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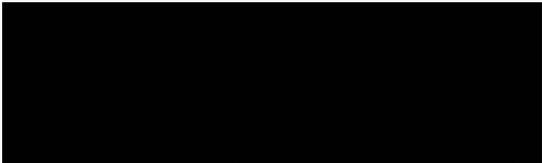
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529-2090



U.S. Citizenship
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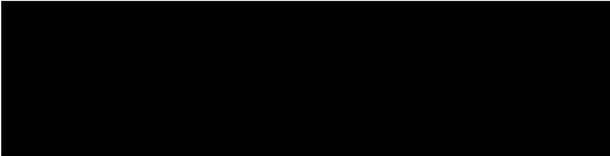
OFFICE: TEXAS SERVICE CENTER

Date: MAR 04 2009

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Immigrant Petition for Alien Worker as a Multinational Executive or Manager Pursuant to
Section 203(b)(1)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(C)

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, Texas Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a Florida corporation claiming to be engaged in the importation, wholesale, and retail of architectural stone. It seeks to employ the beneficiary as its president/general manager. Accordingly, the petitioner endeavors to classify the beneficiary as an employment-based immigrant pursuant to section 203(b)(1)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(C), as a multinational executive or manager.

The director denied the petition based on the following independent grounds of ineligibility: 1) the petitioner failed to establish that the beneficiary was employed abroad in a qualifying managerial or executive capacity; 2) the petitioner failed to establish that it would employ the beneficiary in a qualifying managerial or executive capacity; 3) the petitioner failed to overcome a number of adverse findings cited in a previously issued notice of intent to deny (NOID), in which the director raised considerable questions regarding the credibility of the petitioner's claim and the reliability of the documents submitted in support thereof; and 4) the petitioner has failed to establish its ability to pay the beneficiary the proffered wage.

On appeal, counsel vehemently disputes the director's conclusions and submits a brief in support of her arguments.

Section 203(b) of the Act states in pertinent part:

(1) Priority Workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

* * *

(C) Certain Multinational Executives and Managers. -- An alien is described in this subparagraph if the alien, in the 3 years preceding the time of the alien's application for classification and admission into the United States under this subparagraph, has been employed for at least 1 year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof and who seeks to enter the United States in order to continue to render services to the same employer or to a subsidiary or affiliate thereof in a capacity that is managerial or executive.

The language of the statute is specific in limiting this provision to only those executives and managers who have previously worked for a firm, corporation or other legal entity, or an affiliate or subsidiary of that entity, and who are coming to the United States to work for the same entity, or its affiliate or subsidiary.

A United States employer may file a petition on Form I-140 for classification of an alien under section 203(b)(1)(C) of the Act as a multinational executive or manager. No labor certification is required for this classification. The prospective employer in the United States must furnish a job

offer in the form of a statement which indicates that the alien is to be employed in the United States in a managerial or executive capacity. Such a statement must clearly describe the duties to be performed by the alien. *See* 8 C.F.R. § 204.5(j)(5).

The first two issues in this proceeding call for an analysis of the beneficiary's job duties. Specifically, the AAO will examine the record to determine whether the beneficiary was employed abroad and whether he would be employed in the United States in a qualifying managerial or executive capacity.

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) 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), 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 support of the Form I-140, the petitioner submitted a letter dated May 12, 2006 in which the petitioner claimed to be engaged in the same type of business as its foreign affiliate. With regard to the beneficiary's employment abroad, the petitioner stated that the beneficiary occupied the position of sales manager from January 2001 until July 2002. Although the petitioner indicated that the beneficiary was not transferred to the United States for employment until April 2003, no further information was offered to discuss what the beneficiary was doing for the foreign entity from July 2002 until he was transferred to the United States in April 2003.

