

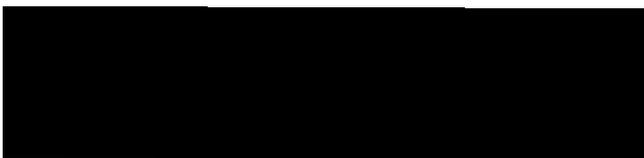
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U.S. Citizenship
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Services

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File: [Redacted]
EAC 06 210 50095

Office: VERMONT SERVICE CENTER

Date: **APR 03 2008**

IN RE: Petitioner:
Beneficiary:



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

IN BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. ~~Wiemann~~ Wiemann, Chief
Administrative Appeals Office

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

The petitioner filed this nonimmigrant visa petition seeking to employ the beneficiary as a meat cutter, known also as a *churrasqueiro* or *gaucho*, as an L-1B nonimmigrant intracompany transferee having specialized knowledge pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner is a limited liability company organized under the laws of the State of Florida and allegedly operates Brazilian style steakhouses.

The director denied the petition concluding that the petitioner did not establish (1) that the beneficiary will be employed in the United States in a position involving specialized knowledge; or (2) that the beneficiary has been employed abroad in a position involving specialized knowledge.

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review. On appeal, counsel asserts that the beneficiary has specialized knowledge of Brazilian meat selection, preparation, cutting, and serving.

To establish eligibility under section 101(a)(15)(L) of the Act, the petitioner must meet certain criteria. Specifically, within three years preceding the beneficiary's application for admission into the United States, a firm, corporation, or other legal entity, or an affiliate or subsidiary thereof, must have employed the beneficiary for one continuous year. Furthermore, the beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial, executive, or specialized knowledge capacity.

The regulation at 8 C.F.R. § 214.2(l)(3) further states that an individual petition filed on Form I-129 shall be accompanied by:

- (i) Evidence that the petitioner and the organization which employed or will employ the alien are qualifying organizations as defined in paragraph (l)(1)(ii)(G) of this section.
- (ii) Evidence that the alien will be employed in an executive, managerial, or specialized knowledge capacity, including a detailed description of the services to be performed.
- (iii) Evidence that the alien has at least one continuous year of full-time employment abroad with a qualifying organization within the three years preceding the filing of the petition.
- (iv) Evidence that the alien's prior year of employment abroad was in a position that was managerial, executive or involved specialized knowledge and that the alien's prior education, training, and employment qualifies him/her to perform the intended services in the United States; however, the work in the United States need not be the same work which the alien performed abroad.

The primary issue in this proceeding is whether the petitioner has established that the beneficiary has been or will be employed in a specialized knowledge capacity and whether the beneficiary has specialized knowledge as defined in the Act and the regulations. 8 C.F.R. §§ 214.2(l)(3)(ii) and (iv).

Section 214(c)(2)(B) of the Act, 8 U.S.C. § 1184(c)(2)(B), provides:

For purposes of section 101(a)(15)(L), an alien is considered to be serving in a capacity involving specialized knowledge with respect to a company if the alien has a special knowledge of the company product and its application in international markets or has an advanced level of knowledge of processes and procedures of the company.

Furthermore, the regulation at 8 C.F.R. § 214.2(l)(1)(ii)(D) defines “specialized knowledge” as:

[S]pecial knowledge possessed by an individual of the petitioning organization’s product, service, research, equipment, techniques, management or other interests and its application in international markets, or an advanced level of knowledge or expertise in the organization’s processes and procedures.

The petitioner described the beneficiary's duties abroad, and proposed duties in the United States, in the Form I-129 as “[c]ut and trim portions of meat according to the type of meat, prepare the meat and serve to patrons applying knowledge in Brazilian 'Rodizio' and company's standards and its specifics [sic] meat cutting, preparing and serving techniques.”

