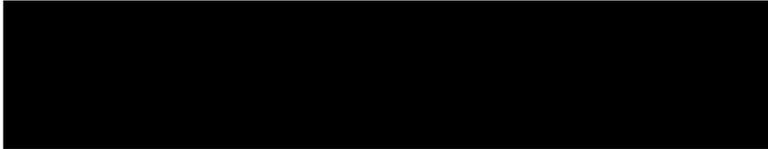




U.S. Citizenship
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Services

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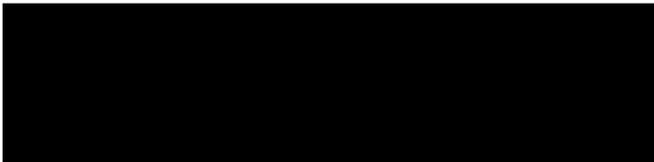
FILE: SRC 05 202 51871 Office: TEXAS SERVICE CENTER Date: **SEP 11 2007**

IN RE: Petitioner:
Beneficiary:



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)

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.


Robert P. Wiemann, 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 appeal will be dismissed.

The petitioner filed this nonimmigrant petition seeking to extend the employment of 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 Florida, claims to be the subsidiary of Frenap Import Presentes Ltda., located in Rio de Janeiro, Brazil. The petitioner identifies itself as a marketing, advertising and design company. The beneficiary was initially granted a one-year period of stay in the United States, and the petitioner now seeks to extend the beneficiary's stay for an additional three years.

The director denied the petition concluding that the petitioner did not establish that (1) the beneficiary will be employed in the United States in a primarily managerial or executive capacity; (2) the beneficiary was employed abroad in a primarily managerial or executive capacity; (3) the petitioner had been doing business during the previous year; or (4) a qualifying relationship existed between the petitioner and a foreign organization. On appeal, counsel for the petitioner contends that the director erroneously denied the petition and in support of this assertion submits a brief and additional evidence.

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.

In addition, the regulation at 8 C.F.R. § 214.2(l)(14)(ii) 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 managerial or executive capacity; and
- (E) Evidence of the financial status of the United States operation.

The first 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.

With the initial petition, the petitioner submitted a copy of a document entitled "Job Offer" which was signed by the beneficiary on June 29, 2005. The document described the beneficiary's duties and responsibilities in the United States as follows:

- Negotiate with the members of the Board of Directors to set their expectations in relation to the desired results from [the petitioner] in the short, mid and long range terms;
- Establishes the policies and initiatives required to ensure that [the petitioner] will operate as an only team, all working together toward the desired results, as negotiated with the Board of Directors;
- Establishes the goals needed to reach the objectives of [the petitioner] and to accomplish the expectations of the Board of Directors;
- Coordinates the development and the implementation of the plans, programs and strategies for generating resources, revenues and profits for [the petitioner] ensuring the reaching of the established goals and objectives for the company;
- Directs the management, coordinating the activities of the different areas of [the petitioner], ensuring that the work is done under the established policies, and focused on the desired and programmed results;
- Reviews and presents activity reports and financial statements to determine and to show the progress and status in attaining goals and objectives, in accordance to what was planned for the current conditions;
- Represents [the petitioner] before the managers, employees, leaders, civic groups, students, and the community in general.

In addition, this document provided the following breakdown of the beneficiary's workweek:

Net Meetings with the Holding Company

5%

Meetings with Management	35%
Meetings with Business Partners	10%
Meetings with Contacts with Clients and Potential Clients	35%
Other Meetings and Contacts	5%
Analysis, Evaluation, Preparation	10%

Furthermore, an organizational chart for the U.S. entity showed that the beneficiary was the president of the petitioner, and in turn directly oversaw [REDACTED] Vice-President, and [REDACTED] Secretary-Treasurer. These three persons made up the Board of Directors, which in turn oversaw three divisions: marketing, planning, and operations. The marketing division listed one sales representative, [REDACTED]. The planning division listed a consultant, [REDACTED]. Finally, the operations division listed an operation supervisor [REDACTED].

