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U.S. Department of Homeland Security
20 Mass. Ave. N.W., Rm. A3042
Washington, DC 20529

U.S. Citizenship and Immigration Services

[redacted]

FILE: WAC 99 194 51941 Office: CALIFORNIA SERVICE CENTER Date: DEC 13 2004

IN RE: Petitioner: [redacted]
Beneficiary:

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

ON BEHALF OF PETITIONER:

[redacted]

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, Director
Administrative Appeals Office

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identifying data deleted to prevent clearly unwarranted invasion of personal privacy

DISCUSSION: Approval of the preference visa petition was revoked by the Director, California Service Center.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

The petitioner is a California corporation engaged in the business of trading mineral products. It seeks to employ the beneficiary as its president. Accordingly, the petitioner endeavors to classify the beneficiary as an employment-based immigrant pursuant to section 203(b)(1)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(C), as a multinational executive or manager. The director first issued a notice of his intent to revoke approval of the petition and subsequently revoked the petition based on the following determinations: 1) the beneficiary would not be employed in a managerial or executive capacity; 2) the petitioner failed to establish that it has a qualifying relationship with a foreign entity; and 3) the petitioner failed to establish that it currently is and has been doing business in the United States.

On appeal, counsel submits a brief disputing the director's findings. Additional evidence is also provided and will be fully addressed in this decision.

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

> (1) Priority Workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):
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> * * *
>
> > (C) Certain Multinational Executives and Managers. -- An alien is described in this subparagraph if the alien, in the 3 years preceding the time of the alien's application for classification and admission into the United States under this subparagraph, has been employed for at least 1 year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof and who seeks to enter the United States in order to continue to render services to the same employer or to a subsidiary or affiliate thereof in a capacity that is managerial or executive.

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

A United States employer may file a petition on Form I-140 for classification of an alien under section 203(b)(1)(C) of the Act as a multinational executive or manager. No labor certification is required for this classification. The prospective employer in the United States must furnish a job offer in the form of a statement which indicates that the alien is to be employed in the United States in a managerial or executive capacity. Such a statement must clearly describe the duties to be performed by the alien.

The first issue in this proceeding is whether the beneficiary would be performing in a capacity that is managerial or executive.

Section 101(a)(44)(A) of the Act, 8 U.S.C. § 1101(a)(44)(A), provides:

The term "managerial capacity" means an assignment within an organization in which the employee primarily--

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

(ii) supervises and controls the work of other supervisory, professional, or managerial employees, or manages an essential function within the organization, or a department or subdivision of the organization;

(iii) if another employee or other employees are directly supervised, has the authority to hire and fire or recommend those as well as other personnel actions (such as promotion and leave authorization), or if no other employee is directly supervised, functions at a senior level within the organizational hierarchy or with respect to the function managed; and

(iv) exercises discretion over the day-to-day operations of the activity or function for which the employee has authority. A first-line supervisor is not considered to be acting in a managerial capacity merely by virtue of the supervisor's supervisory duties unless the employees supervised are professional.

Section 101(a)(44)(B) of the Act, 8 U.S.C. § 1101(a)(44)(B), provides:

The term "executive capacity" means an assignment within an organization in which the employee primarily--

(i) directs the management of the organization or a major component or function of the organization;

(ii) establishes the goals and policies of the organization, component, or function;

(iii) exercises wide latitude in discretionary decision-making; and

(iv) receives only general supervision or direction from higher level executives, the board of directors, or stockholders of the organization.

In support of the petition, the petitioner submitted the following description of the duties to be performed by the beneficiary under an approved petition:

[The beneficiary] is presently employed by the US Company in the capacity of President. As the president of this company, he is responsible in planning, developing and establishing policies and objectives of the US Company in accordance with board directives and corporation charter. He has to confer with company officials to plan business objectives, and to establish responsibilities and procedures for attaining objectives [sic] financial statements to determine progress and status in attaining objectives and revise objectives and plans in

> accordance with current conditions and report to Board of Director. [The beneficiary] also directs and coordinates all of the international trading activities of the US Company. Most of all, he promotes the US Company within the local industry and trade association.
>
> In addition, he has to review the performance evaluation[s] of department personnel, and has the authority to hire and fire personnel. Currently, he is assisted by a staff of Manager, Financial Analyst, Sales Representative, Accountant, and Secretary. . . . He will hire more personnel as the company expands. He will continue to be employed in the capacity of President. And, he will be in charge of ambitious expansion plans that are currently being undertaken by the US Company.