On October 10, 2006, the director requested additional evidence. The director requested, *inter alia*, evidence that the beneficiary has advanced knowledge, which is uncommon, noteworthy, or distinguished by some unusual quality, and not generally known by others in the beneficiary's field of endeavor, or that his knowledge distinguishes him from those with only elementary or basic knowledge; an explanation addressing the minimum amount of time required to train a person to work in the proffered position; and an explanation addressing the manner in which the beneficiary gained his claimed specialized knowledge, including any classroom or on-the-job training.

In response, counsel submitted a letter dated December 28, 2006 in which he describes the beneficiary's claimed specialized knowledge. Counsel asserts the following:

With regards to your inquiry about the specialized knowledge, please note that the petitioner is a Brazilian style steakhouse. The type of meat, the way the meat is cut and served, the preparation, seasoning, is very unique and related to a culture that is over a century old in Southern Brazil.

What is special and unique about the petitioner is that their employees must have a special knowledge and training in different brands and cuts of meat, cutting the meat in a way that is unique to Brazilian style steakhouse culture which is more than 100 years old. To prepare the meat in accordance with strict cultural standards, seasoning the product, are all specifically

only found in Brazil.

The meat cutters or *gauchos* are a mix of cooks and waiters due to the fact that they must have knowledge in how to properly select the type of meat to be used. Then they must know how to properly cut the meat in a certain angle and manner that preserves the desired tenderness of the meat during the grilling process.

The *gauchos* will have to watch the meat from time to time while serving the pieces that are ready to be served in special tools. The meat cutters then must know how to properly cut those pieces in slices applying a special and traditional technique to avoid waste of meat and the loss of the flavor and tenderness.

The whole process of selecting the meat, preparing and seasoning and the grilling and serving techniques must be adequate to assure the success of the restaurant. A Brazilian style steakhouse must serve Brazilian *churrasco* the same way they do in Brazil, otherwise they would just be another generic steakhouse.

A generic American steakhouse serves grilled meat in the American way which is completely different from the Brazilian *churrasco*. Therefore, local workers without the specialized knowledge would not be able to work for a Brazilian style steakhouse since they would compromise parts or the whole process of selecting, preparing and serving the meat according to the Brazilian style *rodizio*. And by not preserving the regional tradition and techniques, the petitioner would fatally lose customers to the other Brazilian style steakhouse in the area.

With regards to this specific employee, the petitioner brought him to the U.S. because of his extensive knowledge on this type of work. His knowledge was not obtained through regular training or classes. It comes with the culture and several years working and acquiring experience in order to become a perfect *gaucho*. On the same hand, there is no minimum amount of time required for a person to become a *gaucho*. A local meat cutter or waiter would probably take far longer than somebody who grew up absorbing the Brazilian *churrasco* culture.

On May 11, 2007, the director denied the petition. The director concluded that "[t]he record does not establish that the beneficiary has been or will be employed in a specialized knowledge capacity."

On appeal, counsel to the petitioner asserts that the beneficiary has specialized knowledge of Brazilian meat selection, preparation, cutting, and serving. Specifically, counsel argues that *gauchos* are "exhaustively trained" and "have acquired many years of practical experience in a unique type of work."

Upon review, the petitioner's assertions are not persuasive in demonstrating that the beneficiary has been or will be employed in a specialized knowledge capacity as defined at 8 C.F.R. § 214.2(l)(1)(ii)(D).

As a threshold matter, it is noted that the record is devoid of evidence addressing the beneficiary's claimed specialized knowledge. The only document in the record addressing the beneficiary's claimed specialized knowledge is a letter from counsel and an appellate brief, neither of which is supported by any evidence. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel, either in support of the petition or on appeal, do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980); *INS v. Phinpathya*, 464 U.S. 183, 188-89 n.6 (1984). Accordingly, as the record is devoid of evidence addressing the beneficiary's claimed specialized knowledge, the petitioner will be denied for this 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). 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)).

