U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF M-AA- LLC

DATE: FEB. 27, 2017

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a specialty ice cream retailer, seeks to temporarily employ the Beneficiary as an ice cream maker under the L-1B nonimmigrant classification for intracompany transferees. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L). The L-1B classification allows a corporation or other legal entity (including its affiliate or subsidiary) to transfer a qualifying foreign employee with "specialized knowledge" to work temporarily in the United States.

The Director, California Service Center, denied the petition. The Director concluded that (1) the Beneficiary does not have the requisite 1 year of continuous employment abroad with a qualifying entity and (2) the Petitioner did not establish that the Beneficiary possesses specialized knowledge or that he was employed abroad and that he would be employed in the United States in a specialized knowledge capacity.

The matter is now before us on appeal. In its appeal, the Petitioner submits additional evidence and asserts that the Director misapplied guidance set forth in a 2015 United States Citizenship and Immigration Services (USCIS) policy memorandum regarding the adjudication of L-1B petitions.[1]

In reviewing the evidence of record, we find that the Petitioner provided sufficient evidence to establish that the Beneficiary was employed abroad in a full-time capacity for 1 continuous year in the 3 years preceding the filing of the petition. As such, we hereby withdraw the Director's adverse finding on this issue.

Upon *de novo* review, we will dismiss the appeal.

I. LEGAL FRAMEWORK

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

[1] USCIS Policy Memorandum PM-602-0111, *L-1B Adjudications Policy* (Aug. 17, 2015), https://www.uscis.gov/laws/policy-memoranda.

knowledge capacity, for 1 continuous year within the 3 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.

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.

An individual L-1B petition filed on Form I-129, Petition for a Nonimmigrant Worker, must be accompanied by evidence that the beneficiary's prior year of employment abroad was in a position that was managerial, executive or involved specialized knowledge, evidence that the beneficiary's prior education, training and employment qualifies him/her to perform the intended services in the United States, and a detailed description of the services to be performed in a specialized knowledge capacity in the United States. *See* 8 C.F.R. § 214.2(l)(3).

II. EMPLOYMENT IN A SPECIALIZED KNOWLEDGE CAPACITY

The issue to be addressed is whether the Petitioner established that the Beneficiary possesses specialized knowledge and whether he has been employed abroad and will be employed in the United States in a specialized knowledge capacity.

A. Evidence of Record

The Petitioner is a specialty ice cream retailer, established in 2009, that operates 10 stores in the area. On the Form I-129, the Petitioner claimed 125 U.S. employees and a gross income of over $2.8 million. In a supporting statement signed by president of the U.S. entity, the Petitioner stated that it "is in need of knowledgeable and experienced ice cream makers to oversee and assist with preparation of the food items sold at retail by the company." stated that the Beneficiary's role as ice cream maker would include the following job duties: (1) training employees how to mix, prepare, cook, store, and serve the Petitioner's specialty ice cream

products; (2) overseeing how the ice cream is prepared and served; and (3) creating new recipes, menus, and products.

claimed that the ice cream maker position requires several years of training and experience in preparing ice cream that is based on "unique Belizean regional recipes" and requires knowledge of the Petitioner's "specific preparation and sales methods." She indicated that the Beneficiary is an ideal candidate for the U.S. position because "he has been intimately involved with ice cream preparation and sales at company retail locations for over one year" and possesses "an irreproducible understanding" of the practices and methods to make and sell the company's food products as well as the best strategies for growing the business. indicated that the U.S. position is "identical" to the one the Beneficiary currently holds in his position with its claimed affiliate located in Belize. She emphasized that workers who can perform the proposed duties "are not available outside of the region of Belize [*sic*], and outside of our organization."

In a separate statement, who identified himself as co-owner of the foreign entity, stated that the Beneficiary's "knowledge of ice cream preparation and service methods is critical to [the Petitioner]'s competitive advantage." further stated that the Beneficiary has "an incomparable understanding of our regionally-based products, processes, and goals that cannot be easily transferred or taught to another individual."