The record shows that the petition was approved on September 8, 2000 and that the beneficiary subsequently filed a Form I-485 seeking to adjust his status to that of a permanent resident. On March 21, 2001, after the filing of the adjustment application, the director issued a notice instructing the beneficiary to submit additional evidence. On September 12, 2002, the director issued another request for evidence, this time addressed to the petitioner in regard to its I-140 petition. In the notice, the director requested that the petitioner submit its organizational chart reflecting the petitioner's managerial hierarchy and staffing structure as of July 2, 1999, the date the petition was filed. The petitioner was also asked to submit a detailed description of the beneficiary's duties in the United States.

In response, the petitioner submitted copies of the various documents previously submitted by the beneficiary in his response to the director's request regarding the I-485 application. The response included an organizational chart showing the beneficiary at the top of the petitioner's hierarchy, followed by one secretary and a manager whose subordinate employees included a financial analyst, a sales representative, an accountant, and a purchase agent. Although the petitioner also provided a copy of an employee list submitted with the beneficiary's response to the request for evidence, the list does not match the organizational chart, which reflects the petitioner's personnel structure at the time the petition was filed. Therefore, even though the employee list contains brief job descriptions, salaries, and educational levels for each of the petitioner's employees, the list cannot be used to establish eligibility because it clearly lists employees hired after the petition was filed. As such, despite the director's request, the record indicates that the petitioner failed to provide brief job descriptions, salaries, and educational levels for the employees that were employed by the petitioner when the petition was filed. The petitioner did, however, provide an additional description of the beneficiary's duties. Since that description was recreated in its entirety in the director's decision, it need not be repeated here.

On January 29, 2003, after reviewing the petitioner's response, the director issued a notice of his intent to revoke the approval of the petition stating that error was discovered while adjudicating the beneficiary's I-485 application. The director noted the petitioner's failure to provide previously requested information regarding the employees listed in the organizational chart that reflected the petitioner's personnel structure as of the date the petition was filed. The director also stated that the beneficiary cannot be deemed a function manager as the petitioner failed to clearly demonstrate that the beneficiary would manage, rather than perform, an essential function within the petitioning entity. The petitioner was allowed until March 1, 2003 to respond to the director's notice.

The petitioner responded with a letter, dated February 20, 2003, stating that the beneficiary's duties fit the definition of executive capacity as described in section 101(a)(44)(B) of the Act, 8 U.S.C. § 1101(a)(44)(B). Counsel expanded on the director's duties with the following description:

> [The beneficiary] is an executive sent from the parent company to oversee the subsidiary operation, for the benefit of the parent company. As the top person in the company, it is non other's [sic], but his, duty, [sic] to direct the management of the company here, and establishes goals and policies, and has the authority to exercises [sic] wide latitude in discretionary decision-making; such as hiring competent managers; [sic] deciding in 1999 to move up to a much better office building, promoting personnel and deciding how much bonus to award to management employees, taking advises [sic] from managers on improving profitability for the company. He advises and coordinates with his parent company on business practices, such as when and where to sell or to withhold from selling, to even purchase and cumulate [sic] metal ore from other producers. . . . His parent company depends on him for the best interest for the organization, and as the top person in the subsidiary company overseas, he receives only general supervision or direction from higher executive, such as those from the parent company, and board of directors, such as normal in any company. . . .
>
> [The beneficiary], during his employment with the subsidiary in the Untied [sic] States, has recorded extensive business travels outside of the United States . . . . After he sets company goals and policies, he leaves the management staff to carry out his orders, as he is busy expanding his business contacts worldwide. He does not do hands-on micromanagement of the daily operation of the company as he leaves that to the manager and other supervisors.

In an effort to further illustrate the beneficiary's dominant role within the petitioner's organization the petitioner described a number of business trips headed by the beneficiary in which he attempted to form business ties with other companies in order to expand the petitioner's business to other industries. The petitioner also provided previously requested evidence, including the names, job descriptions, salaries, and educational levels of the employees listed in the organizational chart, which reflected the petitioner's hierarchical structure at the time the petition was filed.

On March 25, 2003, after reviewing the record and all of the petitioner's submissions, the director revoked the petition's approval, concluding that the petitioner failed to establish that the beneficiary would be employed in a qualifying capacity. In so doing the director noted, "It is contrary to common business practice and defies standard business logic for such a company to have an executive, as such a business does not possess the organizational complexity to warrant having such an employee."

