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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals, MS 2090
Washington, DC 20529-2090



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D4



FILE: EAC 07 177 53100 Office: VERMONT SERVICE CENTER Date: JUN 18 2009

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

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(iii) of the
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(iii)

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner, a public relations agency, seeks to employ the beneficiary as an account executive management trainee for a period of 18 months. The petitioner, therefore, endeavors to classify the beneficiary as nonimmigrant trainee pursuant to section 101(a)(15)(H)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(iii).

The director denied the petition on three independent and alternative grounds, concluding that the petitioner failed to establish: (1) that its proposed training program does not deal in generalities with no fixed schedule, objectives, or means of evaluation; (2) that it has sufficiently trained manpower to provide the training specified; and (3) that the beneficiary will not engage in productive employment unless such employment is incidental and necessary to the training.

On appeal, counsel for the petitioner contends that the director erred in denying the petition.

On April 27, 2009, after reviewing the record in its entirety, the AAO gave notice to petitioner's counsel pursuant to 8 C.F.R. §103.2(a)(16)(i) that it intended to issue a decision adverse to the petitioner, which is partly based on derogatory information of which the petitioner may be unaware. Specifically, the information was found as a result of an internet search and suggests that the petitioner's training plan was copied almost entirely from a variety of sources on the internet, rather than customized specifically for the instant beneficiary, as claimed by the petitioner. The petitioner was given fifteen (15) days to respond to the notice and has not done so as of this date.

Section 101(a)(15)(H)(iii) of the Act, 8 U.S.C. § 1101(a)(15)(H)(iii), provides classification for an alien having a residence in a foreign country, which he or she has no intention of abandoning, who is coming temporarily to the United States as a trainee, other than to receive graduate medical education or training, in a training program that is not designed primarily to provide productive employment.

The regulation at 8 C.F.R. § 214.2(h)(7) states, in pertinent part, the following:

- (ii) Evidence required for petition involving alien trainee—
 - (A) Conditions. The petitioner is required to demonstrate that:
 - (1) The proposed training is not available in the alien's own country;
 - (2) The beneficiary will not be placed in a position which is in the normal operation of the business and in which citizens and resident workers are regularly employed;
 - (3) The beneficiary will not engage in productive employment unless such employment is incidental and necessary to the training; and

- (G) Does not establish that the petitioner has the physical plant and sufficient trained manpower to provide the training specified; or
- (H) Is designed to extend the total allowable period of practical training previously authorized a nonimmigrant student.

The record of proceeding before the AAO contains (1) the Form I-129 and supporting documentation; (2) the director's request for additional evidence; (3) the petitioner's response to the director's request; (4) the director's denial letter; and (5) the petitioner's Form I-290B and supporting evidence. The AAO reviewed the record in its entirety before issuing its decision.

The petitioner filed the nonimmigrant petition on June 5, 2007. In a letter dated May 1, 2007, the petitioner stated that its 18-month "customized managerial training program," will provide the beneficiary with the knowledge in the areas of public relations and hospitality management needed "to assume a public relations related position in oversea." The petitioner indicated that it is not currently training anyone in the same capacity as that which the beneficiary will be trained.

The petitioner submitted a lengthy training program, in which it stated that the program will cover the company's own "account executive management requirements, concepts, protocols and practices." The petitioner further summarized the program as follows:

[The beneficiary's] objective for this course is to improve the understanding of public relations management, hospitality management, and account executive management. The courses focus on the role and nature of such operations, the relationship of operations to other affiliate service functions, the developmental skills, and the techniques for the effective management in service operations. Topics to be covered include forty percent (40%) classroom lectures, fifteen percent (15%) on-the-job training with supervision, thirty percent (30%) self-study course and one[-]on[-]one mentorship course, fifteen percent (15%) on-the-job training with little supervision. This program is intended for a trainee with a non-immigrant visa, such as J1 or H-3 interested in public relations management and will concentrate on coursework and classroom training on-site and offsite at our corporate clients' offices.