The Director reviewed the Petitioner's submission and issued a request for evidence (RFE). The Director instructed the Petitioner to provide, in part, a letter from the foreign entity's authorized representative and from the U.S. Petitioner describing the Beneficiary's specialized knowledge job duties, explaining how the Beneficiary's knowledge is special or advanced, how the required knowledge compares to others within the same company and within the same industry, and the minimum time and training required to obtain such knowledge.

In response to the RFE, the Petitioner provided a statement discussing the regional origins of its ice cream products as well as the specific steps and technique required to prepare them, pointing out that the "general techniques" for making this ice cream originated in the Mexican state of and that workers who make the ice cream need experience and knowledge in how to make adjustments without having to consult guides or recipes. The Petitioner stated that its stores are losing business because it does not currently have the personnel to make the ice cream products correctly.

The Petitioner stated that the Beneficiary has been employed by the foreign entity and its predecessor for over 2 years and claimed that the Beneficiary's knowledge is both special and advanced. In explaining how the Beneficiary's knowledge is special, the Petitioner stated that the Beneficiary "acts as a trained expert" in the company's ice cream products, which he prepares by using the company's proprietary recipes and methods and which he then teaches to other employees whom he oversees as they prepare and serve the products to customers. With regard to the Beneficiary's claimed advanced knowledge, the Petitioner stated that the Beneficiary develops new

recipes, menus, and products and that he possesses knowledge of the company's ice cream products that only few other employees within the company also have.

The Petitioner also compared itself to the petitioner in *Fogo De Chao Inc. v. DHS*, 769 F.3d 1127 (D.C. Cir. 2014), a circuit court decision in which the court held that a beneficiary's cultural exposure to regional food preparation and serving techniques over a period of time should be considered in determining whether the Beneficiary possesses specialized knowledge. The Petitioner stated that its recipes are "a proprietary subset of an already regionally-specific type of food product" and claimed that it would take "several years of training for any external employee to become a comparable expert" in the Petitioner's products. The Petitioner also differentiated the Beneficiary's knowledge from that of other employees performing similar work within the industry, claiming that the Beneficiary's duties are "more sophisticated" and "require knowledge that can be gained only through experience within the organization," given that such knowledge includes proprietary recipes and methods of creating the ice cream products.

The Petitioner also provided the Beneficiary's employment record, which was created by predecessor, where the Beneficiary started working as an ice cream maker in December 2013.[2] The job description for an ice cream maker with indicates that the position called for an employee with a minimum of 1 year of experience and a good memory such that the individual would be able to make over 100 flavors of popsicle/ice cream, know the exact amounts and ingredients for each product, and know the different temperatures for the popsicle/ice cream machine and refrigerator. The "additional notes" section of the record indicates that the job candidate was required to complete 52 hours of weekly training for a period of 3 months. The employment record contains the Beneficiary's signature, indicating an employment start or acceptance date of December 13, 2013 as well as the signature of the trainer, indicating that the Beneficiary completed his training by March 15, 2014, approximately 3 months after the date the Beneficiary commenced employment at

In a separate sworn statement, restated the Beneficiary's job duties and indicated that the Beneficiary's position "[r]equires unique knowledge of regional methods for the cooking of *paletas* and *nieves* and of our unique recipes and varieties" in order to train other employees to assist in creating the ice cream products that are sold by the foreign entity. claimed that the Beneficiary possesses advanced knowledge of regional methods and recipes and that his "knowledge of foreign operating conditions . . . will be of significant value to the U.S. Petitioner." He further claimed that the Beneficiary "has many years of experience," which "sets him apart from the vast majority of his colleagues" to whom referred as "simple salesmen and saleswomen." He asserted that the Beneficiary "significantly enhanced [the company's] competitiveness and financial position" in that he "perfected the manufacture of [the company's

[2] The Petitioner indicated that its claimed foreign affiliate, purchased a previously existing ice cream business, where the Beneficiary was employed prior to the change in ownership and which specialized in making and selling similar ice cream products.

product] based upon his experience and his sense of the appropriate proportions, temperatures, and ingredients" and that he increased the company's sales by creating new flavors and menu items.

