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U.S. Citizenship
and Immigration
Services

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D-7



File: SRC 03 075 50727 Office: TEXAS SERVICE CENTER Date: DEC 16 2008

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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)

IN 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 or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

A handwritten signature in cursive script, appearing to read "John F. Grissom for".

John F. Grissom, Acting Chief
Administrative Appeals Office

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

The petitioner filed this nonimmigrant petition seeking to extend the beneficiary's employment as its president as an L-1A nonimmigrant intracompany transferee pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner, a corporation organized in the State of Texas, claims to be a **business opportunities management and investment firm**, and is doing business under the trade name [REDACTED] as a grocery store. The petitioner claims that it is the subsidiary of [REDACTED] located in Mumbai, India. The beneficiary was previously granted one year in L-1A classification to open a new office and the petitioner seeks to extend the beneficiary's stay for an additional three years.

On September 11, 2003, the director denied the petition, concluding that the petitioner did not establish that the beneficiary will be employed in the United States in a primarily managerial or executive capacity. On appeal, counsel contends that the denial was unfounded, and that ample evidence was submitted to demonstrate the beneficiary's eligibility.

To establish eligibility for the L-1 nonimmigrant visa classification, the petitioner must meet the criteria outlined in section 101(a)(15)(L) of the Act. Specifically, a qualifying organization must have employed the beneficiary in a qualifying managerial or executive capacity, or in a specialized knowledge capacity, for one continuous year within three years preceding the beneficiary's application for admission into the United States. In addition, the beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial, executive, or specialized knowledge capacity.

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

- (i) Evidence that the petitioner and the organization which employed or will employ the alien are qualifying organizations as defined in paragraph (l)(1)(ii)(G) of this section.
- (ii) Evidence that the alien will be employed in an executive, managerial, or specialized knowledge capacity, including a detailed description of the services to be performed.

- (iii) Evidence that the alien has at least one continuous year of full time employment abroad with a qualifying organization within the three years preceding the filing of the petition.
- (iv) Evidence that the alien's prior year of employment abroad was in a position that was managerial, executive or involved specialized knowledge and that the alien's prior education, training, and employment qualifies him/her to perform the intended services in the United States; however, the work in the United States need not be the same work which the alien performed abroad.

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

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

The issue in the present matter is whether the beneficiary will be employed by the United States entity in a primarily managerial or executive capacity.

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

- (i) manages the organization, or a department, subdivision, function, or component of the organization;

- (ii) supervises and controls the work of other supervisory, professional, or managerial employees, or manages an essential function within the organization, or a department or subdivision of the organization;
- (iii) if another employee or other employees are directly supervised, has the authority to hire and fire or recommend those as well as other personnel actions (such as promotion and leave authorization), or if no other employee is directly supervised, functions at a senior level within the organizational hierarchy or with respect to the function managed; and
- (iv) exercises discretion over the day-to-day operations of the activity or function for which the employee has authority. A first-line supervisor is not considered to be acting in a managerial capacity merely by virtue of the supervisor's supervisory duties unless the employees supervised are professional.

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

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

The request for extension, filed on Form I-129 on January 16, 2003, indicated that the petitioner, formed in 2002, currently employed three (3) persons and had an estimated gross annual income of \$1,000,000. On a rider to the L Classification Supplement of Form I-129, the petitioner stated that the beneficiary's duties in the United States were as follows:

Direct and coordinate activities of the organization and formulate and administer company policies: In consultation with the management and the Indian firm develop long range goals and objectives of the company. Be responsible for corporate planning, general administration, marketing-sales and purchasing activity for the

subsidiary. Direct and coordinate activities of managers and employees in the production, operations, purchasing and marketing departments for which responsibility is delegated for further attainment of goals and objectives. Review and analyze activities, costs, operations, and forecast data to determine progress toward stated goals and objectives. Review with management and employees company's achievements and discuss required changes in goals or objectives of the company.

The petitioner also submitted a copy of its Form 941, Employer's Quarterly Federal Tax Return, and Texas Form C-3, Employer's Quarterly Report, for the quarter ending December 31, 2002. The Form C-3 indicated that during this quarter the petitioner employed three persons; namely, the beneficiary, [REDACTED] and [REDACTED] for quarterly wages of \$8,250, \$2,500, and \$1,050, respectively. The form also indicated that in October 2002, the petitioner employed one person, in November 2002, it employed two persons, and by December 2002 it employed three persons.