Regardless, even considering counsel's unsubstantiated description of the beneficiary's claimed specialized knowledge, the record fails to establish that the beneficiary has been or will be employed in a specialized knowledge capacity. In examining the specialized knowledge capacity of the beneficiary, the AAO will look to the petitioner's description of the job duties. See 8.C.F.R. § 214.2(l)(3). The petitioner must submit a detailed job description of the services that were and will be performed sufficient to establish that he has specialized knowledge.

Although the petitioner repeatedly asserts that the beneficiary's position abroad and in the United States requires "specialized knowledge" and that the beneficiary had been and will be employed abroad in a "specialized knowledge" capacity, the petitioner has not adequately articulated any basis to support this claim. The petitioner has failed to identify any special or advanced body of knowledge which would distinguish the beneficiary's role from that of other similarly experienced *gauchos* employed by the petitioning organization or in the industry at large. Once again, going on record without 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 (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190). Specifics are clearly an important indication of whether a beneficiary's duties involve specialized knowledge; otherwise, meeting the definitions would simply be a matter of reiterating the regulations. See *Fedin Bros. Co., Ltd. v. Sava*, 724, F. Supp. 1103 (E.D.N.Y. 1989), *aff'd*, 905, F.2d 41 (2d. Cir. 1990).

The petitioner describes the beneficiary as having specialized knowledge of Brazilian meat selection, preparation, cutting, and serving. However, the petitioner never explains what, exactly, distinguishes the meat selection, preparation, cutting, and serving duties to be performed by the beneficiary in the petitioner's steakhouses from those techniques employed by workers in other restaurants serving meat or, crucially, why the knowledge of Brazilian style meat selection, preparation, cutting, and serving is noteworthy, uncommon, or distinguished by some unusual quality that is not generally known by other experienced meat preparers in general. It appears that all meat preparers must select, prepare, cut, season, and serve meat, and it is unclear why the Brazilian style would be of such complexity that this knowledge could not be imparted to a similarly experienced steakhouse worker. While counsel asserts that *gauchos* such as the beneficiary are "exhaustively trained" and "have acquired many years of practical experience in a unique type of work," the record fails to

establish what kind of "exhaustive" training a *gaucho* receives or how long this training and practical experience must last in order to impart the claimed specialized knowledge to a "generic" steakhouse employee. In fact, counsel admits that "there is no minimum amount of time required for a person to become a *gaucho*" and implies without any supporting evidence that a Brazilian, by virtue of growing up around "the Brazilian *churrasco* culture," will be able to learn the tasks ascribed to a *gaucho* more quickly than other persons. Counsel's assertions are simply not persuasive.

Finally, even if the petitioner could establish that the beneficiary's knowledge of Brazilian meat selection, cutting, preparation, and serving constitutes "specialized knowledge" in the United States, the petitioner has failed to establish that the beneficiary was employed in a specialized knowledge capacity in Brazil. According to counsel, Brazil is the source of the claimed specialized knowledge in meat selection, cutting, preparation, and serving. While counsel argues on appeal that "merely being Brazilian does not qualify someone to perform the duties of the *gauchos* without the proper experience and training," counsel again fails to specifically describe the nature and length of training and practical experience necessary to impart the claimed specialized knowledge to *gauchos* working in Brazil. Once again, going on record without 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 (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190).

The AAO does not dispute the possibility that the beneficiary is a skilled and experienced employee who has been, and would be, a valuable asset to the petitioning organization. However, it is appropriate for the AAO to look beyond the stated job duties and consider the importance of the beneficiary's knowledge of the business's product or service, management operations, or decision-making process. *Matter of Colley*, 18 I&N Dec. 117, 120 (Comm. 1981) (citing *Matter of Raulin*, 13 I&N Dec. 618(R.C. 1970) and *Matter of LeBlanc*, 13 I&N Dec. 816 (R.C. 1971)). As stated by the Commissioner in *Matter of Penner*, when considering whether the beneficiaries possessed specialized knowledge, "the *LeBlanc* and *Raulin* decisions did not find that the occupations inherently qualified the beneficiaries for the classifications sought." 18 I&N Dec. at 52. Rather, the beneficiaries were considered to have unusual duties, skills, or knowledge beyond that of a skilled worker. *Id.* The Commissioner also provided the following clarification:

A distinction can be made between a person whose skills and knowledge enable him or her to produce a product through physical or skilled labor and the person who is employed primarily for his ability to carry out a key process or function which is important or essential to the business firm's operation.