The petitioner did provide the foreign entity's organizational chart showing a multi-tiered entity with three levels of management under the highest-level position of president. However, the beneficiary's name does not appear anywhere on the chart, and it therefore fails to offer any information as to the beneficiary's placement within the foreign entity's hierarchy. The chart shows an administrative assistant and vice president directly subject to the company's president. The vice president is shown as the next managerial tier with a secretary, a general manager, and a sales manager all directly subordinate to him. At the bottom level of the organization, the petitioner shows three technician positions, all subordinate to the sales manager, the only position the petitioner clearly indicated as having been occupied by the beneficiary.

With regard to the beneficiary's employment with the U.S. entity, the petitioner provided the following percentage breakdown of the beneficiary's proposed duties and responsibilities:

- Oversee and direct commercial enterprise. (40%)
- Define and implement [the] company's policy and goals. (10%)
- Define and implement financial projections. (10%)
- Conduct daily inspections of [the] premises. Indicate/discuss discrepancies with [the] [a]ssistant [g]eneral [m]anager. (10%)
- Hire/fire subordinate managerial staff. (5%)
Approve/disapprove the hiring/firing of lower level employees. (5%)
- Approve/disapprove contracts with customers and suppliers. (5%)
- Assign duties and tasks to subordinate managers. (10%)
- Report to [the] company abroad. (5%)

The petitioner also provided similar job descriptions for its assistant general manager/staff supervisor, its sales manager, and its warehouse manager, all of whom are claimed to have been

employed by the petitioner at the time the Form I-140 was filed. The petitioner provided a number of tax documents, including its own 2005 income tax return.

After reviewing the petitioner's initial submissions, the director determined that a request for additional evidence (RFE) was warranted. Accordingly, an RFE was issued on September 14, 2006, instructing the petitioner to provide a more detailed description of the beneficiary's employment, including specific job duties and functions the beneficiary would perform. The petitioner was asked to explain how the beneficiary would be able to perform in a qualifying capacity given the current stage of development of the U.S. entity.

In response, the petitioner provided a statement from counsel dated November 13, 2006, which included a percentage breakdown that was virtually identical to the one restated above. The only difference between the two breakdowns was that the earlier one allotted 10% to defining and implementing financial projections, while the current breakdown allotted only 5% to this responsibility and instead accounted for the remaining 5% by allotting 2.5% to receiving and analyzing inventory and sales reports and the other 2.5% to approving and disapproving banking and expenditures. The petitioner did not provide any further information or enumerate specific job duties underlying any of the remaining job responsibilities listed in the percentage breakdowns. Counsel merely stated that the beneficiary would not be involved with "customer interface," (which counsel did not explain further), wholesale distribution, or deliveries of stone. Counsel further stated that the beneficiary was largely responsible for the petitioner's increased volume of sales.

Although the petitioner also provided a copy of its organizational chart, the chart identified five positions, thereby showing that one additional employee was hired since the submission of the prior organizational chart. It is noted, however, that a petitioner must establish eligibility at the time of filing; a petition cannot be approved at a future date after the petitioner or beneficiary becomes eligible under a new set of facts. *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm. 1971). Therefore, U.S. Citizenship and Immigration Services (USCIS) cannot rely on any changes in the petitioner's organizational structure if those changes occurred after the petition was filed. In the present matter, the petitioner claimed to have employed a total of four employees at the time of filing. The petitioner therefore has the burden of establishing that the hierarchy at the time of filing was sufficient to sustain the beneficiary in a managerial or executive capacity.

Furthermore, the organizational chart submitted in response to the RFE contains job titles that were not previously identified. Specifically, the petitioner claimed earlier that its initial staff at the time of filing consisted of a general manager, an assistant general manager/staff supervisor, a sales manager, and a warehouse manager. In the chart submitted in response to the RFE, the petitioner did not identify a warehouse manager. Instead, it identified an administration manager and a sales assistant/deliveries, neither of which was claimed earlier as having been part of the organization at the time of filing.