The petitioner indicated that each month in the training program would adhere to the following approximate schedule:

- 56 hours of classroom instruction
- 42 hours of self-study period
- 21 hours of on-the-job training with close supervision (notably accompanying managers to meetings, sitting side-by-side next to other employees to see work in progress, listen to phone calls on speaker phone, reviewing e-mails, etc.)
- 21 hours of on-the-job training with little supervision (such as doing research, drafting summaries, progress reports, account status reports)

The petitioner indicated that an "assigned program coordinator" will prepare a monthly performance review to monitor the trainee's progress and adjust the schedule accordingly. The training topics to be covered are described as follows:

1. Introductions (1 week)
2. The Fundamental Procedures (2 months)
3. Checklist for PR (2 months)
4. Elements of PR (2 months)
5. Public Relations Activities (4 months)
6. Crisis Management in Public Relations (3 months)
7. Administrative & Basic Public Relations Concepts (1 month)
8. Business Concepts (1 month)
9. Marketing Concepts (2 weeks)
10. Substantive Application (3 months)

The petitioner also submitted: (1) a copy of its employee guide, which provides important phone numbers and an overview of the company's office equipment and information systems; (2) a 14-page document titled "PR/Media Guidelines," published by the petitioner, which provides guidelines for media contacts, writing news releases, press releases, media placement, etc; and (3) a copy of "Let the World Know!: Publicity and Promotion Handbook" published by Toastmasters International.

Finally, the petitioner submitted a letter from [REDACTED], Director of Beth Cooper Public Relations, a United Kingdom-based agency. [REDACTED] stated that the beneficiary will receive training with the petitioner and utilize the knowledge she gains "to further her career" at the United Kingdom agency. She further explained that "it is essential for our company's global operations to continue this account executive exchange programme since many of our clientele are location in the U.S. as well as around the world."

In a request for evidence (RFE) dated June 15, 2007, the director instructed the petitioner, *inter alia*, as follows: (1) a statement that establishes that the company has a training program, has recruited or hired trainees, can actually employ a full time trainer, and can simultaneously operate a training program and a business in a viable fashion; (2) additional evidence that the petitioner has an actual-well-structured training program, including a complete outline of the proposed training program; (3) additional evidence showing the company's purpose and/or need in providing the training; and (4) additional evidence explaining how much time will be spent in classroom instruction and how much time in on-the-job training.

In a response, the petitioner resubmitted its letter dated May 1, 2007 and a copy of the training program and materials submitted at the time of filing. In a letter accompanying the RFE response, counsel asserted that the petitioner's statement establishes that there is an established training program, and that the company has previously recruited trainees. Counsel re-iterated that the beneficiary will spend 98 hours per month in classroom instruction or self-study, and 42 hours in on-the-job training, 21 hours of which will be under close supervision. With respect to the training program, counsel stated:

The program is not a rigid program but is a structured guideline for the trainee to reach milestones and ascertain the type of managerial position to place has as a Manager at the

foreign affiliated Agency abroad. . . . Our main goal in using this training is to reciprocate and receive some of the foreign trained staff with our close business affiliates so that we can have a clearer understanding of operations abroad since we are an international industry.

Finally, counsel stated:

In the instant case, the petitioner expects that the trainee will complete the program within less than six months but has requested additional time if it is needed to thoroughly learn the corporate policies, domestic marketing methods, etc.

The director found that the petitioner failed to establish that its proposed training program does not deal in generalities with no fixed schedule, objectives, or means of evaluation. The director noted that "a training program provided in broad terms is not persuasive in establishing that an actual well-established training program exists with your office." The director observed that it appears that the beneficiary would be directly performing the duties of the office in order to acquire the knowledge.