Id. at 53.

It should be noted that the statutory definition of specialized knowledge requires the AAO to make comparisons in order to determine what constitutes specialized knowledge. The term "specialized knowledge" is not an absolute concept and cannot be clearly defined. As observed in *1756, Inc. v. Attorney General*, "[s]imply put, specialized knowledge is a relative . . . idea which cannot have a plain meaning." 745 F. Supp. 9, 15 (D.D.C. 1990). The Congressional record specifically states that the L-1 category was intended for "key personnel." See generally, H.R. REP. NO. 91-851, 1970 U.S.C.C.A.N. 2750. The term "key personnel" denotes a position within the petitioning company that is "of crucial importance." Webster's II New College

Dictionary 605 (Houghton Mifflin Co. 2001). In general, all employees can reasonably be considered “important” to a petitioner’s enterprise. If an employee did not contribute to the overall economic success of an enterprise, there would be no rational economic reason to employ that person. An employee of “crucial importance” or “key personnel” must rise above the level of the petitioner’s average employee. Accordingly, based on the definition of “specialized knowledge” and the congressional record related to that term, the AAO must make comparisons not only between the claimed specialized knowledge employee and the general labor market, but also between the employee and the remainder of the petitioner’s workforce. While it may be correct to say that the beneficiary in the instant case is a highly skilled and productive employee, this fact alone is not enough to bring the beneficiary to the level of “key personnel.”

Moreover, in *Matter of Penner*, the Commissioner discussed the legislative intent behind the creation of the specialized knowledge category. 18 I&N Dec. 49 (Comm. 1982). The decision noted that the 1970 House Report, H.R. REP. NO. 91-851, stated that the number of admissions under the L-1 classification “will not be large” and that “[t]he class of persons eligible for such nonimmigrant visas is narrowly drawn and will be carefully regulated by the Immigration and Naturalization Service.” *Id.* at 51. The decision further noted that the House Report was silent on the subject of specialized knowledge, but that during the course of the subcommittee hearings on the bill, the Chairman specifically questioned witnesses on the level of skill necessary to qualify under the proposed “L” category. In response to the Chairman’s questions, various witnesses responded that they understood the legislation would allow “high-level people,” “experts,” individuals with “unique” skills, and that it would not include “lower categories” of workers or “skilled craft workers.” *Matter of Penner*, 18 I&N at 50 (citing H.R. Subcomm. No. 1 of the Jud. Comm., Immigration Act of 1970: Hearings on H.R. 445, 91st Cong. 210, 218, 223, 240, 248 (November 12, 1969)).

Reviewing the Congressional record, the Commissioner concluded in *Matter of Penner* that an expansive reading of the specialized knowledge provision, such that it would include skilled workers and technicians, is not warranted. The Commissioner emphasized that the specialized knowledge worker classification was not intended for “all employees with any level of specialized knowledge.” *Matter of Penner*, 18 I&N Dec. at 53. Or, as noted in *Matter of Colley*, “[m]ost employees today are specialists and have been trained and given specialized knowledge. However, in view of the House Report, it can not be concluded that all employees with specialized knowledge or performing highly technical duties are eligible for classification as intracompany transferees.” 18 I&N Dec. at 119. According to *Matter of Penner*, “[s]uch a conclusion would permit extremely large numbers of persons to qualify for the ‘L-1’ visa” rather than the “key personnel” that Congress specifically intended. 18 I&N Dec. at 53; *see also 1756, Inc. v. Attorney General*, 745 F. Supp. at 15 (concluding that Congress did not intend for the specialized knowledge capacity to extend to all employees with specialized knowledge, but rather to “key personnel” and “executives.”)

