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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



U.S. Citizenship  
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Services

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by

FILE: WAC 07 800 09632 Office: CALIFORNIA SERVICE CENTER Date: MAY 05 2009

IN RE: Petitioner:  
Beneficiary:



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, California 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 is a freight forwarding/logistics services company that seeks to employ the beneficiary as an import/export analyst - trainee for a period of 24 months. The petitioner, therefore, endeavors to classify the beneficiary as a 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 two independent and alternative grounds. Specifically, the director concluded that the petitioner: (1) failed to demonstrate that the proposed training is not available in Brazil, the beneficiary's home country; and (2) failed to demonstrate that the proposed training is not designed to recruit and train aliens for the ultimate staffing of domestic operations in the United States. The director noted that the petitioner had not adequately described the career abroad for which the training will prepare the alien, as required by the regulation at 8 C.F.R. § 214.2(h)(7)(ii)(B)(4), and therefore the record was insufficient to establish that the beneficiary would use his training for employment abroad.

On appeal, the petitioner submits a revised 16-month training plan. Counsel for the petitioner indicates that the new, shorter program eliminates those areas "for which training is readily available in Brazil." Counsel for the petitioner asserts that the petitioner submitted evidence establishing that the beneficiary will have a position available to him in Brazil upon completion of his training and therefore has established that the beneficiary is not being recruited to staff the petitioner's domestic operations.

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
    - (4) The training will benefit the beneficiary in pursuing a career outside the United States.

- (B) Description of training program. Each petition for a trainee must include a statement which:
  - (1) Describes the type of training and supervision to be given, and the structure of the training program;
  - (2) Sets forth the proportion of time that will be devoted to productive employment;
  - (3) Shows the number of hours that will be spent, respectively, in classroom instruction and in on-the-job training;
  - (4) Describes the career abroad for which the training will prepare the alien;
  - (5) Indicates the reasons why such training cannot be obtained in the alien's country and why it is necessary for the alien to be trained in the United States; and
  - (6) Indicates the source of any remuneration received by the trainee and any benefit which will accrue to the petitioner for providing the training.
  
- (iii) Restrictions on training program for alien trainee. A training program may not be approved which:
  - (A) Deals in generalities with no fixed schedule, objectives, or means of evaluation;
  - (B) Is incompatible with the nature of the petitioner's business or enterprise;
  - (C) Is on behalf of a beneficiary who already possesses substantial training and expertise in the proposed field of training;
  - (D) Is in a field in which it is unlikely that the knowledge or skill will be used outside the United States;
  - (E) Will result in productive employment beyond that which is incidental and necessary to the training;
  - (F) Is designed to recruit and train aliens for the ultimate staffing of domestic operations in the United States;

- (G) Does not establish that the petitioner has the physical plant and sufficiently 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 electronically-filed Form I-129 and supporting documentation; (2) the director's request for additional evidence (RFE); (3) the petitioner's response to the director's RFE; (4) the director's denial letter; and (5) the petitioner's Form I-290B and supporting documentation. The AAO reviewed the record in its entirety before issuing its decision.

The first issue addressed by the director is whether the petitioner demonstrated that the training is not available in the beneficiary's home country of Brazil, as required by 8 C.F.R. 214.2(h)(7)(ii)(A)(1). The regulation at 8 C.F.R. 214.2(h)(7)(ii)(B)(5) requires the petitioner to indicate the reasons why the proposed training cannot be obtained in the alien's country and why it is necessary for the alien to be trained in the United States.

The petitioner seeks to employ the beneficiary as an import/export analyst-trainee for a period of 24 months. In a letter dated May 10, 2007, the petitioner explained the purpose of its training program as follows:

The purpose of this program is to expose our knowledge in the export and customs management field and experience of U.S. unique styles and techniques that will greatly benefit the trainee as well as the affiliated company where he will be employed upon completion of training. The U.S. advancement in the export and customs management industry places them ahead of any country. Due to Brazil's lack of technology and qualified personnel, training in export and customs management is unavailable in that area and consequently training must be sought in the U.S.

Upon successful completion of the training program, the trainee will be qualified to assume managerial responsibilities abroad, in one of our company affiliates in Brazil. The training outlined in this program is unique, highly specialized and not available through academic institutions.