On appeal, counsel asserts that the petitioner submitted sufficient evidence that it operates a "Bona Fide Public Relations Agency Account Executive Management Training Program." Counsel indicates that the petitioner is submitting an updated training program with "more detail of the training and schedule." The updated program includes the following scheduled topics:

1. Introductions (1 week)
2. The Fundamental Procedures (1 month)
3. Administrative & Basic Public Relations Concepts (2 weeks)
4. Business Concepts (1 months)
5. Strategic Public Relations Planning (1 month)
6. Elements of Public Relations (4 months)
7. Public Relations Activities (4 months)
8. Crisis Management in Public Relations (3 months)
9. Substantive Application (3 months)

Upon review, the AAO concurs with the director's decision. The regulation at 8 C.F.R. § 214.2(h)(7)(iii)(A) precludes approval of a petition that deals in generalities with no fixed schedule, objectives, or means of evaluation. The regulation at 8 C.F.R. 214.2(h)(7)(ii)(B)(1) requires the petitioner to describes the type of training and supervision to be given, and the structure of the training program.

The training program, as submitted with the initial petition and in response to the director's request for evidence, failed to describe how the beneficiary would be supervised and evaluated and failed to provide a meaningful description, beyond generalities, of what the beneficiary would actually be doing, on a day-to-day basis, for much of the proposed training program. In fact, the majority of the scheduled training topics contained no specific references to the petitioner, the hospitality or travel industry, or the beneficiary's proposed activities during the each training module. Rather, much of the program description reads as if it were taken from a public relations textbook. For example, the training topic "Checklist for PR" begins:

Consider some of the following important options for your business:

- Offer professional ethics training
- Identify and recruit PR professionals
- Facilitate PR media programs and communications facilities, agencies and corporations
- Develop and maintain monitoring programs

The remainder of the description of this two-month-long topic includes one paragraph regarding the importance of setting public relations goals and one sentence regarding the importance of demonstrating ethics. There is no indication as to the objectives of this period of training, the amount or type of classroom or on-the-job training, or the actual activities the beneficiary will perform.

The petitioner's description of its four-month "Public Relations Activities" training phase was similarly cryptic. It begins as follows:

Public relations programs can range from exhibits, seminars, or workshops, to tour of the archives, a printed brochure, or a book of local history or edited documents. Every time a client contacts your establishment, you are acting as a public relations officer. You are not just helping the client find the information he or she wants but also demonstrating the value and diversity of the archives. . . .

There are many public relations activities that your archives can undertake at little cost, while others involve more effort and resources. What are the most basic public relations activities you can begin in your archives, and what programs can you develop as you find more time and money?

This section of the training program goes on for four pages discussing public relations activities relevant to archives organizations. A simple Internet search revealed that the information in the section of the petitioner's program has been taken verbatim from Chapter 13 of a publication titled, *A Manual for Small Archives*, originally published in 1988 by the Archives Association of British Columbia, available at <http://aabc.bc.ca/aabc/msa/13_reference_services_and_public.htm> (accessed on March 9, 2009). This information is from a manual designed for persons working in small archives and it is clearly not relevant to the petitioner's alleged training program or its goal of training the beneficiary to work as an account executive at an established international public relations firm providing publicity and event planning services to luxury hotels. The petitioner did not indicate what type of training the beneficiary would receive with respect to learning how to implement public relations programs for a small archive organization or provide any indication of what she would be doing during this four-month period.

Similarly, much of the information contained in the petitioner's description of its three-month course in "Crisis Management in PR" appears to have been taken from the web site of the Institute for Crisis Management, a Kentucky-based organization unrelated to the petitioner. The information in the petitioner's training program can specifically be found at a web page describing the Institute's two-day Crisis Management Certification Course, and one-day Crisis Spokesperson Interview Training. See Institute for Crisis Management, available at <http://www.crisisexperts.com/certcourses_main.htm> (accessed on March 9, 2009). The petitioner changed the word "participant" to "trainee," but the content is essentially the same.