Additionally, the petitioner provided its quarterly wage report for the quarter during which the Form I-140 was filed. While the report indicates that the petitioner employed five people during each of the three months in that quarter, this information is inconsistent with the Part 5, No. 2 of the Form I-140, where the petitioner claimed to have only four employees. Additionally, the AAO notes that the Employee Identification Number (EIN) that appears on the relevant wage report is not the same

EIN that was used to identify the petitioner in Part 1 of the Form I-140 and in the corporate tax returns purportedly filed by the petitioner. It is noted that the same EIN that was used in the quarterly wage reports also appears in the petitioner's employee pay stubs. This inconsistency was subsequently noted in the director's NOID and will be discussed below in greater length.

After further review of the petitioner's submissions, the director determined that a denial of the petition was warranted and therefore issued a NOID dated October 15, 2007 to inform the petitioner of the numerous deficiencies that had been observed. Among the deficiencies that were discussed was the discrepancy regarding the petitioner's use of two different EINs in the filing of various documents, including the current Form I-140, federal tax returns for 2005 and 2006, quarterly wage statements, and miscellaneous income Form 1099s issued by the petitioner to its alleged employees.

The director also pointed to various anomalies with regard to the petitioner's leased business premises. First, the director noted that the address that the petitioner identified as its primary business address is not zoned for warehousing or industrial activities and that the building cannot be legally subleased without explicit authorization, approved occupational licenses, approved fire inspections, and the construction of additional firewalls. Second, the director noted that the individual listed as the lessor on the commercial lease agreement was unknown to the leasing associate who was contacted with regard to the leased premises. Lastly, the director determined that the petitioner failed to provide a job description establishing that the beneficiary would be employed in a qualifying managerial or executive capacity.

In response to the above adverse information, counsel submitted a letter dated November 13, 2006.¹ Counsel claimed that the confusion was inadvertently created by the beneficiary's erroneous filing seeking a second EIN instead of the desired fictitious name. Counsel vehemently denied that there was any fraud or misrepresentation and further claimed that the petitioner had already taken steps to correct the error prior to the issuance of the NOID and would continue to take further action to ensure that the error would be corrected.

The petitioner provided a number of supporting documents in an attempt to overcome the director's grounds for ineligibility. Among the documents submitted was a fictitious name registration dated November 17, 2005, showing [REDACTED] as the registered fictitious name. It is noted, however, that aside from the fact that the letter was sent to the business address used by the petitioner, there was no indication of a nexus between the petitioner and the claimed fictitious name. The petitioner also provided a document dated May 24, 2006, showing that [REDACTED] was dissolved on May 16, 2006, as well as a document showing that the petitioner sent an email on October 29, 2007 seeking government assistance in clearing up the confusion resulting from the issuance of two EINs to the same corporation. The AAO notes, however, that this email was sent out approximately two weeks after the NOID was issued. Therefore, even though evidence shows that [REDACTED] had been dissolved as of May 2006, the petitioner made no attempt to correct any of the alleged confusion regarding its use of two different EINs as indicated by the petitioner's filing of its second and third quarterly wage reports for 2006, both of which were filed after the dissolution of [REDACTED]

¹ As the NOID itself was issued on October 17, 2007, it appears that the year portion of the date on counsel's response was a typographical error and was intended to read November 13, 2007, rather than 2006.

and yet both used [REDACTED]'s EIN.² Similarly, the petitioner submitted numerous payroll documents that used [REDACTED] EIN and were issued well after that entity's dissolution.³ While the correct EIN was ultimately referenced in the petitioner's 2007 third quarter wage report, this document is dated October 11, 2007 and was filed long after the dissolution of [REDACTED] became effective. Moreover, the petitioner's proper use of its EIN does not negate or in any way reconcile or correct the prior inconsistency that resulted from its use of an EIN that belonged to a dissolved corporation.