A 1994 Immigration and Naturalization Service (now Citizenship and Immigration Services (CIS)) memorandum written by the then Acting Executive Associate Commissioner also directs CIS to compare the beneficiary’s knowledge to the general United States labor market and the petitioner’s workforce in order to distinguish between specialized and general knowledge. The Executive Associate Commissioner notes in the memorandum that “officers adjudicating petitions involving specialized knowledge must ensure that the knowledge possessed by the beneficiary is not general knowledge held commonly throughout the industry but that it is truly specialized.” Memorandum from James A. Puleo, Acting Executive Associate Commissioner,

Immigration and Naturalization Service, Interpretation of Specialized Knowledge, CO 214L-P (March 9, 1994). A comparison of the beneficiary's knowledge to the knowledge possessed by others in the field is therefore necessary in order to determine the level of the beneficiary's skills and knowledge and to ascertain whether the beneficiary's knowledge is advanced. In other words, absent an outside group to which to compare the beneficiary's knowledge, CIS would not be able to "ensure that the knowledge possessed by the beneficiary is truly specialized." *Id.* The analysis for specialized knowledge therefore requires a test of the knowledge possessed by the United States labor market, but does not consider whether workers are available in the United States to perform the beneficiary's job duties.

As explained above, the record does not distinguish the beneficiary's knowledge as more advanced than the knowledge possessed by other people employed by the petitioning organization or by meat cutters employed elsewhere. As the petitioner has failed to document any materially unique qualities to the beneficiary's knowledge, the petitioner's claims are not persuasive in establishing that the beneficiary, while perhaps highly skilled, would be a "key" employee. There is no indication that the beneficiary has any knowledge that exceeds that of any other similarly experienced meat cutters or that he has received special training in the company's methodologies or processes which would separate him from other workers employed with the foreign entity or elsewhere. It is simply not reasonable to classify this employee as a key employee of crucial importance to the organization.

Finally, as correctly noted by the director, a 2004 CIS memorandum written by the then Director of Service Center Operations indicates that "chefs and specialty cooks" are generally not considered to have specialized knowledge for L-1B purposes even if they have knowledge of a restaurant's "food preparation techniques." Memorandum from Fujie O. Ohata, Director Service Center Operations, Citizenship and Immigration Services, *Interpretation of Specialized Knowledge for Specialty Chefs and Specialty Cooks Seeking L-1B Status*, (September 9, 2004). Despite counsel's claim on appeal that this memorandum does not apply to *gauchos*, it is clear that *gauchos*, as cutters and preparers of meat, fall squarely within the purview of the memorandum. The memorandum concludes that a petitioner seeking to classify a chef or specialty cook as an intracompany transferee having specialized knowledge must establish that the worker's knowledge is uncommon and cannot be "easily or rapidly acquired, but is gained from significant experience or in-house training." *Id.* at 4. This conclusion is not dissimilar from earlier guidance addressing "specialized knowledge" more generally. *See supra*. As noted above, the record fails to establish both that the claimed meat cutting and serving knowledge is uncommon and that this knowledge is gained from significant experience or training. Accordingly, the 2004 memorandum cited above is both instructive and relevant to this matter, and the petitioner has failed to establish that the beneficiary has been or will be employed in a specialized knowledge capacity.

The legislative history of the term "specialized knowledge" provides ample support for a restrictive interpretation of the term. In the present matter, the petitioner has not demonstrated that the beneficiary should be considered a member of the "narrowly drawn" class of individuals possessing specialized knowledge. *See 1756, Inc. v. Attorney General, supra* at 16. Based on the evidence presented, it is concluded that the beneficiary was not employed abroad, and will not be employed in the United States, in a capacity involving specialized knowledge. For this reason, the appeal will be dismissed.

Beyond the decision of the director, the petitioner failed to establish that it has a qualifying relationship with the foreign entity.