In addition, the Petitioner provided photocopies of various articles published in local and area publications that discussed the Mexican-style ice cream shops that serve similar products as the Petitioner.

In denying the petition, the Director found that the Beneficiary's job duties were those typical of an ice cream maker and the Petitioner had not established that such duties require special or advanced knowledge. The Director pointed out that an employee's familiarity with and use of the company's products, processes, and goals does not necessarily equate to specialized knowledge. The Director questioned how the Beneficiary's education, training, and experience resulted in specialized knowledge of his employer's product or techniques or an advanced level of knowledge of or expertise in the company's processes and procedures.

On appeal, the Petitioner disputes the Director's conclusion, asserting that the Beneficiary's knowledge of the company's "specialized process for making dozens of ice cream recipes based on a unique regional product and process" qualifies as specialized knowledge. The Petitioner asserts that the Beneficiary's knowledge goes beyond mere memorization of recipes, claiming that his knowledge is specialized because it enables him to "personally create, develop, and make over 100 flavors of ice cream" by using "the nuanced, specific, and finicky process of creation involving constant monitoring, calculation, and re-calculation to ensure the appropriate flavor and consistency." The Petitioner again compares the Beneficiary in this instance to the beneficiary in *Fogo De Chao*, asserting that he "has been exposed for a significant period of time to cultural and culinary environments and techniques that distinguish him from other" employees who make ice cream. The Petitioner again contends that the Director's decision constitutes a misapplication of USCIS' 2015 L-1B adjudications policy memorandum.

B. Analysis

Upon review, we agree with the Director's decision. The record does not establish that the Beneficiary possesses specialized knowledge or that he has been employed abroad or would be employed in the United States in a specialized knowledge capacity as defined at 8 C.F.R. § 214.2(l)(1)(ii)(D).

The statutory definition of specialized knowledge at Section 214(c)(2)(B) of the Act is comprised of two equal but distinct subparts. 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.

Once a 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. 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 its products and services or processes and procedures, the nature of the specific industry or field involved, and the nature of the beneficiary's knowledge. The petitioner should also describe how such knowledge is typically gained within the organization, and explain how and when the beneficiary gained such knowledge.

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. With respect to either special or advanced knowledge, the petitioner ordinarily must demonstrate that the beneficiary's knowledge is not commonly held throughout the particular industry and cannot be easily imparted from one person to another. 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 advanced or special, and that the beneficiary's position requires such knowledge.

In the present matter, the Petitioner's claims are based on the first and second prongs of the statutory definition, asserting that the Beneficiary has both special knowledge of the company's products and their application in international markets and that he has an advanced level of knowledge of the company's methods for making those products.

A. Special Knowledge

Because "special knowledge" concerns knowledge of the employing organization's products or services and its application in international markets, the petitioner may meet its burden through evidence that the beneficiary has knowledge that is distinct or uncommon in comparison to the knowledge of other similarly employed workers in the particular industry.

Here, the Petitioner asserts that the Beneficiary has special knowledge of the company's products and techniques that are distinct from those found in the industry at large. However, the Petitioner has not thoroughly explained its position or provided sufficient evidence to support its claims. Specifically, while the Petitioner claims that the Beneficiary has proprietary knowledge of the company's recipes and of the "specialized process for making" different flavors of ice cream and popsicles, the Petitioner does not establish that such knowledge is special. Knowledge that is company-specific or proprietary must still be shown to be distinct or uncommon compared to that generally found in the particular industry, and does not qualify as special knowledge if it can be easily imparted from one person to another. Therefore, we must look at the means by which the claimed specialized knowledge was gained by the Beneficiary and the amount of training or experience required for the position.