Finally, the petitioner submitted quarterly tax returns for the three quarters immediately preceding the filing of the petition. The returns indicated that as of the last quarter of 2004, the petitioner employed only one person (presumably the beneficiary). For the quarter ending March 31, 2005, the beneficiary and another employee, [REDACTED], were on the petitioner's payroll. Finally, the quarter ending June 30, 2005 indicated that a [REDACTED], identified on the organizational chart as the sales representative, began working for the petitioner in addition to the beneficiary and [REDACTED]. The director noted that [REDACTED] was not identified as a staff member on the organizational chart, but noted that perhaps he was misidentified as [REDACTED] the operation supervisor.

On July 28, 2005, the director requested additional evidence pertaining to the nature of the organizational hierarchy of the petitioner's business. Noting that the record showed that only two other persons, in addition to the beneficiary, were currently employed, the director requested information regarding the duties performed by these persons as well as their educational backgrounds and dates of hire. In a response dated September 13, 2005, the petitioner addressed the director's requests. Specifically, the petitioner claimed that [REDACTED] operation manager, began working for the petitioner in October 2004 as a secretary. [REDACTED] the sales representative, began working for the petitioner in June 2005. A third employee, [REDACTED], began working as the petitioner's Director of Sales on August 15, 2005, nearly one month after the filing of the extension. While higher education credentials were provided for [REDACTED], no evidence was submitted to establish that [REDACTED] or [REDACTED] possessed a bachelor's degree or that such a degree was required to perform the duties of their positions.

On September 29, 2005, the director denied the petition. The director found that the evidence in the record was insufficient to establish that the beneficiary would primarily be employed in a managerial or executive capacity. The director noted that, based on the lack of sufficient subordinate staff members to relieve the beneficiary from providing non-qualifying duties, it could not be concluded that he would be performing primarily managerial or executive duties. Furthermore, the director noted that the beneficiary was not supervising a subordinate staff of professional, supervisory, or managerial employees. On appeal, counsel for the petitioner contends that the director's conclusions are erroneous and provides several arguments in support of this position.

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 have two main 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 the job offer submitted with the initial petition, the petitioner gave a general overview of the beneficiary's duties. The list provided, however, is basic and fails to adequately describe the true nature of the beneficiary's day-to-day duties. It remains unclear, therefore, exactly what the beneficiary will do on an average work day. 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 will 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).

Additionally, the director relied on the small number of subordinate staff members when determining the beneficiary's eligibility. As required by section 101(a)(44)(C) of the Act, if staffing levels are used as a factor in determining whether an individual is acting in a managerial or executive capacity, Citizenship and Immigration Services (CIS) must take into account the reasonable needs of the organization, in light of the overall purpose and stage of development of the organization.

At the time of filing, the petitioner was a one-year-old marketing and advertising company that claimed to have a gross annual income of \$15,413. The firm employed the beneficiary as president, plus an operation supervisor and a sales representative. The petitioner submitted insufficient evidence to establish that these subordinate staff members would relieve the beneficiary from having to primarily perform the actual day-to-day, non-managerial operations of the company. For example, the operation supervisor, hired initially as a secretary in October 2004, was not a verified employee at the time of adjudication. The tax records indicated that [REDACTED] was employed by the petitioner as its operation supervisor during this time, but the petitioner alleged on the organizational chart that the operation supervisor was [REDACTED]. Although documentation is provided on appeal to clarify this misrepresentation, no such evidence was submitted prior to the director's decision based on the record. 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).

Furthermore, the sales representative was hired in June 2005, approximately one month prior to the filing of the petition. This factor, when examined with the petitioner's claim on appeal that (1) the petitioner employed no staff until October 2004 when the operation supervisor was hired; and (2) the operation supervisor was employed by the petitioner for two months prior to the beneficiary's commencement of his employment with the petitioner in December 2004, clearly indicates that a solid organizational structure, with the beneficiary at the top of the hierarchy, was not in effect at the time the extension position was filed, such that the AAO could find the petitioner had reached the level that it could support a primarily managerial or executive position.

Additionally, 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.

