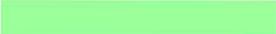


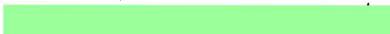
U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: **MAR 08 2013** OFFICE: CALIFORNIA SERVICE CENTER

FILE: 

IN RE: Petitioner: 
Beneficiary: 

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

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the nonimmigrant visa petition and certified her decision to the Administrative Appeals Office (AAO). The AAO will affirm the director's decision. The petition will be denied.

The petitioner filed this nonimmigrant petition seeking to classify the beneficiary as an L-1B 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 Washington limited liability company, exists to manage the wealth and affairs of the [REDACTED] family. The petitioner claims to be an affiliate of [REDACTED], a Washington corporation that does business in Canada. The petitioner seeks to employ the beneficiary as a Personal Chef for a period of three years.

The director certified the petition to the AAO and recommended denial, concluding that the petitioner failed to establish that: 1) the beneficiary was continuously employed abroad full-time for one year by the petitioner's affiliate; 2) the beneficiary possesses specialized knowledge and will work in a position requiring specialized knowledge; and 3) the petitioner is doing business as required by 8 C.F.R. §§ 214.2(l)(1)(ii)(G)(2) & (ii)(H).

The director notified the petitioner of the decision to certify the petition to the AAO and provided an opportunity to submit a brief or written statement for further consideration. The petitioner did not submit a brief or additional evidence.

I. The Law

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 the three years preceding the beneficiary's application for admission into the United States. In addition, the beneficiary must seek to enter the U.S. temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate.

If the beneficiary will be serving the United States employer in a managerial or executive capacity, a qualified beneficiary may be classified as an L-1A nonimmigrant alien. If a qualified beneficiary will be rendering services in a capacity that involves "specialized knowledge," the beneficiary may be classified as an L-1B nonimmigrant alien. *Id.*

Section 214(c)(2)(B) of the Act, 8 U.S.C. § 1184(c)(2)(B), provides the statutory definition of specialized knowledge:

For purposes of section 101(a)(15)(L), an alien is considered to be serving in a capacity involving specialized knowledge with respect to a company if the alien has a special

knowledge of the company product and its application in international markets or has an advanced level of knowledge of processes and procedures of the company.

Furthermore, the regulation at 8 C.F.R. § 214.2(l)(1)(ii)(D) defines specialized knowledge as:

[S]pecial knowledge possessed by an individual of the petitioning organization's product, service, research, equipment, techniques, management or other interests and its application in international markets, or an advanced level of knowledge or expertise in the organization's processes and procedures.

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.

As stated above, the petitioner must establish that the petitioner and the organization that previously employed the beneficiary are qualifying organizations, defined at 8 C.F.R. § 214.2(l)(1)(ii)(G) as:

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.

The regulations at 8 C.F.R. § 214.2(l)(1)(ii)(H) state:

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.

II. The Issues Identified

The director recommended denial of the petition because the petitioner failed to establish that: 1) the beneficiary was continuously employed full-time by a qualifying organization for one year out of three preceding filing of the petition; 2) the beneficiary possesses specialized knowledge and will be employed in a specialized knowledge capacity; and 3) the petitioner is doing business as required by 8 C.F.R. §§ 214.2(l)(1)(ii)(G)(2) & (ii)(H).

Mr. [REDACTED] formed the petitioner in 1997 to manage the personal affairs of the [REDACTED] family. [REDACTED] is an entrepreneur and investor in the communications industry. In 1982 he founded [REDACTED], which he sold to [REDACTED] in 1994 for \$11.5 billion. He is the founder of [REDACTED] Investments, which focuses on investing in the communications industry, and [REDACTED], a wireless broadband services provider. [REDACTED] spouse, Mrs. [REDACTED], served as [REDACTED] from November 2005 to November 2007. She was formerly a Principal at [REDACTED] a San Francisco-based investment bank. She also worked in New York and Hong Kong as a Business Analyst for [REDACTED], an international management consulting firm. [REDACTED] have three minor children.

The petitioner has nine employees who provide services to the [REDACTED] family. These services include child care, grounds keeping, and estate and yacht management. The petitioner manages several large family estates in the United States and abroad. It has a gross annual income of \$588,000.

The petitioner filed this petition on October 7, 2010. It seeks to hire the beneficiary as a personal chef. The beneficiary has worked for [REDACTED] in Canada since June of 2009. The petitioner and [REDACTED] are affiliates, both owned by [REDACTED].¹

¹ [REDACTED] is a Washington corporation that is registered to do business in British Columbia, where the beneficiary works.