Although the director's ultimate decision to revoke the petition's approval was accurate, his comments regarding what is "standard business logic" are inappropriate. The director should not hold a petitioner to an undefined and unsupported view of "common business practice" or "standard business logic." The director should instead focus on applying the statute and regulations to the facts presented by the record of proceeding. Although CIS must consider the reasonable needs of the petitioning business if staffing levels are considered as a factor, the director must articulate some reasonable basis for finding a petitioner's staff or structure to be unreasonable. *See* section 101(a)(44)(C) of the Act, 8 U.S.C. § 1101(a)(44)(C). A petitioner will not be precluded from qualifying for classification under section 203(b)(1)(C) of the Act solely on the basis of its size or

nature of its business. For this reason, the director's comment will be withdrawn as it relates to the reasonable needs of the petitioning business.

On appeal, counsel resubmits the petitioner's rebuttal to the director's notice of intent to revoke the petition. The petitioner's rebuttal statement, dated February 20, 2003, contains a list of the petitioner's employees at the time the petition was filed, as well as each employee's job title, brief job description, and monthly salary. Although the petitioner failed to submit this information in response to the director's initial request for additional evidence, the petitioner submitted the requested information in its rebuttal to the notice of intent to revoke the petition. Therefore, the director's incorrect finding is hereby withdrawn. However, the AAO's consideration of the submitted evidence does not change the overall conclusion that as of the date the petition was filed the beneficiary was not primarily performing executive duties, as claimed, and was therefore not employed in a qualifying capacity.

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. § 204.5(j)(5). In the instant matter the description of the beneficiary's duties is too broad to convey an understanding of what the beneficiary would actually be doing on a day-to-day basis. The petitioner repeatedly focuses on the beneficiary's high degree of discretionary authority over the goals, policies, and overall business direction of the petitioning company. However, discretionary authority is only one factor that is considered in determining whether the beneficiary primarily performs executive duties. Therefore, the various examples of the beneficiary's prominent role in making various important decisions merely illustrate the beneficiary's use of his decision-making authority. It does not alter the fact that the record lacks a comprehensive description of what the beneficiary actually does on a daily basis. Specifics are clearly an important indication of whether a beneficiary's duties are primarily executive or managerial in nature, otherwise meeting the definitions would simply be a matter of reiterating the regulations. *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103 (E.D.N.Y. 1989), *aff'd*, 905 F.2d 41 (2d. Cir. 1990). In the case at hand, the petitioner claims that the beneficiary is relieved of non-qualifying duties by other employees in the company. However, the AAO cannot make a proper determination regarding the beneficiary's duties without an affirmative statement describing those duties. While the petitioner provided brief descriptions of the duties of the petitioner's other employees, such information is only helpful if the AAO can consider those duties in the context of the beneficiary's own duties. Here, the petitioner has not provided a comprehensive description of the beneficiary's duties that would allow the AAO to make any conclusions as to their nature.

There is also no indication that the beneficiary fits the definition of function manager. 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). If a petitioner claims that the beneficiary is managing an essential function, the petitioner must 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. In addition, the petitioner must provide a comprehensive and detailed description of the beneficiary's daily duties demonstrating that the beneficiary manages the function rather than performs the duties relating to the function. 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. *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 of record, the AAO cannot affirmatively conclude that the beneficiary's duties at the time the petition was filed were primarily of an executive nature.

The second issue in this proceeding is whether the petitioner has a qualifying relationship with a foreign entity.

The regulation at 8 C.F.R. § 204.5(j)(2) states in pertinent part:

> *Affiliate* means:
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> (A) One of two subsidiaries both of which are owned and controlled by the same parent or individual;
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> (B) One of two legal entities owned and controlled by the same group of individuals, each individual owning and controlling approximately the same share or proportion of each entity;
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> *Subsidiary* means a firm, corporation, or other legal entity of which a parent owns, directly or indirectly, more than half of the entity and controls the entity; or owns, directly or indirectly, half of the entity and controls the entity; or owns, directly or indirectly, 50 percent of a 50-50 joint venture and has equal control and veto power over the entity; or owns, directly or indirectly, less than half of the entity, but in fact controls the entity.

In support of the petition, the petitioner provided a stock certificate indicating that [redacted] General Factory, the beneficiary's foreign employer, owns 100,000 shares of the petitioner's stock. In the September 12, 2002 request for additional evidence, the director instructed the petitioner to submit bank wire transfer receipts to establish that the claimed Chinese parent company paid for its shares of the petitioner's stock.