To establish a "qualifying relationship" under the Act and the regulations, the petitioner must show that the beneficiary's foreign employer and the proposed United States employer are the same employer (i.e., one entity with "branch" offices), or related as a "parent and subsidiary" or as "affiliates." *See generally* section 101(a)(15)(L) of the Act; 8 C.F.R. § 214.2(l). If one individual owns a majority interest in the petitioner and the foreign employer, and controls those entities, then the entities will be deemed to be "affiliates" under the definition. 8 C.F.R. § 214.2(l)(1)(ii)(L). The petitioner must also establish that both it and the foreign employer are "doing business." "Doing business" is defined as the "regular, systematic, and continuous provision of goods and/or services." 8 C.F.R. § 214.2(l)(1)(ii)(H).

In this matter, the petitioner asserts in the L Classification Supplement to Form I-129 that "M & R Com de Alimentos controls [the petitioner]." However, the petitioner submitted a copy of [REDACTED] 2005 individual tax return which indicates that [REDACTED] owns majority interests in both the foreign employer, M & R Comercio de Alimentos, Ltda., and the petitioner. The petitioner also submitted a copy of a "membership certificate" dated August 2, 2002 purportedly representing the issuance of a membership interest to M & R Comercio de Alimentos, Ltda.

On October 24, 2007, the AAO issued a Notice of Consideration of Derogatory Information pursuant to 8 C.F.R. § 103.2(a)(16)(i). The AAO noted the following:

[T]he petitioner's corporate records on file with the Florida Department of State appear to contradict [the petitioner's assertion that it is owned and controlled by the foreign employer]. First, the corporate records for the petitioner beginning in 2003 indicate that the members of the petitioner, a limited liability company, are [REDACTED] and [REDACTED], with [REDACTED] being designated as the managing member. Second, on April 23, 2007, the petitioner filed Articles of Amendment to its Articles of Organization indicating that [REDACTED] was removed as a member and that the managing member of the limited liability company was changed and is now [REDACTED], which is similar to what the petitioner asserted in its Florida annual report filed on March 15, 2007.

Given these corporate filings, it appears (1) that M & R Comercio de Alimentos, Ltda. has never owned and controlled the petitioner; and (2) that, even if the petitioner could establish that it had a qualifying relationship with M & R Comercio de Alimentos, Ltda. at the time the instant petition was filed on July 10, 2006, this qualifying relationship was terminated once the petitioner's membership, and thus its ownership and control, changed on or about April 23, 2007.

In response, counsel submitted a letter dated November 19, 2007 in which he asserts that both the petitioner and the foreign employer were purchased by [REDACTED]. In support, the petitioner submitted a translation of a Brazilian contract indicating that [REDACTED] now owns a 90% interest in the foreign employer and [REDACTED] now owns a 10% interest. The contract also indicates that Ms.

is responsible for the administration of the business and "that in the event of sale or alienation of the immobilized active of the firm, the signatures of all partners will be utilized."

Upon review, the record is not persuasive in establishing that the petitioner and the foreign employer are qualifying organizations for several reasons.

First, as noted above, the petitioner clearly claims in both the Form I-129 and in the appended "membership certificate" to be owned and controlled by the foreign employer. However, the record also contains evidence, such as a tax return and corporate filings, indicating that the petitioner has claimed to be owned and controlled by [REDACTED]. The petitioner does not attempt to clarify this fundamental inconsistency in the record, which undermines its claim to be a qualifying organization, even though the director requested clarification in the Request for Evidence and the AAO noted the discrepancy in its Notice of Consideration of Derogatory Information. 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). 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). Therefore, the AAO is unable to discern the petitioner's ownership and control at the time the petition was filed, and the petition may not be approved for that reason.