Though requested by the director, the petitioner did not provide the level of education held or required to perform the duties of its operation supervisor and sales representative. Any 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). While educational information was provided for [REDACTED] this evidence is irrelevant, since [REDACTED] was hired one month after the filing of the petition. The petitioner must establish eligibility at the time of filing the nonimmigrant visa petition. A visa petition may not be approved at a future date after the petitioner or beneficiary becomes eligible under a new set of facts. *Matter of Michelin Tire Corp.*, 17 I&N Dec. 248 (Reg. Comm. 1978). Thus, the petitioner has not established that these employees possess or require an advanced degree, such that they could be classified as professionals. Nor has the petitioner shown that either of these employees supervise subordinate staff members or manage a clearly defined department or function of the petitioner, such that they could be classified as managers or supervisors. Thus, the petitioner has not shown that the beneficiary's subordinate employees are supervisory, professional, or managerial, as required by section 101(a)(44)(A)(ii) of the Act.

In the present matter, the regulations provide strict evidentiary requirements for the extension of a "new office" petition and require Citizenship and Immigration Services (CIS) 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 CIS 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 petitioner has not reached the point that it can employ the beneficiary in a predominantly managerial or executive position.

For the reasons set forth above, it cannot be found that the beneficiary is performing primarily managerial or executive duties. For this reason, the petition may not be approved.

The second issue in this matter is whether the beneficiary was employed abroad in a primarily managerial or executive capacity.

In a letter dated July 13, 2005, counsel for the petitioner provided the following overview of the beneficiary's duties abroad:

In Brazil, [the beneficiary] served [the foreign entity] in an executive/managerial capacity as a commercial division manager, marketing manager and sales manager from 2002 until January 2004 and served its affiliate, Fanewal Magazine Ltda., as a marketing director from October 2000 until 2002. [The beneficiary] was transferred to the [the petitioner] to serve as president.

The foreign entity's organizational chart submitted with the petition did not list the beneficiary's position.

Consequently, the director issued a request for evidence on July 28, 2005. The director requested specific information pertaining to the beneficiary's employment abroad, including a complete list of all of his duties, the number of subordinate managers and/or supervisors who reported to him, and a description of the position titles, duties and educational credentials of these subordinates. In a response dated September 13, 2005, the petitioner claimed that the beneficiary was a function manager and provided the following list of duties performed abroad:

- Responsible for the definition of the company's goals, objectives and policies;
- Develop a survey for clients and general public;
- Create and utilize the Marketing Plan for [the foreign entity];
- Develop new Marketing campaigns base[d] on study on demographics;
- Oversee all the Marketing for the foreign entity];
- Hire new sales representatives and strategic employees;
- Direct contact with clients and suppliers;
- Shop for best prices with suppliers;
- Stimulate the employees so the company can run more effectively;
- Develop new systems of self-improvement and training.

The record further indicated that the beneficiary oversaw three sales/marketing employees, namely a marketing and events coordinator and two sales representatives. None of these employees possess a bachelor's degree and, in addition, there was no evidence in the record to suggest that such a degree was required to perform the duties of their positions.

On September 29, 2005, the director denied the petition. Specifically, the director based the denial on a finding that none of the beneficiary's subordinates attained tertiary education. On appeal, counsel provides three brief paragraphs contesting the director's findings, claiming that the beneficiary's supervising of the three identified employees while abroad was sufficient evidence of the beneficiary's managerial capacity.

As addressed above, 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.

The petitioner's response to the request for evidence indicated that none of these employees had attained an advanced degree or that their positions required an advanced degree as a prerequisite for employment, such that they could be classified as professionals. Nor has the petitioner shown that any of these employees supervise subordinate staff members or manage a clearly defined department or function of the petitioner, such that they could be classified as managers or supervisors. Thus, the petitioner has not shown that the beneficiary's subordinate employees are supervisory, professional, or managerial, as required by section 101(a)(44)(A)(ii) of the Act.