With regard to the validity of the lease for the petitioner's business premises, the petitioner provided a photocopied letter allegedly signed by [REDACTED], listing the months and check numbers purportedly used to pay rent for the leased premises. It is noted, however, that this document is not notarized to clearly establish that the signature contained therein is that of [REDACTED], owner of the leased premises. Additionally, while the petitioner provided copies of the checks that were purportedly used to make the rent payments, there is no evidence to establish that the checks were actually cashed. That being said, the AAO acknowledges the petitioner's submission of photocopied bank deposit slips, showing deposits in the amount of the rent payments being made into a Bank of America account. However, aside from the fact that the words [REDACTED] or [REDACTED] were handwritten on three of those photocopied deposit receipts, there is no indication that the accounts into which the deposits were made actually belong to [REDACTED]. The fact that [REDACTED] name appears on the deposit slips is not conclusive evidence that the account actually belongs to [REDACTED] as indicated, as the name could have been written by anyone at any time to support the petitioner's claim.

Additionally, the petitioner provided a letter dated November 2, 2007 in which the beneficiary explained the alleged role of [REDACTED] in orchestrating and finalizing the lease for the petitioner's business premises. However, the beneficiary's personal explanation cannot be deemed as sufficient evidence in and of itself, as it is merely a statement provided by an interested party, a self-interested party at that, in an effort to resolve a considerable inconsistency. 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)). The AAO notes that 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). In the present matter, the petitioner has been confronted with a number of considerable anomalies that give rise to serious doubts as to the credibility of the petitioner's claim. As such, it is particularly crucial that the petitioner resolve any inconsistencies in the record by independent objective evidence. *See id.* at 591-92. In the present matter, the evidence presented by the petitioner is not persuasive for the reasons stated above.

On February 28, 2008, the director denied the petition reasserting prior adverse findings regarding the reliability of the submitted evidence, which called into question the nature of the job duties the beneficiary would perform during his proposed U.S. employment. The director determined that the petitioner is comprised of a small staff working limited hours and concluded that the beneficiary

² See Exhibit 5 of the petitioner's response to the RFE.

³ See Exhibit 6 of the petitioner's response to the RFE.

would not oversee a staff of professional or managerial employees. With regard to the foreign employment, the director determined that the beneficiary's job description was vague and ultimately concluded that experience as a sales manager does not amount to employment in a qualifying capacity.

With regard to the issue of the beneficiary's employment capacity in his proposed position, counsel objects to the director's finding, stating that the director is wrong to question the petitioner's need for a managerial or executive employee given the volume of business it has conducted. However, counsel's comment fails to address the director's specific concern. Namely, a company's need for a top-level employee with a high level of discretionary authority is not a determining factor in whether a beneficiary would be employed in a qualifying capacity. Rather, in examining the executive or managerial capacity of the beneficiary, USCIS will look first to the petitioner's description of the job duties. *See* 8 C.F.R. § 204.5(j)(5). Contrary to counsel's apparent misconception, the company's needs for the beneficiary's services do not override the statutory requirement that the beneficiary of an I-140 petition primarily perform job duties within a qualifying 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 International*, 19 I&N Dec. 593, 604 (Comm. 1988). Thus, while the beneficiary's level of discretionary authority and overall position with the petitioner's organizational hierarchy are considered, overall eligibility cannot be established unless the petitioner provides a detailed description of the beneficiary's job duties and establishes that the beneficiary's time would be primarily spent performing qualifying managerial or executive job duties.

In the present matter, counsel asserts that the beneficiary does not carry out the petitioner's day-to-day "customer interface, wholesale distribution and deliveries of stone." However, without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). Although counsel restates and adds two elements to the percentage breakdown of the beneficiary's job responsibilities that was previously submitted, this information has already been deemed inadequate due to its lack of sufficient detail. Merely restating a deficient job description and disputing the director's finding is not sufficient to meet the regulatory requirement that expressly requires a detailed description of the job duties to be performed during the course of the proposed employment. *See* 8 C.F.R. § 204.5(j)(5). For instance, the petitioner and counsel allot 40% of the beneficiary's time to overseeing and directing commercial enterprise, another 10% to defining and implementing company goals and policies, and 5% to defining and implementing financial projections. However, the petitioner has not described any actual, assigned job duties to explain how the beneficiary intends to accomplish his oversight and directorial responsibilities, nor has the petitioner specified what types of goals and policies the beneficiary would set and implement or the types of financial projections he would make. In other words, the petitioner has provided a generic job description that could be applied to any top-level managerial position without any attempt to explain how these overly broad job responsibilities apply specifically to the beneficiary's position within the context of the petitioner's business. Specifics are clearly an important indication of whether a beneficiary's duties are primarily executive or managerial in nature; otherwise meeting the definitions would