The petitioner's response included copies of a statement and documents previously submitted to CIS by the beneficiary in his response to a request for evidence, which was issued in regard to the beneficiary's I-485 application for adjustment of status. In the beneficiary's statement, dated June 13, 2001, he stated that the Chinese company owns 100% of the petitioner's stock. The beneficiary explained that because of China's strict rules regarding foreign currency exchange, the foreign entity was unable to directly transfer to the United States the money used to purchase the petitioner's stock. The beneficiary claimed that it used [redacted] a Hong Kong-based company, which is majority owned by the beneficiary, in order to facilitate the fund transfer and that as a result the fund transfer came from the Hong Kong company rather than directly from the claimed Chinese parent company. In support of the explanation the beneficiary provided a number of documents including: 1) a bank wire transfer receipt from [redacted] showing its transfer of $100,000 to the petitioner in the United States; 2) the petitioner's bank statement showing its deposit of the transferred funds; 3) a translated statement from the foreign entity's board chairman explaining the reason for having [redacted] complete the fund transfer; 4) evidence of the beneficiary's ownership of 99.99% of [redacted] stock; and 5) evidence of the foreign entity's ownership, showing that the beneficiary owns 20% of its stock.

In the notice of intent to revoke the director addressed the beneficiary's explanation regarding Chinese laws governing fund transfers out of China. The director stated that CIS is unaware and the petitioner has not

provided any corroborating evidence to support the claim that there are laws in China that prohibit fund transfers to the United States. The director further stated that the petitioner's attempt to circumvent China's laws through a variety of "convoluted financial transactions" casts doubt on the credibility of the evidence the petitioner has submitted in support of the petition.

In the rebuttal to the notice of intent to revoke, the petitioner vehemently denies any illegality in its use of the Hong Kong company as a means to transfer funds and purchase the U.S. entity's stock. It an effort to support its claim that its transactions were valid and legal the petitioner provided a number of documents, including an affidavit from [redacted] a self-proclaimed expert in Chinese laws, regulations, and foreign exchange controls by virtue of his career experience with the Foreign Service. [redacted] stated that based on his knowledge of laws and policies at the time Sheen Dynamic was established, he is sure that the transactions were legal and went through the proper channels. [redacted] also assured the director that the foreign entity's use o[redacted] to purchase the U.S. company's stock was "neither unusual nor illegal under PRC or Hong Kong law" and further claimed that other Chinese corporations frequently use similar methods "to avoid cumbersome PRC foreign exchange controls."

The petitioner also provided a statement from [redacted] currently a financial analyst at Stoneworth Financial with prior career experience in the U.S. State Department. In his statemen[redacted] discussed his knowledge of the commodities market and commented on the general practice within that market to set up subsidiaries for the purpose of buying and selling commodities and keeping the parent company informed on the current market conditions.

It is noted that while both individuals commented on the legal propriety of setting up a Hong Kong subsidiary, the director did not dispute this point either in the notice of intent to revoke or in any of the previously issued requests for additional evidence. The issue was and continues to be whether the Chinese foreign entity paid for its claimed stock ownership of the U.S. petitioner. The fact that a legitimate Hong Kong entity transferred $100,000 to the U.S. petitioner suggests that the Hong Kong entity, not the claimed Chinese parent entity, paid for the petitioner's stock. [redacted] commented on this point, stating that the Chinese company's use of [redacted] transfer money to the U.S. company is a normal business practice for Chinese businesses attempting to set up companies outside of China. However, neither the petitioner nor [redacted] provided any specific information regarding China's laws on currency exchange at the time of the monetary transfer. Without citing to specific laws and providing English translation of such laws [redacted] statements, despite his impressive credentials, are merely third party attestations of the petitioner's own claim. Such statements, much like the petitioner's own claims, require documentary proof to corroborate the truth of whatever it is they are asserting as fact. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

In the denial, the director determined that the petitioner failed to provide evidence to corroborate its claims regarding the method used to transfer funds to the United States. The director concluded that the evidence of record does not establish a qualifying relationship between the U.S. entity and Nandan, the claimed Chinese parent company.

On appeal, the petitioner resubmitted statements and documentation previously submitted in responses to the director's requests for additional evidence and in rebuttal to the notice of intent to revoke. The petitioner did not provide any additional evidence either to establish that the claimed Chinese parent company actually paid

for its ownership in the U.S. entity, or to support its statements regarding the method used to transfer funds to the United States.

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 alone are not sufficient evidence to determine whether a stockholder maintains ownership and control of a corporate entity. The corporate stock certificate ledger, stock certificate registry, corporate bylaws, and the minutes of relevant annual shareholder meetings must also 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, CIS is unable to determine the elements of ownership and control.