The petitioner stated that export and customs management industry is "a very specialized field," and that "this training is not available outside of the U.S. and possibly not even within the U.S."

In an attached training plan, the petitioner indicated that the beneficiary would "acquire in-depth theoretical and practical knowledge of U.S. export procedures, including customs and sales expertise involved in the import/export industry, and the industry-specific operational and legal requirements involved in the import/export of products, as well as related business administrative support services." The petitioner indicated that the program will require 24 months to complete, with three distinct components, as follows:

- USA EXPORT PROCEDURES (8 months)
  - Export Regulation

- Export Licensing
- Letters of Credit/Sight Drafts
- Operational/Financial documentation
- Airfreight Consolidation
- Sea freight NVOCC Service
- Airway bill/Bill of Lading preparation
- Marine Insurance/Claims
- Legalization
- Export Registration
- Export Quotes/Billing Procedures

**US IMPORT & CUSTOMS CLEARANCE PROCEDURES (8 months)**

- Freight/Documentation recovery
- Enforcement of Customs and Related Laws
- Assessment of Duties
- Entry Process/Documentation
- Examination of Goods
- Commercial Invoice Requirements
- Temporary Bonds/Single Entry Bonds/Term Bonds
- Classes of Goods
- Duty Drawback
- Special Marking Requirements
- Import Quotes/Billing Procedures

**BASIC ACCOUNTING AND ADMINISTRATIVE SKILLS (8 months)**

- Credit/Accounts Receivable
- Vendor relations/Accounts Payable
- Miscellaneous Administrative functions
- Basic office functions
- Inside sales techniques

The petitioner indicated that the beneficiary will be assigned upon completion of the program to an affiliate of the U.S. company but that he "must first be trained in our methods and procedures in order for him to operate successfully." The petitioner emphasized that "U.S. business and sales techniques are unique" and that the training the beneficiary will receive in industry-specific methods at its Miami facility "is not available elsewhere at this time." The petitioner stated that it has three import/export operations in Brazil and noted that the beneficiary will be qualified to assume managerial responsibilities at one of these offices upon completion of the program.

The director issued an RFE on June 20, 2007 in which she requested, inter alia, additional evidence that shows why the training cannot be obtained in the beneficiary's own country. The director noted that such evidence may include publications, letters from professional, business, trade and licensing organizations, and/or affidavits or declarations from recognized authorities certifying as to the unavailability of the proposed training in the alien's home country.

The petitioner's response included a letter dated September 4, 2007 from [REDACTED], Managing Director of Worldlog Complexo Logistico, Ltda, located in Sao Paulo, Brazil. [REDACTED] outlined the qualifications needed for the position of Air Transportation Management agent within the company, and noted that the skills required are very difficult to find in Brazil. Such skills include knowledge of import/export procedures and customs clearance, knowledge of important international airports and air routes, the ability to recruit and manage a team, understanding of each transit stage from shipment departure to arrival, and certificates in air cargo management and dangerous goods regulations. [REDACTED] indicated that his company prepares its staff through the petitioner's training program in Miami. He emphasized that trainees are "focused to the objectives of the group, according to the philosophy and strategies of the company, not wasting time with similar processes which are not required."

The petitioner also submitted a letter from [REDACTED], senior consultant with Cargo & Bag Consulting in Sao Paulo, Brazil. [REDACTED] indicates that his company "always had difficulties" finding professionals in the freight forwarding field. He notes that there is a scarcity of practical courses in Brazil, and notes that the country's development in the logistics sector has been stagnant due to market protection and import restrictions.

As noted by the director, the petitioner also submitted five newspaper and magazine articles which address the logistics industry in Brazil. The AAO notes that while the articles are accompanied by certified English translations, the translations have been quite poorly executed, making the materials difficult to read and fully comprehend.

The director denied the petition on January 2, 2008, concluding that the petitioner had failed to establish that the proposed training is unavailable in the beneficiary's home country of Brazil. In denying the petition, director noted that the petitioner's description of its training program is vague and general, and that many of the skills described are basic managerial, accounting and/or administrative skills that are not unique to the United States. The director observed that one-third of the training program, is entirely devoted to "basic and generic office skills," and that such training could easily be found in Brazil.