simply be a matter of reiterating the regulations. *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103 (E.D.N.Y. 1989), *aff'd*, 905 F.2d 41 (2d. Cir. 1990).

Lastly, counsel repeatedly denies that the petitioner has made any material misrepresentations with regard to any of the aforementioned assertions and further states that any errors were innocent and the result of clerical mishaps. However, none of the submissions added to the record in response to the director's inquiries have resolved the considerable inconsistencies and anomalies discussed above. Specifically, none of the petitioner's submissions explain the petitioner's continued use of two different EINs, almost interchangeably, particularly when a company that was linked to one of the EINs had been dissolved. There is also no explanation for the petitioner's use of three different business addresses in three different invoices issued by the petitioner during a four-day period in May 2005. It is further noted that the lease for the property located at [REDACTED] Orlando, Florida was not entered into until September 1, 2005, yet this address had been used as the petitioner's business address on one of the May 2005 invoices in question. In fact, the AAO is also unclear as to why the petitioner was using invoices with [REDACTED]' letterhead as early as August 2005 when [REDACTED] was not authorized as a fictitious name until November 2005. These and the various anomalies previously noted by the director give cause to doubt the authenticity of the submitted documents and therefore seriously detract from the credibility of the petitioner's overall claim. Despite counsel's many assertions that none of the errors on the petitioner's part were made intentionally, there is no objective evidence either to support counsel's assertions or to resolve the numerous discrepancies that plague the record of proceeding before the AAO in the present matter.

Although the director also found that the petitioner failed to establish that the beneficiary was employed abroad in a qualifying managerial or executive capacity, counsel did not address this issue on appeal. As previously noted by the director, the beneficiary's duties abroad have not been described in detail, nor has the petitioner explained how the beneficiary's foreign position as sales manager can be deemed as a qualifying position with a managerial or executive capacity. Upon review, the AAO concurs with the director's decision and affirms the denial of the petition on this basis.

The third issue in this proceeding is whether the petitioner provided sufficient documentation to establish that it meets the requirements of 8 C.F.R. § 204.5(j)(3)(i)(D), which states that the petitioner must establish that it has been doing business for at least one year prior to filing the Form I-140. The regulation at 8 C.F.R. § 204.5(j)(2) defines "doing business" as "the regular, systematic, and continuous provision of goods and/or services by a firm, corporation, or other entity and does not include the mere presence of an agent or office."

In the present matter, the director's finding concerning the petitioner's business activity during the one year prior to filing the petition was precipitated by other findings directly related to the petitioner's credibility. More specifically, the director noted that evidence of the petitioner's business activity was primarily comprised of self-created documents and further noted that the petitioner failed to provide actual receipts for sales, bills of lading, and signatures authorizing importation and exportation to and from other companies. It is noted that counsel failed to address this finding on appeal. Upon review, the AAO concurs with the director's decision and affirms the denial of the petition on this basis as well.

The remaining issue in this proceeding is whether the petitioner has established its ability to pay the beneficiary's proffered wage. The regulation at 8 C.F.R. § 204.5(g)(2) states, in pertinent part:

Ability of prospective employer to pay wage. Any petition filed by or for an employment-based immigrant which requires an offer of employment must be accompanied by evidence that the prospective United States employer has the ability to pay the proffered wage. The petitioner must demonstrate this ability at the time the priority date is established and continuing until the beneficiary obtains lawful permanent residence. Evidence of this ability shall be in the form of copies of annual reports, federal tax returns, or audited financial statements.