The regulations specifically allow the director to request additional evidence in appropriate cases. *See* 8 C.F.R. § 204.5(j)(3)(ii). As ownership is a critical element of this visa classification, the director may reasonably inquire beyond the issuance of paper stock certificates into the means by which stock ownership was acquired. As requested by the director, evidence of this nature should include documentation of monies, property, or other consideration furnished to the entity in exchange for stock ownership. Additional supporting evidence would include stock purchase agreements, subscription agreements, corporate by-laws, minutes of relevant shareholder meetings, or other legal documents governing the acquisition of the ownership interest.

In the instant matter, the additional evidence requested was in the form of a wire transfer receipt, which would show where the money originated and where it went. Although the petitioner complied with the director's request for a wire transfer receipt, the document that was submitted showed [redacted] a Hong Kong entity, as the originator, rather than the company claimed to be the petitioner's parent organization, which is located in China. Throughout this proceeding, the petitioner has maintained the claim that the fund transfer was legal in every way and that the Hong Kong company is actually affiliated with the alleged Chinese parent company. The petitioner has also submitted documents breaking down the ownership of each company. The documents showed that the beneficiary owns 20% of the stock of the company located in China and 99.99% of [redacted] stock. This ownership breakdown indicates that while the beneficiary is an owner of each company's shares, he only has controlling interest in [redacted]. Therefore, the companies cannot be deemed affiliates as they are not controlled by the same individual(s). *See* 8 C.F.R. § 204.5(j)(2). Based on this determination, a fund transfer receipt that shows [redacted] transfer of funds to the U.S. petitioner suggests that [redacted] not [redacted] contributed the capital used to start the petitioner's business operation. There is no evidence of record that would indicate that the petitioner's start-up funds actually originated with the claimed foreign parent company. While the petitioner provided a number of

statements from individuals who commented on the strict Chinese laws that serve as hurdles in the foreign monetary exchange process, no evidence has been submitted to corroborate these statements. As previously stated, the petitioner's claims and the claims of third parties are not considered corroborating documentary evidence. *See Matter of Treasure Craft of California, supra.* The record as currently constituted does not establish that the petitioner is owned and controlled by the beneficiary's foreign employer. As such, the petitioner failed to establish that it has a qualifying relationship with a foreign entity, as claimed.

The final issue in this proceeding is whether the petitioner has submitted sufficient evidence to show that it has been and currently is doing business. The regulation at 8 C.F.R. § 204.5(j)(3)(i)(D) states that the petitioner is required to submit evidence that the prospective United States employer has been doing business for at least one year. The regulation at 8 C.F.R. § 204.5(j)(2) states that "doing business" means the regular, systematic, and continuous provision of goods and/or services by a firm, corporation, or other entity and does not include the mere presence of an agent or office.

In support of the petition, the petitioner submitted various shipping documents, the earliest of which was dated February 1999. In the request for additional evidence, the director instructed the petitioner to submit its shipper's export declarations, one for each month from 1998 to 2002, in chronological order. The petitioner was also asked to submit its customs forms in the same format covering the same time period. The petitioner was specifically instructed not to submit any major sales invoices. The petitioner responded with several purchase contracts and sales invoices, all dated in 2002, and a single warehouse bill, date December 31, 2001. Although the petitioner did not provide the requested evidence, it provided no explanation for its failure to do so. In the notice of intent to revoke, the director commented on the petitioner's failure to comply with the request for evidence and stated that the evidence provided does not establish that the petitioner has been doing business. Although the petitioner submitted a rebuttal to the notice of intent to revoke, it did not provide any documentary evidence to establish that the petitioner had been doing business prior to February 1999.

On appeal from the director's revocation, the petitioner submitted a number of original receipts for warehouse space it rents for its inventory. The earliest of the receipts is dated November 2000. The petitioner also submitted copies of three bills of lading showin[redacted]the exporter. While the documents are dated November 1997, February 1998, and June 1998, the petitioner is not named as either the originating or receiving party. Therefore, the AAO cannot affirmatively determine, based on these documents, that the petitioner was doing business on the dates that appear on any of the bills of lading. Although the petitioner also submitted a number of shipping documents, photocopies and originals, in which the petitioner was named as either the shipping or receiving party, these documents were either undated or were dated in 1999 or later. On review, the evidence of record suggests that the petitioner was doing business as of the date the petition was filed and continued to do business throughout this proceeding. However, the record lacks sufficient documentation to establish that the petitioner had been doing business since July 2, 1998, one year prior to filing the petition.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden. Therefore, based on the three separate grounds discussed above, the AAO will uphold the director's revocation of the petition's approval.

ORDER: The appeal is dismissed.