More importantly, however, are the actual duties of the beneficiary. Whether the beneficiary will be a managerial or executive employee turns on whether the petitioner has sustained its burden of proving that his duties will be "primarily" managerial or executive. *See* sections 101(a)(44)(A) and (B) of the Act. Here, the petitioner fails to document what proportion of the beneficiary's duties would be managerial functions and what proportion would be non-managerial. The petitioner lists the beneficiary's duties as including both managerial and administrative or operational tasks, but fails to quantify the time the beneficiary spends on them. This failure of documentation is important because several of the beneficiary's daily tasks, such as "direct contact with clients and suppliers" and "shop for best prices with suppliers," do not fall directly under traditional managerial duties as defined in the statute. For this reason, the AAO cannot determine whether the beneficiary will be primarily performing the duties of a function manager. *See IKEA US, Inc. v. U.S. Dept. of Justice*, 48 F. Supp. 2d 22, 24 (D.D.C. 1999).

Although in one sentence, counsel claims that the beneficiary was a function manager while abroad, the AAO is not persuaded. The term "function manager" applies generally when a beneficiary does not supervise or control the work of a subordinate staff but instead is primarily responsible for managing an "essential function" within the organization. *See* section 101(a)(44)(A)(ii) of the Act, 8 U.S.C. § 1101(a)(44)(A)(ii). The term "essential function" is not defined by statute or regulation. If a petitioner claims that the beneficiary will manage an essential function, the petitioner must furnish a written job offer that clearly describes the duties to be performed, i.e., identify the function with specificity, articulate the essential nature of the function, and establish the proportion of the beneficiary's daily duties attributed to managing the essential function. 8 C.F.R. §214.2(l)(3)(ii). In addition, the petitioner's description of the beneficiary's daily duties must demonstrate that the beneficiary *manages* the function rather than *performs* the duties related to the function.

In this matter, it does not appear that the beneficiary was merely "managing" a function. By virtue of the description of duties provided, it appears instead that the beneficiary was actively engaged in performing marketing functions for the foreign employer. An employee who primarily performs the tasks necessary to produce a product or to provide services is not considered to be employed in a managerial or executive capacity. *Boyang, Ltd. v. I.N.S.*, 67 F.3d 305 (Table), 1995 WL 576839 (9th Cir, 1995)(citing *Matter of Church Scientology International*, 19 I&N Dec. 593, 604 (Comm. 1988)). In this matter, the petitioner has not provided evidence that the beneficiary manages an essential function.

Based on the evidence submitted, it does not appear that the beneficiary was performing primarily managerial or executive duties abroad. For this additional reason, the petition may not be approved.

The third issue in this matter is whether the petitioner has been doing business as required by the regulations for the previous year. The regulation at 8 C.F.R. §214.2(l)(1)(ii)(H) defines the term "doing business" as "the regular, systematic, and continuous provision of goods and/or services by a qualifying organization and does not include the mere presence of an agent or office of the qualifying organization in the United States and abroad."

In this matter, the petitioner claims that it is engaged in marketing, advertising and design services. With the initial petition, minimal evidence of the petitioner's business practices was submitted. For example, its Form 1120, U.S. Corporation Income Tax Return for 2004 indicated gross receipts in the amount of \$15,413. Additionally, the petitioner submitted utility bills, bank statements, and five unsigned invoices for the period

from May 4, 2005 through June 20 2005. Also included were four "proposals" dated between May 5, 2005 and June 20, 2005 for services the petitioner would perform in the future.

Consequently, in the request for evidence issued on July 28, 2005, the director requested documentation establishing that the petitioner had been doing business during the previous year as required by the regulations. In the response filed on August 25, 2005, the petitioner submitted the same five invoices it had submitted with the initial petition, as well as some other invoices and "proposals" for December 2004, as evidence of its business dealings during the previous year. On appeal, counsel for the petitioner submits new evidence, including evidence that the petitioner received payment for services rendered in October 2004, in addition to claims that it had maintained an active payroll since October 2004. Relying on this fact, coupled with the invoices provided, counsel concluded that the petitioner had satisfied the regulatory requirements.

On review of the evidence submitted, the AAO concludes that in light of the fact that the beneficiary was not granted a change of status to L-1A status until December of 2004, the petitioner has demonstrated that it had been doing business during the validity period of the petition. Although the record indicates that the initial petition was valid as of July of 2004, the beneficiary was not authorized to work for the petitioner until December 2004, when the new office petition was approved. The relevant period to be examined, therefore, is from December 2004 through July 2005. The record indicates that the petitioner was engaged in advertising, design, and marketing services, and there is evidence of business activities as early as October 2004 which is suggested by the newly-submitted invoices on appeal.