While the Beneficiary's employment record with [redacted] indicates that the Beneficiary was required to have "[m]inimum 1-year experience" to qualify for the position of ice cream maker, the job description does not specify what specific type of experience is required. As such, it is unclear whether the Beneficiary was required to have a year of experience as a maker of Mexican-style ice cream or whether he was merely required to have a year of experience in the work force or in the food industry in general. In fact, the record lacks evidence to establish that the Beneficiary had any experience as an ice cream maker prior to joining [redacted] in December 2013, as the Petitioner has not described his employment history.

Also, while the same employment record indicates that the Beneficiary completed 3 months of weekly training sessions, the Petitioner did not provide a training manual, specifically describe the nature or content of the training sessions to establish what skills or information the training sessions conveyed to the Beneficiary, or specify how the training pertained directly to the Petitioner's specialized knowledge claim. Again, it is unclear whether any previous experience in ice cream making or the food industry is required for the position, so we cannot assume that the entire 3 months was devoted to proprietary or company-specific information, as opposed to general food handling procedures. Absent a detailed description or documentation of its training program, the Petitioner has not provided evidence to support its claim that the Beneficiary's employment involves "trade secrets requiring 'extensive training.'"

Although the Petitioner referred to the supporting document as an employment agreement, a review of the evidence shows that it is not, in fact, an employment agreement, but rather that it is the above referenced employment record, which shows the Beneficiary's original position with [redacted] the dates the position was opened and closed to applicants, the position requirements, and confirmation of the Beneficiary's training completion. While the document indicates that each flavor has its own recipe, it neither mentions "trade secrets" nor specifically states that the Beneficiary's position would involve working with "proprietary and unique knowledge."

Further, although the Petitioner refers to the Beneficiary's proprietary knowledge of company processes and recipes, we note that the Petitioner's claimed qualifying relationship with the Beneficiary's foreign employer did not exist prior to June 2016, approximately 1 month prior to the filing of the petition. The Petitioner has not stated that its chain of stores, which was established in Illinois in 2009, is using the same recipes and techniques of the previously unrelated business in Belize with which it now claims an affiliate relationship. Therefore, it is reasonable to believe that the Beneficiary's services are being sought primarily based on his general knowledge of Mexican ice cream making techniques, rather than on any company-specific knowledge he acquired with [redacted] or its predecessor.

On appeal, the Petitioner contends that the Beneficiary's knowledge does not need to be narrowly held within the organization as indicated in the 2015 L-1B policy memorandum. However, the same document clearly interprets specialized knowledge as a relative term, as it states that regardless of whether a petitioner's specialized knowledge claim is based on special or advanced knowledge, the

petitioner ordinarily must demonstrate that the beneficiary's knowledge is not commonly held throughout the particular industry. Here, the Petitioner has not made this distinction.

The Petitioner provided magazine and newspaper articles which indicate that there is a trend of similar Mexican ice cream stores opening in and other major metropolitan areas such as The Petitioner has not distinguished the Beneficiary's knowledge of its products as uncommon when compared to the knowledge of other ice cream makers who work at other Mexican ice cream stores, which are increasingly prevalent in the United States. Moreover, other than claiming that its techniques and recipes are "regional," the Petitioner has not attempted to differentiate the knowledge required to make Mexican varieties of ice cream from the knowledge required to make other types of ice cream and similar products.

The Petitioner points to the Beneficiary's ability to become proficient in the specific technique for making Mexican-style ice cream products; however, the fact that its RFE response includes the complete 6-step process for making a lime-flavored Mexican-style ice cream without distinguishing its own process from that used by other stores that make and sell similar products undermines the claim that the Beneficiary's knowledge of the Petitioner's process is uncommon within the Mexican ice cream-making industry, or within the ice cream industry in general. The Petitioner's claim that the Beneficiary has the ability to make adjustments during the ice cream-making process through "constant monitoring, calculation, and re-calculation to ensure the appropriate flavor and consistency" does not establish that the type of adjustments the Beneficiary makes or the way he makes them is distinct when compared to other ice cream makers within the Mexican ice cream-making industry.