On April 19, 2003, the director requested additional evidence. Specifically, the director requested documentation pertaining to the beneficiary's position and related duties, including a more definitive statement regarding his tasks, the percentage of time spent on these tasks, and a more specific overview of the organizational structure of the petitioner and the role subordinate employees played within the organizational hierarchy.

In a letter dated July 11, 2003, counsel for the petitioner responded to the director's request. Regarding the beneficiary's duties, counsel stated:

The beneficiary functions as President, primarily in a managerial and executive role, directly supervising two professional managers. These include [REDACTED] who is the Vice President and Administrative Manager, and [REDACTED], who is the Finance Manager. . . [REDACTED] has a Bachelor of Commerce and a Master of Arts degree from the University of Mumbai. She is suitably positioned to act as the Vice President and Administrative Manager for [the petitioner]. [REDACTED] is a professional Accountant with extensive training and experience in Finance and Accounting. . . . Thus, she is aptly qualified to function as Finance Manager under [the beneficiary]. Two sales clerks/cashiers report to the Administrative Manager.

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As President [the beneficiary] functions at the senior-most level within the organization acting **primarily** in an executive and managerial capacity as required by Section § 101 (a)(15)(L) of the Immigration and Nationality Act. With a Bachelor of Science (B.Sc) degree and over fifteen years of work experience, [the beneficiary] satisfied all the qualifications and prerequisites required for the position. In addition, he supervises the work of professional employees. He is therefore functioning

primarily in an executive and managerial capacity and is not directly involved in the day-to-day operations of the business.

(Emphasis in original).

Finally, regarding the beneficiary's qualifications, counsel stated:

[The beneficiary] oversees the management of the entire organization (Texas and Mumbai operations)-he is Managing Partner of the parent operation in Mumbai and President of the Texas operation.

[The beneficiary] supervises and controls the work of other **supervisory, professional and managerial employees**-he was responsible for appointing the Vice President/Administrative Manager, Finance Manager and other clerks. He also has authority to dismiss the employees.

- [The beneficiary] functions at the senior most level within the organizational hierarchy and exercises discretion over the day-to-day operations of his organization.

[The beneficiary] makes strategic decisions on new business ventures. He established the subsidiary operation in the United States and is poised to make it into a profitable venture.

(Emphasis in original).

In addition, the petitioner submitted a list of updated duties for the beneficiary with the amount of time he devoted to each. Specifically, the petitioner stated:

Establishes and approves policies and objectives of parent and subsidiary operations in accordance with the charters. Approves company budget and new investment opportunities. Approves hiring of professional services. Confers with the Managers to plan business objectives, to develop organizational policies to coordinate functions and operations, and to establish responsibilities and procedures for attaining objectives. Reviews activity reports and financial statements of operations to determine progress and status in attaining objectives and revises objectives and plans in accordance with current conditions – **sixty percent of the time.**

- Directs and coordinates formulation of financial programs to provide funding for new operations to maximize returns on investments, and to increase productivity of both the corporations. Evaluates performance of executives for compliance with established policies and objectives of the group and contributions in attaining objectives – **forty percent of the time.**

(Emphasis in original).

The petitioner also submitted a copy of its Texas Employer's Quarterly Report for the quarter ending March 31, 2003, indicating that the petitioner employed the beneficiary, [REDACTED] and [REDACTED] during this time. In addition, an organizational chart depicting the organizational hierarchy of the petitioner indicated that the beneficiary, as president, oversaw [REDACTED] as finance manager and [REDACTED] as Vice President & Administrative Manager. The chart showed that [REDACTED] in turn oversaw [REDACTED] and [REDACTED] as clerks. Finally, the petitioner provided a brief overview of the duties of [REDACTED] as Finance Manager, [REDACTED] as Vice President and Administrative Manager, and the clerks, as well as documentation pertaining to the educational degrees and work experience of the Finance Manager and Vice President/Administrative Manager.

On September 11, 2003, the director denied the petition, finding that the petitioner failed to establish that the beneficiary would be employed in a qualifying capacity. Specifically, the director found that the beneficiary would be acting as a first-line supervisor by virtue of the small size and staff of the petitioner. Moreover, the director noted that the organizational structure of the petitioner suggested that the beneficiary would be engaged in the performance on non-qualifying duties.