The record, therefore, contains persuasive evidence that the petitioner commenced business at the time the petition was ultimately approved in December of 2004, and that business dealings continued until the filing of the extension request in July 2005. The term "doing business" is defined in the regulations as "the regular, systematic, and continuous provision of goods and/or services by a qualifying organization and does not include the mere presence of an agent or office of the qualifying organization in the United States and abroad." 8 C.F.R. § 214.2(l)(1)(ii). While the director evaluated the business dealings of the petitioner for the entire year preceding the filing of the extension request, the record confirms that the beneficiary did not receive approval to enter the United States until December 2004. The record, therefore, contains sufficient evidence that in the seven months from the date of the approval until the date of the extension request, the petitioner was doing business as required by the regulations. For this reason, the director's decision on this issue will be withdrawn.

The fourth basis for the denial in this matter is the question of whether the petitioner and the foreign organization are qualified organizations as defined by 8 C.F.R. § 214.2(l)(1)(ii)(G). The regulation defines the term "qualifying organization" as a United States or foreign firm, corporation, or other legal entity which:

- (1) Meets exactly one of the qualifying relationships specified in the definitions of a parent, branch, affiliate or subsidiary specified in paragraph (l)(1)(ii) of this section;
- (2) Is or will be doing business (engaging in international trade is not required) as an employer in the United States and in at least one other country directly or through a parent,

branch, affiliate, or subsidiary for the duration of the alien's stay in the United States as an intracompany transferee; and

- (3) Otherwise meets the requirements of section 101(a)(15)(L) of the Act.

In this matter, the director focused on the second factor of the definition; namely, whether the foreign entity was doing business during the beneficiary's stay in the United States. The regulation at 8 C.F.R. §214.2(l)(1)(ii)(H) defines the term "doing business" as "the regular, systematic, and continuous provision of goods and/or services by a qualifying organization and does not include the mere presence of an agent or office of the qualifying organization in the United States and abroad."

In this matter, the foreign entity claims to be a leading importer and exporter of clothing and apparel. Since no evidence of its business dealings was initially submitted, the director requested documentation showing its current business dealings in the request for evidence dated July 28, 2005. In response, the petitioner submitted financial statements for 2004 and a selection of bills, such as 2005 rent invoices, Mall Association Fee invoices, and utility bills, but no invoices, contracts, or bills of sale or lading. The director consequently denied the petition on the basis that the record contained no evidence that the foreign entity was still conducting business as required during the beneficiary's stay in the United States. On appeal, counsel alleges that the petitioner did in fact submit documentation of the foreign entity's activities during April, May and June 2005, and contends that the director's findings were erroneous.

On review of the evidence submitted, the AAO concludes that the petitioner failed to demonstrate that the foreign entity had been and continues to do business. While some invoices of fees paid by the foreign entity for necessary expenses were submitted for 2005, there is no evidence of any ongoing business transactions during this period. In this matter, the petitioner claims that the foreign entity is an importer and exporter of clothing and apparel. While the petitioner does not state specifically which countries the foreign entity exports to or receives imports from, the fact remains that the record contains no evidence, such as copies of documents that are required in the daily operation of the enterprise due to routine regulatory oversight, evidencing any international dealings with entities based outside of Brazil. For example, upon the importation of goods into the United States, the Customs Form 7501, Entry Summary, serves to classify the goods under the Harmonized Tariff Schedules of the United States and to ascertain customs duties and taxes. While there is no specific claim in the record that the foreign entity imports goods into the United States, it is reasonable to expect that similar paperwork or other entry/exit documentation must be required when exporting goods out of, or importing goods into, Brazil.

Instead of producing similar documents, the petitioner instead requests CIS to rely on rent invoices, bank statements, and evidence of the payment of other required utilities as evidence of its continued business dealings. This documentation, however, is insufficient to satisfy the burden of proof in this matter. Based on this limited information, it cannot be found that the foreign entity was doing business as required by 8 C.F.R. § 214.2(l)(14)(ii)(B), and thus it cannot be concluded that a qualifying relationship exists between the parties. For this additional reason, the petition may not be approved.

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.