The "Elements of PR" portion of the petitioner's training program, which accounts for an additional two months of the 18-month program, was taken from a publication of the Public Relations Student Association (PRSA). See *PRSSA/PRSA Relationship Manual*, available at <[http://www.prssa.org/resources/200607Relationship Manual.pdf](http://www.prssa.org/resources/200607Relationship%20Manual.pdf)> (accessed on March 9, 2009).

Finally, the AAO noted that the petitioner's PR/Media Guidelines contain frequent references to the "Lodge" and "Grand Lodge," and found that much of the information contained in this document comes directly from a publication titled *A Masonic Leaders Guide to Public Relations*, available at <www.cinosam.net/9.ppt> (accessed on March 9, 2009).

As noted above, the petitioner was advised of the results of this internet research and given an opportunity to respond to the AAO's notice dated April 27, 2009, but has not responded as of this date.

Based on the above, the AAO must conclude that the petitioner does not have an existing, structured training program with clear objectives, supervision and means of evaluation, nor does it have a credible training plan. The training program, as described in the initial evidence, not only deals in generalities, but appears to be completely fictitious and created from a variety of sources that have nothing to do with the petitioning organization or its niche field within the public relations industry. It is clearly not a program that has been customized with this specific beneficiary in mind, as claimed by the petitioner. Even if the information provided therein were not mostly copied from random sources on the Internet, the "training program" contains no specifics regarding the actual training to be given during the 18 month-period.

In the request for evidence issued on June 15, 2007, the director specifically requested that the petitioner submit additional evidence to establish that it has an "actual, well-structured training program," a complete outline of the program, evidence that it has previously recruited or hired trainees, and additional evidence to establish the amount of time the beneficiary will spend in classroom and on-the-job training. The petitioner provided no new evidence in response to the director's request and instead re-submitted the same training program, which the director had already deemed to be inadequate, and with good reason. 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).

The petitioner also evaded the question as to whether it has previously recruited or hired trainees by merely indicating that it is not currently training anyone in the same capacity as that which the beneficiary will be trained. The record is devoid of any evidence that the petitioner has ever employed a trainee in a similar capacity, despite its assertions that it has an established training program. The claim that the program has been "customized" by the beneficiary is undermined by the petitioner's apparent lack of actual input into the content of its own training program and materials. Doubt cast on any aspect of the petitioner's proof may undermine the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).

Furthermore, the AAO notes that while the petitioner has provided a consistent breakdown of the amount of time the beneficiary will spend in classroom training and supervised on-the-job training, these numbers have little probative value as they are not supported by the petitioner's training program, which makes no specific references to what portions of the training would occur in a classroom and what portions would occur "on-

the-job." Finally, the AAO observes that, in her letter accompanying the RFE response, counsel for the petitioner explicitly stated that "the petitioner expects that the trainee will complete the program within less than six months, but has requested additional time if it is needed. . . ." This statement undermines the credibility of the entire 18 month training program and the petitioner's claim that the beneficiary would spend nearly 100 hours per month for 18 months engaging in classroom or independent study. Again, doubt cast on any aspect of the petitioner's proof may undermine the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Id.* at 591.

The AAO acknowledges that the petitioner has submitted an "updated" training program in support of the appeal. The petitioner has changed the content of the program to relate it to the petitioner's industry and has added details regarding the type of training to be given to the beneficiary during each phase of the program, whereas the initial training program barely mentioned the petitioner or the beneficiary. However, where, as here, a petitioner has been put on notice of a deficiency in the evidence and has been given an opportunity to respond to that deficiency, the AAO will not accept evidence offered for the first time on appeal. *See Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); *see also Matter of Obaighbena*, 19 I&N Dec. 533 (BIA 1988). If the petitioner had wanted the submitted evidence to be considered, it should have submitted the documents in response to the director's request for evidence. *Id.* Under the circumstances, the AAO need not and does not consider the sufficiency of the evidence submitted on appeal.