The Petitioner again refers to the federal court case of *Fogo De Chao*, asserting that, like the beneficiary in the cited court case, the Beneficiary in the instant case "has been exposed for a significant period of time to cultural and culinary environments and techniques that distinguish him from other [i]ce [c]ream [m]akers . . . ." The Petitioner has not established, however, that the facts and circumstances in the matter at hand are analogous to those in the cited court case, as the Petitioner offers no evidence to establish that the Beneficiary's knowledge was "gained through . . . upbringing" or that it was "acquired over time through cultural exposure." 769 F.3d at 1140. Instead, the Petitioner claims that it would take "several years of training for any external employee to become a comparable expert" and contends that the Beneficiary's duties are "distinct from and more sophisticated that those of other employees performing similar work." However, the record contains insufficient evidence to support these assertions.

As discussed, the Beneficiary's work history with does not establish that the Beneficiary had prior experience as an ice cream maker. As stated above, the job requirements for the Beneficiary's position are unclear as to whether the minimum 1 year of prior employment must have been in the position of ice cream maker. Further, while the employment record indicates that the Beneficiary received some form of training, the Petitioner offered no supporting documentation to establish the nature of the training, such that we can reasonably conclude that the Beneficiary spent 3 months actually learning how to make ice cream within the context of the employer's

proprietary recipes and according to techniques that were specific to the employer. Nowhere in the record did the Petitioner provide evidence to corroborate the claim that the Beneficiary's knowledge took "several years" to acquire such that the Petitioner would be economically disadvantaged if the Beneficiary was not granted the desired nonimmigrant classification.

The Petitioner has not explained what characteristics the Beneficiary possesses that set his knowledge apart as "more sophisticated" than that of other employees. As indicated in the Beneficiary's job description, one of his job duties includes training others who work under him to make ice cream using the same recipes and techniques as the Beneficiary himself uses. There is no evidence in the record to indicate that it has taken and would take the Beneficiary years to complete the training of subordinate employees to pass on his knowledge of making *paletas* and *nieves*, much like there is little evidence to indicate that it took the Beneficiary years to acquire that same knowledge. The Petitioner must support its assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

Moreover, we note that the circuit court holding in *Fogo De Chao* is not binding on us in our determination of the Petitioner's eligibility in the instant matter, which does not fall within same circuit as the cited case. In contrast to a practice of acquiescence to the holdings of a circuit court in cases arising within the jurisdiction of that circuit, we are not required to accept an adverse determination by one circuit court of appeals as binding throughout the United States. *Matter of Anselmo*, 20 I&N Dec. 25, 31 (BIA 1989); *cf. Matter of K-S-*, 20 I&N Dec. 715, 719 (BIA 1993). Although the reasoning underlying a circuit court's decision will be given due consideration, as we have done in the matter at hand, when the decision is properly before us, the analysis does not have to be followed as a matter of law. *See Matter of Anselmo*, 20 I&N Dec. at 31.

B. Advanced Knowledge

Next, we will address the Petitioner's claim that the Beneficiary has advanced knowledge. Because "advanced knowledge" concerns knowledge of an organization's processes and procedures, the Petitioner may meet its burden through evidence that the Beneficiary has knowledge of or expertise in the organization's processes and procedures that is greatly developed or further along in progress, complexity and understanding in comparison to other workers in the employer's operations. Such advanced knowledge must be supported by evidence setting that knowledge apart from the elementary or basic knowledge possessed by others.

In the present matter, the Petitioner originally claimed that the Beneficiary has "an irreproducible understanding and grasp" of its "practices and methods" as well as "optimal strategies and approaches" for selling the products and growing the company. However, as indicated above, given that one of the Beneficiary's key responsibilities is to train other employees to make the ice cream products that the Petitioner sells is inconsistent with the claim that his knowledge is "irreproducible." Further, the Petitioner did not specify any practices or methods that are specific to its organization and not commonly found within the industry; nor did the Petitioner specifically identify what strategies and approaches the Beneficiary has created to ensure optimal sales and

company growth. Finally, as discussed, the Petitioner has not established that the "practices and methods" used by [redacted] are the same as those used by the petitioning entity, as the two companies were unrelated up until 1 month prior to the filing of the petition.

