



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: IA/32173/2013

**THE IMMIGRATION ACTS**

Heard at Field House  
On 12<sup>th</sup> March 2014

Determination Promulgated  
On 13<sup>th</sup> March 2014

Before

UPPER TRIBUNAL JUDGE MARTIN

Between

MS FAUSTINA IFEYINWA OKWARA

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Mr N Garrod (instructed by Addison & Khan, Solicitors)  
For the Respondent: Ms A Holmes (Senior Home Office Presenting Officer)

**DETERMINATION AND REASONS**

1. The Appellant appeals to the Upper Tribunal, with permission, against the determination of the First-tier Tribunal (Judge Braybrook) promulgated on 3<sup>rd</sup> January 2013 by which it dismissed the Appellant's appeal against the Secretary of State's decision to refuse her leave to remain as a Tier 1 (Entrepreneur) Migrant.
2. The grounds seeking permission to appeal argue that the Judge erred in finding that the Barclays Bank letter submitted with the application did not meet the

requirements of the Immigration Rules (paragraph 41SD(a)(i) or(ii)), when another document – a document signed by the owner of funds did comply with paragraph 41SD (b)(i) and (ii) which was an alternative to paragraph 41SD (a) (i) or (ii).

3. That was the basis upon which permission to appeal was granted. However the application was submitted on 12<sup>th</sup> December 2012 with the Barclays Bank letter. The sworn statement relied upon is only dated 8<sup>th</sup> July 2013. Accordingly it did not comply with the Rules requiring the evidence to be submitted with the application, nor can it be taken into account at the hearing (S.85A(4) Nationality, Immigration and Asylum Act 2002). We now have clear guidance from the Court of Appeal that an Appellant must produce the evidence with the application and it is not acceptable to produce it at any time before a decision is made ( Raju, Khatel and Others v SSHD [2013] EWCA Civ 754).
4. The appeal to the Upper Tribunal is dismissed.

Signed

Date 12<sup>th</sup> March 2014

Upper Tribunal Judge Martin