Moreover, a visa petition may not be approved based on speculation of future eligibility or after the petitioner or beneficiary becomes eligible under a new set of facts. *See Matter of Michelin Tire Corp.*, 17 I&N Dec. 248 (Reg. Comm. 1978); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm. 1971). A petitioner may not make material changes to a petition in an effort to make a deficient petition conform to USCIS requirements. *See Matter of Izummi*, 22 I&N Dec. 169, 176 (Assoc. Comm. 1998).

Therefore, for all of the reasons discussed above, the AAO finds the petitioner's descriptions of its training program to be deficient. The petitioner is not required to provide an exhaustive account of how the beneficiary is to spend every minute of the training program. However, the regulations prohibit the approval of a training program which deals in generalities. 8 C.F.R. § 214.2(h)(7)(iii)(A). The petitioner has failed to provide a meaningful description of what the beneficiary would actually be doing, on a day-to-day basis, for the entirety of the proposed training program, nor has it indicated how she would be evaluated. The petitioner has failed to satisfy 8 C.F.R. § 214.2(h)(7)(ii)(B)(1). Accordingly, the appeal will be dismissed.

The second issue to be addressed is whether the petitioner has sufficiently trained manpower to provide the training specified, as required by the regulation at 8 C.F.R. § 214.2(h)(7)(iii)(G).

The petitioner indicated that it employed 12 people as of the date of filing. In the training program, the petitioner identified [REDACTED] as the "manager in charge of training." The petitioner further stated that the beneficiary would receive training "under the tutelage of the Supervisor, [REDACTED] in conjunction with other managers." As noted above, the petitioner indicates that the beneficiary will receive 56 hours of classroom instruction and 21 hours of closely supervised on-the-job training per month, while the remainder of her time will be spent in "self-study" and "on-the-job training with little supervision." In its letter dated May 1, 2007, the petitioner indicated that the beneficiary would receive training "under the tutelage of Account Managers, Account Executives and Vice President."

In the request for evidence issued on June 15, 2007, the director requested a statement from the petitioner establishing that the company "can actually employ a full-time trainer," and to establish that the company "can simultaneously operate a training program and a business in a viable fashion." The director also requested additional evidence to establish how much time would be spent in classroom instruction and how much time would be spent in on-the-job instruction.

In response, counsel for the petitioner re-iterated that [REDACTED] is the "manager in charge of training." Counsel noted that "there are 11 other personnel other than [the petitioner's CEO] from whom she can observe and train on industry practices and procedures." The petitioner also re-submitted its letter dated May 1, 2007.

The director denied the petition concluding that the petitioner had not established that it has sufficiently trained manpower to provide the training specified. In denying the petition, the director stated:

You have indicated that the beneficiary will be receiving training under the tutelage of Account Managers, Account Executives, and Vice President. However, the list of those employees and whom the beneficiary would report to on a daily basis has not been provided. Furthermore, it is not evident that your 12-person office would have sufficiently trained manpower to provide training on a daily basis.

On appeal, the petitioner submits "photographs of its training area and training staff." The photographs depict three women at a conference table who appear to be engaged in classroom-type training provided by an unidentified instructor. The petitioner's newly revised training program, submitted for the first time on appeal, also identifies the names of supervisors for each phase of the program. Supervisors mentioned include [REDACTED], and [REDACTED]. Counsel asserts that the size of the petitioner should not be dispositive.