In its RFE response statement, the Petitioner did not reassert these claims, but rather contended that the Beneficiary's advanced knowledge rests on his key job duties, which include training employees, overseeing their preparation and service of the company's products, and developing new recipes, menus, and products for sale. However, the Petitioner has not established that the Beneficiary's performance of these job duties is somehow uncommon within the industry and that the Beneficiary's ability to perform these job duties is an indication that his knowledge is greatly developed or further along in progress, complexity and understanding than that generally found within the employer. In fact, the Petitioner did not provide evidence or information that would allow us to compare his knowledge and experience to that held by other employees of the foreign entity or the petitioning entity. Rather, it appears that the Beneficiary's job duties, and the knowledge required to perform such duties, have been and will be typical of an ice cream maker in the Mexican ice cream industry.

Accordingly, we find the evidence submitted does not establish that the Beneficiary possesses specialized knowledge and that he was and will be employed in a specialized knowledge capacity. *See* Section 214(c)(2)(B) of the Act. Accordingly, the appeal will be dismissed.

III. QUALIFYING RELATIONSHIP

Although not addressed by the Director, the Petitioner has not submitted sufficient evidence to establish that it has a qualifying relationship with the Beneficiary's foreign employer. To establish a "qualifying relationship" under the Act and the regulations, the Petitioner must show that the Beneficiary's foreign employer and the proposed U.S. employer are the same employer (i.e. one entity with "branch" offices), or related as a "parent and subsidiary" or as "affiliates." *See* section 101(a)(15)(L) of the Act; *see also* 8 C.F.R. § 214.2(l)(1)(ii) (providing definitions of the terms "parent," "branch," "subsidiary," and "affiliate").

The Petitioner states that it has an affiliate relationship with [redacted] the Beneficiary's employer in Belize. Specifically, the Petitioner stated that it is 100% owned by [redacted] while the foreign entity is "100% owned by [redacted] and [redacted]."

As evidence of its ownership, the Petitioner provided a screenshot from the Illinois Secretary of State website showing [redacted] as the sole member on the company's "LLC Members" page. As evidence of the foreign entity's ownership, the Petitioner submitted a photograph of a "Certificate of Registration of Change of Name in Particulars Registered" issued by the Belize Companies and Corporate Affairs Registry on June 7, 2016. According to this certificate, a statement of change of ownership and address was filed by [redacted] and [redacted] on that date.

The Petitioner also stated it was submitting "wire transfers documenting transfer of funds to the foreign employer." This evidence documented that transferred a total of $4000 to in February 2016 and a total of $6500 to between April and June 2016. The Petitioner did not provide any further details or evidence related to her claimed acquisition of an ownership interest in the foreign entity, such as a purchase agreement, operating agreement, or partnership agreement specifying the resulting ownership structure of the foreign entity.

Upon review, the submitted evidence is insufficient to establish the ownership of either the U.S. Petitioner or the foreign entity. While the minimal evidence submitted suggests that may be the sole owner of the U.S. entity as claimed, the Petitioner has not specifically identified her claimed ownership interest in the foreign entity, other than stating that she is a "part-owner." In order for the two entities to qualify as affiliates, the Petitioner must establish through submission of documentary evidence that owns at least a majority interest in both entities and controls both entities. *See* 8 C.F.R. § 214.2(l)(1)(ii)(L). The Petitioner has not met that burden. For this additional reason, the petition cannot be approved.

IV. CONCLUSION

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. § 136. Here the Petitioner has not met that burden.

ORDER: The appeal is dismissed.

Cite as *Matter of M-AA- LLC*, ID# 227582 (AAO Feb. 27, 2017)