On appeal, counsel for the petitioner asserts that the petitioner "has agreed to modify the training plan to comport with the regulatory requirements." The petitioner submits a new 16-month training program which consists of eight months of training in "USA Export Procedures" and eight months of training in "US Import & Customs Clearance Procedures." The petitioner eliminated the "Basic Accounting and Administrative Skills" component from the original training plan. Counsel asserts that the training plan "now entails 16 months of training solely dedicated to those skills which are not available in the beneficiary's home country."

Upon review, the petitioner's assertions are not persuasive. The petitioner has not established that the training to be provided is not available in Brazil.

The petitioner's claims that the training to be provided is "unique," "highly specialized," and "not available outside the U.S." are not supported by the evidence of record. Although the petitioner made a passing reference to training to be provided in the company's own "methods and procedures," it did not submit evidence to support a conclusion that the training to be provided is specific to the petitioner, or that the petitioner's methods and procedures are so specialized or unique that the training could only be provided by

the U.S. company. Accordingly, the director correctly concluded that the outline of the training program consists of general import, export and customs topics that appear to be covered by the written training materials submitted. The petitioner did not describe any company-specific training to be provided to the beneficiary. 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)).

Even if the training to be provided were specific to the petitioner's group of companies, the petitioner appears to have one office with six to eight employees in the United States and claims to have three affiliate offices in Brazil. Evidence in the record indicates that the claimed Brazilian affiliate Worldlog Complexo Logistico Ltda. was established in 1994, prior to the establishment of the U.S. company. According to the submitted evidence, the foreign operations of the company appear to be well-established and broader in scope than the U.S. operations. The petitioner has not explained why the Brazilian company's employees cannot be adequately trained by Brazilian managerial and professional staff employed by the overseas affiliate(s).

Furthermore, as noted by the director, a full one-third of the training would include "basic accounting and administrative skills." On appeal, the petitioner appears to concede that training in basic accounting and administrative skills is readily available in Brazil and has submitted a revised training plan which includes only import, export and customs topics. However, the petitioner must establish eligibility at the time of filing the nonimmigrant visa petition. 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). Under the circumstances, the AAO need not and will not consider the revised training plan.

Regardless, the petitioner has failed to demonstrate the lack of similar training in the import/export field in Brazil. The articles submitted do point to a lack of qualified logistics professionals in Brazil, but they do not indicate that training in the field is unavailable. Clearly, there are import/export and logistics companies operating in Brazil and such companies are staffed with personnel. It is unclear how the individuals working in this sector in Brazil obtained their knowledge if it cannot be acquired in Brazil. The petitioner submitted an article titled "Logistic Services Lack Labor," which was published on February 13, 2006 in *Gazeta Mercantil*. According to the article, "the growth of the logistics segment came accompanied of a proliferation of vocational courses for supply the deficiency of labor qualified in the area." While the article notes that many of the vocational courses were not of particularly high quality, it also indicates that the Brazilian Association of Logistics has addressed this problem by developing a certification program "to vouch for the technical quality" of professionals in the field. Therefore, it appears that training in the field is available in Brazil, even if standards for the profession are still evolving.<sup>1</sup>

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<sup>1</sup> In fact, the beneficiary himself seems to be an example of an individual who was trained in import/export and logistics operations in Brazil. The instant petition was denied on January 2, 2008. USCIS records show that on May 30, 2008, the petitioner filed an I-129 nonimmigrant petition on the beneficiary's behalf, requesting that he be classified as an L-1A intracompany transferee in a managerial or executive capacity. (EAC 08 173 50437). The petition was approved for a three year period. In order to qualify for such

The question to be addressed when attempting to satisfy the regulations at 8 C.F.R. §§ 214.2(h)(7)(ii)(A)(1) and 214.2(h)(7)(ii)(B)(5) is not whether similar training would take longer in the beneficiary's home country, or whether such training would be inferior to that available in the United States. Whether similar training in the beneficiary's home country would take longer to complete or would be inferior is not material; the question is whether the training is unavailable anywhere in the beneficiary's home country, irrespective of whether it would be provided by the petitioner or another entity. The fact that a training program offered by a United States employer is better than a similar program in a foreign country does not establish eligibility under this regulation.