On appeal, counsel contends that the director erred in issuing the denial, and focuses on the beneficiary as the highest wage earner as *prima facie* evidence of the beneficiary's managerial capacity. The petitioner also contends that the beneficiary has the sole authority to enter into contracts and purchase agreements, once again demonstrating his high level of authority within the organization. Counsel further contends that the director's decision contained legal flaws pertaining to the examination of the number of subordinates of the petitioner as well as the requirement of supervising professional staff members.

Upon review, the AAO concurs with the director's findings.

Despite the petitioner's contentions that the beneficiary functions in a qualifying position, the minimal information submitted with regard to the beneficiary's position, coupled with the contradictory claims with regard to staffing, suggests that the beneficiary performs most of the day-to-day duties required to operate the company. Thus, it appears that he could not be

considered primarily a manager or executive. The AAO will begin by examining the stated duties of the beneficiary in relation to the nature of the company.

The record contains documentation suggesting that the petitioner is operating a grocery/convenience store combined with a gas station. With this established, a review of the stated duties of the beneficiary do not seem to compliment the structure of the petitioner's business. When examining the executive or managerial capacity of the beneficiary, the AAO will look first to the petitioner's description of the job duties. *See* 8 C.F.R. § 214.2(l)(3)(ii). The definitions of executive and managerial capacity each have two parts. First, the petitioner must show that the beneficiary performs the high level responsibilities that are specified in the definitions. Second, the petitioner must prove that the beneficiary primarily performs these specified responsibilities and does not spend a majority of his or her time on day-to-day functions. *Champion World, Inc. v. INS*, 940 F.2d 1533 (Table), 1991 WL 144470 (9th Cir. July 30, 1991).

In both the initial letter of support and in response to the request for evidence, the petitioner provided an extremely vague description of the beneficiary's duties. With the initial petition, the petitioner merely claimed that he would have overall control of the goals and policies of the company. When asked for a more specific overview of the beneficiary's duties, including a breakdown of the percentage of time devoted to each duty, the petitioner provided a generic overview of the beneficiary's alleged managerial duties, and claimed that 60% of the beneficiary's time would be devoted to discussing with management and employees to review achievements and discuss required changes in goals or objectives of the company, as well as finding new markets. This area, which constitutes the majority of the beneficiary's time in the company, is undefined and leaves the AAO without a definitive understanding of the nature of the beneficiary's position. Reciting the beneficiary's vague job responsibilities or broadly-cast business objectives is not sufficient; the regulations require a detailed description of the beneficiary's daily job duties. The petitioner has failed to answer a critical question in this case: What does the beneficiary primarily do on a daily basis? The actual duties themselves will reveal the true nature of the employment. *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).

Considering the fact that the petitioner is doing business as [REDACTED], and considering that a large number of receipts and invoices evidence the purchase of items such as soda, candy, chewing gum, cigarettes and gasoline, it is evident that the petitioner's business is a convenience store and gas station. On appeal, it is noted that counsel focuses on the fact that the beneficiary is the person authorized to receive and purchase these items, and submits additional copies of receipts and invoices in an attempt to establish the beneficiary's high-level position in the company. However, this documentation is suggests that the beneficiary himself is responsible for providing the goods and services of the company, since he is the person ordering and

receiving the products which are sold in the store. Moreover, in addition to invoices from wholesalers and gasoline providers, most of which designate the beneficiary as the contact person, the record contains receipts from warehouse clubs such as Sam's Club and Costco for the purchase of cigarettes. If counsel's claim that the beneficiary is the sole authorized purchaser of these goods, then the record demonstrates that the beneficiary must personally be making shopping trips to these warehouses and wholesalers to purchase the products the petitioner will sell in its store. Such duties, by definition, are not managerial or executive in nature. An employee who "primarily" performs the tasks necessary to produce a product or to provide services is not considered to be "primarily" employed in a managerial or executive capacity. See sections 101(a)(44)(A) and (B) of the Act (requiring that one "primarily" perform the enumerated managerial or executive duties); *see also Matter of Church Scientology Int'l.*, 19 I&N Dec. 593, 604 (Comm. 1988).