On its Form I-129, Petition for a Non-immigrant Worker, the petitioner stated that the beneficiary's proposed position will: "Plan, direct and coordinate meal preparation and special dietary needs for the [REDACTED] family and business guests." The petitioner submitted a Job Description for the position of Private Chef. It listed the following as the functions, requirements and abilities for the position:

Summary of Essential Job Functions

- Develop recipes, menus, and meal plans
- Shop frequently for fresh and organic ingredients for meals
- Keep a clean and orderly kitchen
- Complete cooking duties and provide meals in a timely manner
- Maintain a record of family and guest dietary needs and preferences
- Coordinate with pilots for catering on the airplane for family travel

Minimum Requirements

- At least ten years experience working as a chef
- At least three years experience with organic and macrobiotic meal planning
- Culinary arts education and training
- Familiarity with and understanding of food allergies and intolerances
- Knowledge of Dr. Thomas Rau's Swiss Biologic Medicine and the Swiss Detox Diet

Abilities Required

- Ability to interact professionally and courteously with the family, guests, and other personal staff
- Willingness to graciously accommodate changes to dietary restrictions and requests with little notice
- Desire to place the highest priority on creating healthy meals that conform to dietary constraints and suit taste preferences
- Understanding of the need for discretion and the willingness to respect the privacy and maintain the confidentiality of the family

In the brief accompanying the Form I-129, counsel for the petitioner stated that the beneficiary has specialized knowledge concerning the food allergies, intolerances, and dietary restrictions of [REDACTED], as well as the special arrangements that need to be made for the family's business guests and dignitaries who are entertained regularly in the United States and abroad. The petitioner submitted a letter in support of the petition and stated that [REDACTED] has unique food allergies, food intolerances, and other health restrictions that require him to be on the "Swiss Detox Diet," developed by Dr. Thomas M. Rau of Switzerland. The petitioner submitted a letter from Dr. Rau that likewise states:

Due to food allergies, intolerances and other health considerations for Mr. [REDACTED] and his family, I have prescribed a very restrictive and particular diet for them to follow since 2007. This personalized diet is of vital importance to their continued health and wellness, especially of [REDACTED]. Because of the challenging nature of menu planning and meal preparation that this plan requires, and since the dietary restrictions can change due to continued assessment of his health, I strongly recommend that his private chef, [the beneficiary], be allowed to travel to the U.S. to cook for [REDACTED] and his family as and when needed. [The beneficiary] has worked with the [REDACTED] family in Canada since June of 2009 and has very specialized knowledge about [REDACTED] dietary needs and restrictions, and of his family members. [In addition, I have given him special instructions regarding the Swiss Detox Diet that I have prescribed and how to work within these parameters.] (brackets in original) It would be extremely difficult to find a qualified chef to replace him given his unique experience.

Evidence of the beneficiary's training includes a diploma from the [REDACTED] showing the beneficiary successfully completed a baking and pastry arts program held from September 29, 2003 to March 23, 2004. The beneficiary's resume lists his other education and training as "Industry Cooking" at [REDACTED] in 1987 and an apprenticeship at [REDACTED] with [REDACTED] in 1990-91. The beneficiary's resume also lists work experience, which can be summarized as:

- May 1989 to Feb. 1992: Sous-chef at [REDACTED]
- Apr. 1992 to Sep. 1994: Sous-chef at [REDACTED]
- Nov. 1995 to Jun. 1996: Head Chef, [REDACTED]
- May 1997 to Dec. 1997: Sous-chef and Chef, [REDACTED]
- Jan. 1998 to Jul. 1999: Head Chef, [REDACTED]
- May 2004 to Oct. 2005: Head pastry/baker and Sous-chef, [REDACTED]
- Apr. 2006 to Aug. 2008: Chef/Owner and Operator, [REDACTED]
- Jun. 2009 to present: Head Chef, [REDACTED]

The director issued a Request for Evidence (RFE) on October 20, 2010. The director requested that the petitioner provide, *inter alia*: 1) evidence that the petitioner and its affiliate are doing business, such as business licenses, tax documents, financial statements, sales invoices, and bank statements; 2) evidence that the petitioner was continuously employed by the petitioner's affiliate for one year prior to the filing of this petition, such as payroll records; and 3) evidence of the beneficiary's specialized knowledge, such as an organizational chart for the affiliate and information providing comparison between the beneficiary and other employees of the petitioner, as well as between the beneficiary and other individuals in the field.