The petitioner has not submitted evidence to satisfy the regulations at 8 C.F.R. §§ 214.2(h)(7)(ii)(A)(1) and 214.2(h)(7)(ii)(B)(5). Accordingly, the appeal will be dismissed.

The AAO now turns to the director's finding that the petitioner has failed to adequately describe the career abroad for which the training will prepare the beneficiary. The AAO agrees. The regulation at 8 C.F.R. § 214.2(h)(7)(ii)(A)(4) requires the petitioner to demonstrate that the proposed training will benefit the beneficiary in pursuing a career outside the United States. A training program may not be approved if it is designed to recruit and train aliens for the ultimate staff of domestic operations in the United States. 8 C.F.R. § 214.2(h)(7)(iii)(F).

As noted previously, the petitioner stated in its letter of support that the beneficiary will be trained so that he may assume managerial responsibilities with an affiliate in Brazil. The petitioner indicated that it has three import export operations in Brazil located in Sao Paulo, Porto Alegre and Belo Horizonte.

In denying the petition, the director acknowledged these statements, but stated that the petitioner failed to describe the beneficiary's proposed position with the Brazilian affiliate. The director determined that "without further details and evidence regarding the beneficiary's exact position, with which affiliate, and his duties in the proposed position, the record is insufficient to establish that the beneficiary will use his training for employment abroad."

On appeal, counsel for the petitioner refers the AAO to the above-referenced letter dated September 4, 2007 from [REDACTED], Managing Director of Worldlog. Counsel asserts that [REDACTED] described the specific position of Air Transportation Manager for which the training is designed. Counsel asserts that Worldlog is the petitioner's affiliate.

In support of the appeal, the petitioner submits a letter dated January 30, 2008 from [REDACTED] who states the following:

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classification, the petitioner was required to establish that the beneficiary would assume a primarily managerial or executive position in the United States. *See generally*, section 101(a)(15)(L) of the Act, 8 U.S.C. § 1101(a)(15)(L). It is unclear how the beneficiary would be qualified for a managerial or executive position with the petitioning company if he were not already experienced or trained in the petitioner's industry. Considering the claims in the current petition, the director may reasonably review the approved L-1A petition for possible revocation pursuant to 8 C.F.R. § 214.2(l)(9).

Worldlog and [the petitioning company] in Miami, Florida are affiliated companies, owned by the same owners. We at Worldlog need Air Transportation Management Agents that have been properly trained in the United States to [sic] that they can later be placed at one of our offices in Brazil.

Upon his successful completion of the Import/Export and Export and Customs Management Training at [the petitioning company] in Miami, Florida, Worldlog will offer [the beneficiary] the position as one of our Air Transportation Management Analysts at our Sao Paulo, Brazil unit.

Upon review, the petitioner has not submitted evidence to overcome the director's determination. The AAO notes that the evidence submitted at the time of filing and in response to the director's request for evidence never explicitly stated that that Worldlog is the petitioner's affiliate, nor did the original letter from Worldlog mention the beneficiary by name. In light of these facts, the AAO will not accept unsupported statements with respect to the claimed affiliate relationship between the two companies. 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. at 165.

Furthermore, as noted above, the petitioner filed an L-1A classification petition on behalf of the beneficiary shortly after the instant H-3 petition was denied. The petitioner offered the beneficiary a managerial or executive position with the U.S. company for a period of three years. The filing of the L-1A petition is inconsistent with the petitioner's claims that it intends to train the beneficiary for a managerial position in Brazil. Again, since the beneficiary is claimed to require additional training and experience based on the instant record, the director may reasonably review the approved L-1A petition for revocation pursuant to 8 C.F.R. § 214.2(l)(9).

Accordingly, the petitioner has not established that the proposed training would prepare the beneficiary in pursuing a career abroad. The petitioner has failed to satisfy the regulatory requirement at 8 C.F.R. § 214.2(h)(7)(ii)(A)(4).