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

The record as it currently stands contains insufficient evidence to demonstrate that the beneficiary would be relieved from performing non-qualifying duties. Pursuant to section 101(a)(44)(C) of the Act, 8 U.S.C. § 1101(a)(44)(C), if staffing levels are used as a factor in determining whether an individual is acting in a managerial or executive capacity, USCIS must take into account the reasonable needs of the organization, in light of the overall purpose and stage of development of the organization. In the present matter, however, the regulations provide strict evidentiary requirements for the extension of a "new office" petition and require USCIS to examine the organizational structure and staffing levels of the petitioner. *See* 8 C.F.R. § 214.2(l)(14)(ii)(D). The regulation at 8 C.F.R. § 214.2(l)(3)(v)(C) allows the "new office" operation one year within the date of approval of the petition to support an executive or managerial position. There is no provision in USCIS regulations that allows for an extension of this one-year period. If the business does not have sufficient staffing after one year to relieve the beneficiary from primarily performing operational and administrative tasks, the petitioner is ineligible by regulation for an extension.

In the instant matter, the initial petition was valid from January 14, 2002 to January 14, 2003. Therefore, the petitioner should have demonstrated that by January 2003 it had sufficiently grown to the point where it could support the beneficiary in a qualifying capacity where he could refrain from performing non-qualifying duties. At the time of filing, however, the petitioner indicated on Form I-129 that it employed only three persons. The petitioner's Form 941 for the quarter ending December 31, 2002 indicated that the petitioner employed only three persons in December of 2002, two persons in November 2002, and only one person (presumably the beneficiary) in October 2002. There is no additional employment information for the period from January through September 2002.

Although the petitioner claims that two managerial employees and two clerks were employed by the petitioner, the record confirms that only the claimed Financial Manager and one clerk were on staff as of the filing of the petition in January 2003. (A Texas quarterly tax return for the quarter ending March 31, 2003 also confirms this staffing situation). Therefore, the petitioner's claim that it employed a Vice President and a second clerk are not persuasive, since no documentary evidence has been submitted to support this claim. Moreover, the payroll records indicate that the beneficiary's subordinates earned very low wages; thereby suggesting that these two subordinate employees were employed on a part-time basis. Since the petitioner submitted no definitive documentation to show how many hours they worked and in what capacity they were employed, the AAO cannot conclude that the petitioner had a subordinate staff of two full time employees in place at the time of filing to relieve him from performing non-qualifying duties. 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).

The regulation at 8 C.F.R. § 214.2(l)(14)(ii)(D) requires the petitioner to describe its staffing and to submit evidence of wages paid to employees during the first year of operations. Instead of describing its staffing levels and submitting evidence of wages paid to employees, the petitioner submitted a organizational chart with a staff of four which was not in place at the time of filing. Collectively, the evidence strongly suggests that no full-time subordinate employees were working under the beneficiary as of January 2003. Since the petitioner's business, namely, a convenience store/gas station, is typically open seven days a week for at least fourteen to sixteen hours per day, the discrepancy in staffing, coupled with the vague and overly broad description of the beneficiary's duties, raises questions regarding the credibility of the claimed staffing of the petitioner. The description of duties on record prior to adjudication fails to specifically state the exact nature of the beneficiary's duties. More importantly, the petitioner fails to provide credible evidence of the staffing of the petitioner at the time of filing. Since the regulation at 8 C.F.R. § 214.2(l)(3)(v)(C) allows the intended United States operation one year within the date of

approval of the petition to support an executive or managerial position, this lack of documentation is particularly relevant and renders it impossible to conclude that the beneficiary was employed in a primarily managerial or executive position at the end of the first year of operations, particularly given the nature of the petitioner's business.

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

Finally, counsel contends that the director's focus on the petitioner's failure to supervise professional employees was erroneous, because there is no such requirement. Counsel's assertions are misplaced. Although the beneficiary is not required to supervise personnel, if it is claimed that his duties involve supervising employees, the petitioner must establish that the subordinate employees are supervisory, professional, or managerial. *See* § 101(a)(44)(A)(ii) of the Act. Because the nature of the employment of the claimed subordinates is vague and unclear, the AAO is unable to accurately reach a finding on this issue. However, the AAO can examine the nature of the positions documented in the record.