The petitioner responded to the RFE with a brief and additional evidence. This evidence includes an organizational chart and employee list for the affiliate, the affiliate's British Columbia registration, [REDACTED] development plan drawings, an independent contractor agreement with developers, an invoice from an

event planning company for an event held on [REDACTED]; quarterly statements of the petitioner, payroll statements for the beneficiary's work for the petitioner's affiliate, an employee list for the petitioner, job descriptions for selective employees of the petitioner, and a lease showing property at the petitioner's address leased to [REDACTED]

III. Analysis

A. One year of continuous full-time employment

The first reason the director gave for denying the instant petition is the petitioner's failure to establish that the beneficiary was continuously employed by the affiliate for one year out of the three years immediately preceding the filing of the petition. Specifically, the director concluded the beneficiary was not employed on a full-time basis, as required by 8 C.F.R. § 214.2(l)(3)(iii).

In its response to the RFE, the petitioner provided an organizational chart of the affiliate showing the beneficiary's position within the organization, a list of the company's positions, their pay, their days per week worked, and the beneficiary's pay records from August 23, 2009 through December 25, 2010.

The organizational chart of the affiliate states that it has twenty full-time employees, one 4/5 employee, and four 3/5 employees. The beneficiary is listed as a 3/5 employee. The list of employees indicates that the chef, the beneficiary's position, works 3 days, whereas the majority of employees work 5 days. The list states that the position of chef gets paid \$32 per hour and makes \$3072 per month. This means the chef works 96 hours per month.² The director determined that "full-time" employment in Canada is 8 hours per day or 40 hours per week, as any time worked in excess of 8 hours per day or 40 hours per week must be compensated with overtime pay according to Canadian law. Full-time employment would therefore require at least 120 hours of work per month, substantially more than the estimated 96 hours worked by the petitioner's chef.

The director's recommendation also includes a detailed chart of the beneficiary's actual hours worked compiled from his pay stubs. Consistent with the petitioner's statement that the beneficiary is a 3/5 employee, it appears from the chart that the beneficiary worked fewer than 80 hours for several of the pay periods listed. Although given the opportunity, the petitioner did not submit any response or counterargument to the director's analysis and conclusion.

Based on these submissions, the director concluded that the beneficiary did not work full-time for the affiliate. For the reasons cited by the director, the petitioner has not demonstrated that the beneficiary continuously worked full-time for the petitioner's affiliate for one year prior to the submission of the petition. On this ground, the petition is denied.

² \$3072 per month divided by \$32 per hour = 96 hours per month.

B. Specialized knowledge

The director also denied the petition, finding the petitioner did not establish that the beneficiary has specialized knowledge and will work in a position that requires specialized knowledge.

In order to establish eligibility, the petitioner must show that the individual will be employed in a specialized knowledge capacity. 8 C.F.R. § 214.2(l)(3)(ii). The statutory definition of specialized knowledge at Section 214(c)(2)(B) of the Act is comprised of two equal but distinct subparts or prongs. First, an individual is considered to be employed in a capacity involving specialized knowledge if that person "has a special knowledge of the company product and its application in international markets." Second, an individual is considered to be serving in a capacity involving specialized knowledge if that person "has an advanced level of knowledge of processes and procedures of the company." *See also* 8 C.F.R. § 214.2(l)(1)(ii)(D). The petitioner may establish eligibility by submitting evidence that the beneficiary and the proffered position satisfy either prong of the definition.

USCIS cannot make a factual determination regarding the beneficiary's specialized knowledge if the petitioner does not, at a minimum, articulate with specificity the nature of the claimed specialized knowledge, describe how such knowledge is typically gained within the organization, and explain how and when the beneficiary gained such knowledge. Once the petitioner articulates the nature of the claimed specialized knowledge, it is the weight and type of evidence which establishes whether or not the beneficiary actually possesses specialized knowledge. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). The director must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true. *Id.*

As both "special" and "advanced" are relative terms, determining whether a given beneficiary's knowledge is "special" or "advanced" inherently requires a comparison of the beneficiary's knowledge against that of others in the petitioning company and/or against others holding comparable positions in the industry. The ultimate question is whether the petitioner has met its burden of demonstrating by a preponderance of the evidence that the beneficiary's knowledge or expertise is special or advanced, and that the beneficiary's position requires such knowledge.

In the present case, the petitioner claims it meets the second prong of the statutory definition, asserting that the beneficiary has an advanced level of knowledge of the company's processes and procedures.

The petitioner claims that the beneficiary "provides a service to the company's principals that necessitates specialized knowledge about the family's dietary preferences, food preparation parameters, and adherence to a physician-prescribed diet regimen." The petitioner stated:

█ has unique food allergies and intolerances as well as other health restrictions that require him to be on a special diet developed by Dr. Thomas M. Rau in Switzerland.