Second, the petitioner has also failed to establish that either it or the foreign employer is currently doing business. The director specifically requested in the Request for Evidence that the petitioner submit photos of the interior and exterior of the organization and operation of the United States enterprise. However, the petitioner failed to submit any photographs in response to the Request for Evidence. Once 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). Likewise, the director specifically noted in the Request for Evidence that it could not be discerned whether the foreign employer was actively doing business. However, the petitioner failed to submit any evidence credibly establishing that the foreign employer is doing business abroad. The Brazilian tax and organizational materials submitted by the petitioner do not establish that the foreign employer is engaged in the "regular, systematic, and continuous provision of goods and/or services." Therefore, the petitioner has failed to establish that it and the foreign employer are qualifying organizations, and the petition may not be approved for this reason.

Third, even if the foreign entity's purported 2007 change in ownership were relevant to a petition filed in 2006, the evidence submitted by counsel in response to the AAO's Notice of Consideration of Derogatory Information is not persuasive in establishing that both the petitioner and the foreign employer are now owned and controlled by [REDACTED]. As noted above, while the Brazilian contract submitted by counsel indicates that [REDACTED] a now owns a 90% interest in the foreign employer, the contract also indicates that [REDACTED] is, the owner of a 10% interest, is responsible for the administration of the business and "that in the event of sale or alienation of the immobilized active of the firm, the signatures of all partners will be utilized." Therefore, it appears that control over the foreign employer has been ceded to Ms. [REDACTED] and that the legal right and authority to direct the establishment, management, and operations of the foreign employer is disproportionately shared with the minority stockholder. The record does not establish that

the petitioner and the foreign employer share common control. See *Matter of Church Scientology International*, 19 I&N Dec. 593, 595 (BIA 1988). Furthermore, the Brazilian contract described above is not alone persuasive in establishing that a 90% interest in the foreign employer has been sold to [REDACTED]. The record is devoid of evidence establishing that [REDACTED] paid for this interest. The record also does not contain copies of any stock certificates, ledgers, or other objective evidence establishing that ownership has truly been transferred to [REDACTED].

Accordingly, the petitioner has failed to establish that it has a qualifying relationship with the foreign entity, and the petition may not be approved for this additional reason.

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 for the above stated reasons, with each considered as an independent and alternative basis for denial. When the AAO denies a petition on multiple alternative grounds, a plaintiff can succeed on a challenge only if it is shown that the AAO abused its discretion with respect to all of the AAO's enumerated grounds. See *Spencer Enterprises, Inc.*, 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. Accordingly, the appeal will be dismissed.

Finally, CIS records indicate that the instant petitioner has also filed petitions for numerous other intracompany transferees. In view of the above, the director is directed to review the previously approved or pending petitions listed below filed pursuant to section 101(a)(15)(L) of the Act, 8 U.S.C. § 1101(a)(15)(L), or section 203(b)(1)(C) of the Act, 8 U.S.C. § 1153(b)(1)(C), for possible revocation under 8 C.F.R. § 214.2(l)(9) or 8 C.F.R. § 205.2, as appropriate.

ORDER: The appeal is dismissed.

FURTHER ORDERED: The director shall review the following L-1 nonimmigrant petitions, and immigrant petitions for multinational executives or managers, approved on behalf of the petitioner for possible revocation pursuant to 8 C.F.R. § 214.2(l)(9) or 8 C.F.R. § 205.2:

EAC 07 236 51913	LIN 06 151 53185 (I-140)
EAC 07 236 51848	EAC 06 239 50191
EAC 07 236 51751	EAC 06 199 53764
EAC 07 233 51834	EAC 06 163 52541
EAC 07 233 51783	SRC 05 163 51178
EAC 07 233 51726	EAC 06 199 53750
SRC 07 222 50659	LIN 06 151 52145 (I-140)

EAC 07 180 52284
LIN 06 167 51724 (I-140)
EAC 06 239 50233
EAC 06 239 50250
EAC 06 160 50919
EAC 06 219 52313

EAC 06 239 50648
SRC 06 162 51977
EAC 06 159 50239
EAC 06 199 53725
EAC 06 239 50209