The record has documented two subordinate employees on the petitioner's staff at the time of filing. The first, [REDACTED], is identified as the Finance Manager. The petitioner submits this person's resume which claims that she has an accounting degree and relevant experience in the industry. In evaluating whether the beneficiary manages professional employees, the AAO must evaluate whether the subordinate positions require a baccalaureate degree as a minimum for entry into the field of endeavor. Section 101(a)(32) of the Act, 8 U.S.C. § 1101(a)(32), states that "[t]he term *profession* shall include but not be limited to architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academies, or seminaries." The term "profession" contemplates knowledge or learning, not merely skill, of an advanced type in a given field gained by a prolonged course of specialized instruction and study of at least baccalaureate level, which is a realistic prerequisite to entry into the particular field of endeavor. *Matter of Sea*, 19 I&N Dec. 817 (Comm. 1988); *Matter of Ling*, 13 I&N Dec. 35 (R.C. 1968); *Matter of Shin*, 11 I&N Dec. 686 (D.D. 1966).

Therefore, the AAO must focus on the level of education required by the position, rather than the degree held by subordinate employee. The possession of a bachelor's degree by a subordinate employee does not automatically lead to the conclusion that an employee is employed in a professional capacity as that term is defined above. In the instant case, the petitioner has not, in fact, established that a bachelor's degree is actually necessary to perform the services of the

petitioner's financial manager. This is particularly relevant since the petitioner's business, a convenience store, is unlikely to thrive with two managerial employees who refrain from day-to-day duties with only one clerk to operate the store.

Moreover, the clerk on staff at the time of filing, [REDACTED], is clearly not performing managerial or supervisory duties. While the petitioner claims that the beneficiary oversees a vice president, who in turn supervises this clerk, the petitioner has failed to substantiate the employment of [REDACTED], and thus the claimed hierarchy on the organizational chart cannot be accepted as factual. Therefore, the petitioner has failed to demonstrate that the beneficiary supervises in the alternative a managerial or supervisory employee who oversees subordinate staff.

For the numerous reasons set forth above, it is concluded that petitioner has not reached the point where it can employ the beneficiary in a predominantly managerial or executive position. For this reason, the petition may not be approved.

Beyond the decision of the director, the petitioner has not demonstrated that it maintains a qualifying relationship with the foreign entity. The regulation at 8 C.F.R. § 214.2(l)(14)(ii)(A) provides that a visa petition, which involved the opening of a new office, may be extended if accompanied by evidence that the United States and foreign entities are still qualifying organizations as defined at 8 C.F.R. § 214.2(l)(1)(ii)(G).

The petitioner claims to be a wholly-owned subsidiary of [REDACTED] based in **Mumbai, India**. To meet the regulatory requirements of 8 C.F.R. § 214.2(l)(14)(ii)(A), the petitioner must establish that the foreign entity continues to do business and that the foreign entity continues to own the claimed controlling interest in the U.S. company.

In this matter, the petitioner provided no documentation pertaining to the ownership of the United States entity with the initial petition. The director's request for evidence requested documentation pertaining to this relationship. In response to this request, the petitioner submitted the U.S. entity's articles of incorporation, but no other documentation of ownership.

The regulation and case law confirm that ownership and control are the factors that must be examined in determining whether a qualifying relationship exists between United States and foreign entities for purposes of this visa classification. *Matter of Church Scientology International*, 19 I&N Dec. 593 (BIA 1988); *see also Matter of Siemens Medical Systems, Inc.*, 19 I&N Dec. 362 (BIA 1986); *Matter of Hughes*, 18 I&N Dec. 289 (Comm. 1982). In the context of this visa petition, ownership refers to the direct or 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.

As general evidence of a petitioner's claimed qualifying relationship, stock certificates, the corporate stock certificate ledger, stock certificate registry, corporate bylaws, and the minutes of relevant annual shareholder meetings must be examined to determine the total number of shares issued, the exact number issued to the shareholder, and the subsequent percentage ownership and its effect on corporate control. Additionally, a petitioning company must disclose all agreements relating to the voting of shares, the distribution of profit, the management and direction of the subsidiary, and any other factor affecting actual control of the entity. *See Matter of Siemens Medical Systems, Inc., supra*. Without full disclosure of all relevant documents, USCIS is unable to determine the elements of ownership and control.

The petitioner was requested to provide documentation of its ownership but failed to do so. Failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14). **Merely claiming that the petitioner is the subsidiary of the foreign entity is insufficient for purposes of this analysis.** 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)). For this additional reason, the petition may not be approved.

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

When the AAO denies a petition on multiple alternative grounds, a plaintiff can succeed on a challenge only if she shows that the AAO abused its discretion with respect to all of the AAO's enumerated grounds. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*. 345 F.3d 683 (9th Cir. 2003).

The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for 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. Here, that burden has not been met.

ORDER: The appeal is dismissed.