Upon review, the petitioner has not demonstrated that it has sufficiently trained manpower to provide the claimed 77 hours per month of classroom and closely-supervised on-the-job training. As discussed above, the petitioner did not submit a credible training plan at the time of filing or in response to the request for evidence. The petitioner failed to name any employees who would be involved in the training other than Kristen Vigrass, and has still not adequately described who on its staff would provide what type of training, or how they will continue to carry out their regular duties. Again, going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

The AAO also questions the probative value of the photographs which appear to show three trainees or interns in a classroom setting. The petitioner has consistently specifically indicated that it is not currently training anyone in the same program. However, given that the petitioner is a highly-specialized public relations agency with apparently only one type of clientele, it is unlikely that the individuals pictured would be engaged in a dissimilar training program. Either the petitioner inaccurately stated that it does not currently employ other trainees, or the petitioner's photographs were created in an effort to establish the appearance of an existing "classroom" on the petitioner's premises. It is incumbent upon the petitioner to resolve any

inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

The AAO acknowledges counsel's claim that the size of the petitioning organization is not dispositive in determining whether the petitioner has sufficient trained personnel to provide the proposed training. However, it is the petitioner's obligation to state with specificity who will deliver the training and how the beneficiary will be supervised throughout the 18 month program, as well as establish that its business operations will not be impacted by the training program. The petitioner was given ample opportunity to provide this information prior to the adjudication of the petition and has failed to do so. Accordingly, the appeal will be dismissed.

The third and final issue addressed by the director is whether the petitioner established that the proposed training will not result in productive employment unless such employment is incidental and necessary to the training. Such productive employment is expressly prohibited by the regulation 8 C.F.R. § 214.2(h)(7)(iii)(E). In denying the petition, the director stated that "it appears that the beneficiary will be directly performing the duties of the office in order to acquire the knowledge" and noted that "the beneficiary would be required to perform productive employment with minimal supervision." Finally, the director concluded that "the training program was put in place to obtain a productive employee who will earn \$40,000 in a year while providing a minimal amount of training in your company's service." The AAO notes that the director's conclusions were based primarily on her findings that the petitioner does not have an actual, well-established training program in place.

On appeal, counsel for the petitioner asserts that productive labor, if any, will be incidental to the petitioner's training program, and states that the beneficiary will not be engaged in any productive employment. The petitioner submits a letter from an accountant, who states that the compensation offered to the beneficiary is not unusual for an intern or trainee at a New York City-based public relations agency. The petitioner also submits published materials indicating that most assistant accountant executives in public relations agencies will first hold a trainee or entry-level position, and that internships and trainee positions are common ways to enter the public relations field.

Upon review, the AAO concurs with the director's determination the petitioner failed to demonstrate that the training program will not result in productive employment that is neither incidental nor necessary to the training.

First, the AAO notes counsel's statement in response to the RFE that the petitioner "expects that the trainee will complete the program within less than six months." This statement undermines the petitioner's assertions that the training will actually require 18 months to complete and raises reasonable questions as to what the beneficiary would be doing after six months, if not engaged in productive employment.

Second, the AAO notes that the petitioner's revised training program reiterates that the beneficiary will devote a total of 70% of her time to classroom training and "self-study." However, the newly submitted summary of the petitioner's training program indicates that only one month of the program will occur in a classroom environment. Absent additional information regarding how each training phase will be structured, it must be

concluded that classroom and independent study will not, in fact, make up the majority of the training as stated by the petitioner.

It appears that the entire last three months of the program will be devoted to productive employment, during which time the beneficiary will participate in the coordination of public relations activities, independently research story ideas, act as the agency's representative and contribute suggestions in team meetings. Furthermore, the petitioner has consistently indicated that the beneficiary will devote 21 hours per month, throughout the program, to performing productive duties with little supervision, such as performing research and drafting reports. Given that the petitioner appears to have overstated the amount of classroom and independent study to be given, it is apparent that it has therefore understated the actual amount of productive employment involved in the program.

Overall, based on the inconsistencies in the record, and the lack of credible evidence regarding the breakdown of the training between classroom training, on-the-job training and productive employment, the petitioner has not met its burden to establish that the training will not result in productive employment beyond what is incidental and necessary to the training. For this additional reason, the appeal will be dismissed.

The petition will be denied and the appeal dismissed for the above stated reasons, with each considered as an independent and alternative basis for the decision. 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.