█ diet has been monitored by Dr. Rau for over three years due to his significant and unpredictable dietary constraints.

In its response to the RFE, the petitioner stated that its affiliate hired the beneficiary as a private chef because of his "sufficient training in not only quality healthy cuisine, but also the gluten-free, vegetarian, macrobiotic, and molecular cuisine that is prepared under the Swiss Detox Diet." The petitioner itself does not currently employ any chefs. It stated that, unlike an ordinary chef in the United States, the beneficiary has an extensive background in healthy cooking and is a self-taught gluten-free, macrobiotic, and molecular cuisine practitioner. The petitioner stated that the beneficiary has undergone a course of self-study in the Swiss Detox Diet for the past two years. This involved reviewing the publications of Dr. Rau and consulting with him on specific questions regarding the Swiss Detox Diet's implementation.

The petitioner does not claim that knowledge of gluten-free, vegetarian, macrobiotic, and molecular cuisine should be considered the specialized knowledge of the petitioner. Similarly, the petitioner does not claim that the Swiss Detox Diet is itself specific to the petitioner. Rather, the petitioner maintains that the beneficiary's knowledge is special in that he has the ability to follow the Swiss Detox Diet in accordance with the food intolerances and preferences of the █ family.

Although the petitioner frequently mentions the █ family's claimed health needs and dietary restrictions, it did not provide details to explain what these entail. The letter from Dr. Rau is equally vague and simply emphasizes the need to follow the Swiss Detox Diet. Although Dr. Rau characterized his prescribed diet as very particular, restrictive, and personalized, he provided no corroboration or explanation for these assertions. As such, the petitioner fails to demonstrate that the allergies and dietary needs of the █ family are so complicated and extreme that they could not be easily learned by another chef. It is clear that the petitioner would prefer to employ the beneficiary, however, nothing in the record suggests that another chef would be unable to comprehend and quickly learn the dietary restrictions and preferences of the █ family.

The petitioner has also failed to provide information regarding the specifics of the Swiss Detox Diet. Without evidence regarding the diet's requirements, the petitioner has failed to establish that the diet would be difficult for any other trained chef to follow. According to the petitioner, the beneficiary learned about the Swiss Detox Diet through self-study and guidance from Dr. Rau. There is no indication that another chef could not use the same technique to familiarize him or herself with the diet.

In addition, the petitioner is required to demonstrate that a qualifying organization has employed the beneficiary in a *specialized knowledge capacity* for one year at the time of filing. The petitioner's affiliate had employed the beneficiary for approximately 18 months when the petitioner filed the instant petition. It is unclear when the petitioner alleges that the beneficiary became a specialized knowledge employee. It is therefore impossible to determine that the petitioner was employed in the specialized knowledge capacity for a full year.

In its letter submitted with the Form I-129, the petitioner cites to two policy memos previously issued by USCIS used to clarify the meaning of specialized knowledge: a memorandum dated March 9, 1994 issued by James Puleo and a memorandum dated December 20, 2002 issued by Fujie Ohata. The petitioner omits, however, mention of the USCIS memo dated September 9, 2004 that refers specifically to the interpretation of specialized knowledge for chefs and specialty cooks. In discussing an example of a chef that did *not* have specialized knowledge, this more relevant memo states:

Recipes and cooking techniques that can be learned by a chef through exposure to the recipe or cooking techniques for a brief or moderate period of time generally do not constitute specialized knowledge. Despite the petitioner's claims that this particular style of cooking is ancient and has subtle nuances to it that must be learned, these claims do not generally establish that these skills are so uncommon or complex that other chefs in the industry could not master them within a reasonable period of time.

Interoffice Memorandum from Fujie O. Ohata, Dir., USCIS, to Serv. Ctr. Dirs. (Sep. 9, 2004), p. 3.

In the instant case, the Swiss Detox Diet is not even a method of cooking particular to the petitioner. Rather, the petitioner uses this third-party method of cooking and tailors it to meet the petitioner's preferences and needs. The petitioner has failed to explain how the petitioner's requirements and preferences are complicated enough to transform the Swiss Detox Diet into the specialized knowledge of the petitioner. The petitioner's brief cites the memoranda definition of specialized knowledge as "knowledge which, normally, can be gained only through prior experience with the employer and cannot be easily transferred or taught to another individual." In this case, the petitioner has not shown that the Swiss Detox Diet can be learned only through working with the petitioner, or that the preferences and dietary restrictions of the [REDACTED] family are difficult to transfer or teach.

For the above-stated reasons, the petitioner has failed to meet its burden of demonstrating that the beneficiary has specialized knowledge and would be employed in a specialized knowledge capacity. On this alternative ground, the petition is denied.