Beyond the decision of the director, the petitioner has not established that the beneficiary does not already possess substantial training and expertise in the proposed field of training. *See* 8 C.F.R. 214.2(h)(7)(iii)(C). The petitioner filed an L-1A nonimmigrant petition on behalf of the beneficiary on May 30, 2008. In order for him to be eligible for such classification, the petitioner had to establish that the beneficiary had at least one year of full-time continuous employment in a managerial, executive or specialized knowledge capacity with a qualifying organization abroad, and that he was coming to the United States to be employed in a primarily managerial or executive capacity. *See* generally section 101(a)(15)(L) of the Act, 8 U.S.C. § 1101(a)(15)(L). The filing of the L-1A petition is inconsistent with the petitioner's claim that the beneficiary would need to complete two years of training in order to assume a managerial position within its international organization. Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of 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). In light of this information, the AAO is not persuaded that the beneficiary did not already possess substantial training and expertise in the petitioner's field. For this additional reason, the petition cannot be approved.

Furthermore, upon review of the evidence in its entirety, the AAO finds that the petitioner has failed to adequately describe the type of training and supervision to be given, and the structure of the training program, as required by 8 C.F.R. § 214.2(h)(7)(ii)(B)(1).

Much of the information submitted by the petitioner is vague in nature and leaves the AAO with very little idea of what the beneficiary would actually be doing on a day-to-day basis. The petitioner provided only a general, one-page outline of the content of its three-part 24-month training program. For example, the petitioner stated that the beneficiary will devote eight months to learning "USA Export Procedures," accompanied by only a bulleted outline of topics to be covered. In the RFE issued on June 20, 2007, the director specifically requested that the petitioner further describe the structure of the training program, and provide evidence such as lesson plans and course materials for prior training sessions, dates of scheduled classes, names of prior attendees, and copies of evaluations from previous students/trainees. The petitioner submitted none of this information or evidence in its response. 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 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 much of the proposed training program. The petitioner has failed to satisfy 8 C.F.R. § 214.2(h)(7)(ii)(B)(1). For this additional reason, the petition cannot be approved.

Finally, although not addressed by the director, the AAO finds that the petitioner had failed to establish that it has the physical plant and sufficiently trained manpower to provide the training specified. The regulation at 8 C.F.R. § 214.2(h)(7)(iii)(G) precludes approval of a petition in which the petitioner has not established that it has the physical plant and sufficiently trained manpower to provide the training specified.

The petitioner claimed to have eight employees as of the date of filing. The petitioner indicated in its training plan that the beneficiary's activities will be "coordinated and/or supervised" by the company president, and stated that the beneficiary "will receive his instruction directly from qualified professionals."

In the RFE, the director instructed the petitioner to submit an organizational chart and a copy of its latest California Employment Development Department (EDD) Form DE-6, Quarter Wage Report, to document the number of employees. The director also requested that the petitioner identify the total number of full-time trainers on the petitioner staff, or, alternatively to describe the trainers perform when not working in a training capacity. The director specified that the petitioner should indicate exactly who will provide classroom training and who will provide on-the-job training.

In response to the director's request, the petitioner submitted its Form DE-6 for the first quarter of 2007, which indicates that the company had six employees on its payroll at that time. The petitioner also submitted an organizational chart with thirteen positions listed, including three trainees. Only four employees, the president, a chief operations officer, a chief financial officer, and a warehouse manager, were identified by name on the chart. The petitioner did not respond to the director's explicit requests for information regarding

who would be providing classroom and on-the-job training to the beneficiary. Again, 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 made no attempt to resolve the discrepancies in the record with respect to the number of employees working for the company.

It remains unclear which "qualified professionals" would provide the beneficiary with his training for 24 months or how such training will be conducted, nor does it appear, based on the petitioner's staffing structure, that the president of the company would feasibly be able to fully coordinate and supervise the beneficiary's training for two years while continuing to perform his functions as chief executive. The petitioner has failed to establish that it has sufficiently trained manpower to provide the training described in the petition as required by 8 C.F.R. § 214.2(h)(7)(iii)(G).

For all of these reasons, the petition may not be approved. An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. *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); *see also Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989)(noting that the AAO reviews appeals on a *de novo* basis).

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. When the AAO denies a petition on multiple alternative grounds, a plaintiff can succeed on a challenge only if he or 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 at 1043.

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.