First, the AAO would like to take the opportunity to address counsel's contention that the director acted in bad faith when she failed to bring up the petitioner's ability to pay in the RFE and NOID and later used it as one of the grounds for denial. Contrary to counsel's assertion, this oversight on the director's part was not done in bad faith. It is often the case that an issue may not have been spotted upon initial review, but was later determined as a ground for denial. Moreover, the current provisions of 8 C.F.R. § 103.2(b)(8) state the following, in pertinent part:

(ii) Initial evidence. If all required initial evidence is not submitted with the application or petition or does not demonstrate eligibility, USCIS in its discretion may deny the application or petition for lack of initial evidence or for ineligibility or request that the missing initial evidence be submitted within a specified period of time as determined by USCIS.

(iii) Other evidence. If all required initial evidence has been submitted but the evidence submitted does not establish eligibility, USCIS may: deny the application or petition for ineligibility; request more information or evidence from the applicant or petitioner, to be submitted within a specified period of time as determined by USCIS; or notify the applicant or petitioner of its intent to deny the application or petition and the basis for the proposed denial, and require that the applicant or petitioner submit a response within a specified period of time as determined by USCIS.

Therefore, according to the above provisions, issuing an RFE for missing evidence is a matter of discretion and is not mandated by regulatory provisions. In other words, the regulations permit the director to deny the petition for failing to demonstrate the petitioner's ability to pay the proffered wage without having to first issuing an RFE or NOID. It is noted, however, that despite the fact that the petitioner was not given the opportunity to address this ground prior to the denial, any new ground raised on denial may still be addressed in a timely and properly filed appeal. Thus, any actual procedural error that may have been committed by the director can be remedied with the appeal process itself. In this case, however, even if the omission of the ability to pay issue from the director's RFE could be found to be a procedural error, there is simply no basis upon which to conclude that this omission was intentional or done in bad faith.

Regardless, the AAO finds that the petitioner has failed to establish its ability to pay. Despite the submission of documents that support the petitioner's claim, the AAO cannot overlook the multiple serious errors addressed in the above discussion. It is noted that a few errors or minor discrepancies

are not reason to question the credibility of an alien or an employer seeking immigration benefits. *See, e.g., Spencer Enterprises Inc. v. U.S.*, 345 F.3d 683, 694 (9th Cir., 2003). However, anytime a petition includes numerous errors and discrepancies, and the petitioner fails to resolve those errors and discrepancies after USCIS provides an opportunity to do so, those inconsistencies will raise serious concerns about the veracity of the petitioner's assertions. Doubt cast on any aspect of the petitioner's proof may undermine 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). In this case, the discrepancies and errors catalogued above lead the AAO to conclude that the evidence of the beneficiary's eligibility is not credible. Accordingly, the AAO cannot conclude that the petitioner's unreliable supporting documents are sufficient to establish its ability to pay.

In summary, the AAO has provided a lengthy discussion of adverse findings noted by the director and has supplemented that discussion with further adverse findings. Counsel's responses to the director's findings are inadequate. As discussed above, counsel altogether fails to address the director's concerns regarding the beneficiary's foreign employment or the unreliable documentation submitted to establish the petitioner's business activity during the relevant one-year time period prior to the filing of the petition. While counsel does address the beneficiary's employment capacity with the prospective U.S. employer, her response does not supplement the record with sufficient details about the beneficiary's specific job duties. Moreover, neither counsel nor the petitioner has provided necessary objective evidence to dispel the level of doubt that has arisen from the deficient and unreliable documents that have been submitted in support of the petitioner's claims. Therefore, the AAO finds that the director's decision was warranted and will not be withdrawn.

When the AAO denies a petition on multiple alternative grounds, a plaintiff can succeed on a challenge only if it is shown 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 denial. 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. The petitioner has not sustained that burden.

ORDER: The appeal is dismissed.