C. Doing Business

The director's final reason for denying the instant petition is the petitioner's failure to establish that it is doing business. According to the regulations at 8 C.F.R. § 214.2(l)(1)(ii)(H), doing business is defined as engaging in the regular, systematic, and continuous provision of goods and/or services.

Finding the initial evidence lacking, the director requested in the RFE additional evidence that the petitioner is doing business. In response, the petitioner submitted additional documentation and repeated that its purpose is to manage the affairs of the [REDACTED] family. It stated that its operating expenses are between \$1 million and \$2 million per year depending on the volume of investment activity.

The petitioner provided its organizational chart. The chart shows a Vice President at the top of the chart. Below the Vice President are Controller, Sen. Financial Analyst, Legal, and People Development. Below the Controller are Taxes/ Asst. Controller, Accounts Receivable, Accounts Payable, and Payroll. Below People Development are Personal Assistant and Housekeeping.

The petitioner submitted a document entitled Company Contacts on which it lists the telephone and fax numbers for twelve people, as well as for the conference room, library, and lobby. The petitioner submitted a list of several different companies owned by [REDACTED] and employee positions and salaries below different companies. The list under the petitioner's name states the following:

Tax Manager	96,900
Senior Financial Analyst	110,000
Operational Assistant	20.42/hour
Director of People Development	107,000
Controller	120,189
Senior Accounting Clerk	24.60/hour
Legal Services	48.67/hour
Vp of Corp Development	422,300

The petitioner also provided job descriptions for its "key" employees: controller, legal services, director of human resources, financial analyst, and accounts payable clerk. The petitioner submitted Quarterly 941 Returns showing that, as of the third quarter of 2010, the petitioner had paid \$278,820.83 in employee income withholding, Social Security, and Medicare taxes that year. It submitted a lease for property at [REDACTED] Washington. In its recommendation for denial, the director notes that the lessee is not the petitioner, but [REDACTED], a different company owned by [REDACTED].³

³ In her decision, the director emphasized that the petitioner itself is not a party to the lease and stated that the record contains no evidence that this company sublets to the petitioner. This statement is true. However, the director also stated there is no evidence of any relationship between the petitioner and [REDACTED]. This is not the case: the petitioner submitted a chart showing the companies of [REDACTED] that includes both the petitioner and [REDACTED]. The petitioner also submitted an article from Forbes.com entitled [REDACTED].

The director found this additional evidence insufficient, noting that the petitioner did not submit a business license from the City of [REDACTED] Washington where the petitioner is located. The director cited to section 7.02.040(a) of the City of [REDACTED] Washington municipal code, which states that any business operating within the city limits must obtain a license. The director further cited the lack of tax returns or other records to show the income or expenses of the corporation. Lastly, the director cited the lack of requested invoices, bank statements, publications and contracts that could show that the petitioner is systematically active in providing services.

The petitioner has emphasized that it does not operate as a conventional business in that its service is managing the wealth and affairs of a single family. These unconventional attributes may make traditional business documents less available, but many of the petitioner's claimed functions would still produce documentation. The petitioner submitted several pieces of evidence to establish that it has employees whom it pays regularly. Beyond this, however, the petitioner provided no evidence to document the managing of the [REDACTED] family's assets. As noted by the director, the petitioner failed to submit tax returns, contracts, invoices, or other related documentation. Due to the general absence of corroborating evidence, the petitioner has failed to meet its burden of establishing that the petitioner is currently doing business. As recommended by the director, the petition is also denied on this ground.

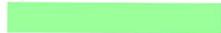
In visa petition proceedings, the burden is on the petitioner to establish eligibility. *Matter of Brantigan*, 11 I&N Dec. 493 (BIA 1966). The petitioner must prove by a preponderance of evidence that the beneficiary is fully qualified for the benefit sought. *Matter of Chawathe*, 25 I&N Dec. at 376. In evaluating the evidence, eligibility is to be determined not by the quantity of evidence alone, but by its quality. *Id.*

For the reasons discussed above, the evidence submitted fails to establish by a preponderance of the evidence that the beneficiary was continuously employed full-time for a year, that he possesses specialized knowledge, and that the petitioner is doing business. The AAO also notes that the petitioner was afforded an opportunity to respond to the director's recommendation and findings, but declined to do so. Accordingly, the AAO shall not disturb the director's denial of the petition.

IV. Conclusion

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 the petitioner has not met that burden.

[REDACTED] – The [REDACTED]” which refers to [REDACTED] as [REDACTED] based investment company that manages his take from the sale of [REDACTED] in 1993.



(b)(6)

ORDER: The petition is denied.