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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

[redacted]

DATE: JUN 17 2013 Office: CALIFORNIA SERVICE CENTER FILE: [redacted]

IN RE: Petitioner: [redacted]
Beneficiary:

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

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of $630. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

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

The petitioner filed this nonimmigrant petition seeking to classify the beneficiary as a nonimmigrant intracompany transferee pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner, a Washington limited liability company established in 2000, engages in commercial laundry and linen services. The petitioner claims to be a subsidiary of based in British Columbia, Canada, and which is in turn claimed to be a subsidiary of c., also based in British Columbia, Canada. The petitioner seeks to employ the beneficiary in the position of On-Site Services Manager for a period of three years.

The director denied the petition, concluding that the petitioner failed to establish that it has a qualifying relationship with the beneficiary's foreign employer,

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO. On appeal, counsel asserts that the petitioner submitted sufficient evidence to establish the required qualifying relationship. Counsel submits a brief and additional evidence in support of the appeal.

I. The Law

To establish eligibility for the L-1 nonimmigrant visa classification, the petitioner must meet the criteria outlined in section 101(a)(15)(L) of the Act. Specifically, a qualifying organization must have employed the beneficiary in a qualifying managerial or executive capacity, or in a specialized knowledge capacity, for one continuous year within three years preceding the beneficiary's application for admission into the United States. In addition, the beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial, executive, or specialized knowledge capacity.

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

(i) Evidence that the petitioner and the organization which employed or will employ the alien are qualifying organizations as defined in paragraph (l)(1)(ii)(G) of this section.

(ii) Evidence that the alien will be employed in an executive, managerial, or specialized knowledge capacity, including a detailed description of the services to be performed.

(iii) Evidence that the alien has at least one continuous year of full-time employment abroad with a qualifying organization within the three years preceding the filing of the petition.

(iv) Evidence that the alien's prior year of employment abroad was in a position that was managerial, executive or involved specialized knowledge and that the alien's prior education, training, and employment qualifies him/her to perform the intended services in the United States; however, the work in the United States need not be the same work which the alien performed abroad.

The pertinent regulations at 8 C.F.R. § 214.2(l)(1)(ii) define the term "qualifying organization" and related terms as follows:

(G) *Qualifying organization* means a United States or foreign firm, corporation, or other legal entity which:

(1) Meets exactly one of the qualifying relationships specified in the definitions of a parent, branch, affiliate or subsidiary specified in paragraph (l)(1)(ii) of this section;

(2) Is or will be doing business (engaging in international trade is not required) as an employer in the United States and in at least one other country directly or through a parent, branch, affiliate or subsidiary for the duration of the alien's stay in the United States as an intracompany transferee[.]

* * *

(I) *Parent* means a firm, corporation, or other legal entity which has subsidiaries.

* * *

(K) *Subsidiary* means a firm, corporation, or other legal entity of which a parent owns, directly or indirectly, more than half of the entity and controls the entity; or owns, directly or indirectly, half of the entity and controls the entity; or owns, directly or indirectly, 50 percent of a 50-50 joint venture and has equal control and veto power over the entity; or owns, directly or indirectly, less than half of the entity, but in fact controls the entity.

(L) *Affiliate* means

(1) One of two subsidiaries both of which are owned and controlled by the same parent or individual, or

(2) One of two legal entities owned and controlled by the same group of individuals, each individual owning and controlling approximately the same share or proportion of each entity.

II. Statement of Facts

The sole issue to be addressed is whether the petitioner established that it has a qualifying relationship with the beneficiary's foreign employer. To establish a "qualifying relationship" under the Act and the regulations, the petitioner must show that the beneficiary's foreign employer and the proposed U.S. 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).

On Form I-129, Petition for a Nonimmigrant Worker, the petitioner indicated that the beneficiary last worked for , based in British Columbia, Canada ("the foreign employer" or Canada"). The petitioner indicated that it is a subsidiary of the foreign employer. In the portion of the form requiring the petitioner to describe the stock ownership and managerial control of each company that has a qualifying relationship with the petitioner, the petitioner stated: "See letter from corp. counsel: (in US)."[1]

In a letter submitted with the initial petition, counsel for (" Washington"), , explained that Washington purchased all of the outstanding membership interests in the petitioner,), effective January 1, 2008. Counsel further explained that Washington is wholly owned by Canada. Finally, counsel explained that Canada is wholly owned by the Canadian parent company, "). Counsel concluded: "In short, owns 100% of Canada, which owns 100% of U.S., which owns 100% of [the petitioner]. . . These companies are all tiered subsidiary companies under common ownership and control."

In support of the initial petition, the petitioner submitted, *inter alia,* the following documentation as evidence of the qualifying relationship to the foreign entities:

1. Corporate Organization Chart dated October 2010, showing , described as a Canadian holding company incorporated in July 2001, at the top of the chart. Directly below is Inc., described as a Canadian operating company incorporated in 1973 as . Directly below is described as a U.S. holding company incorporated in November 2007. Directly below

[1] The petitioner interchangeably refers to " and " " as " Washington." However, according to the submitted documentation as well as the Washington Secretary of State's website, the company's official name is .

are the petitioner, formed in 2000, and [redacted]), formed in 1997.

2. Corporate Profile of [redacted] describing itself as "a wholly owned subsidiary of [redacted] a Canadian Holding Company owned and operated by the [redacted] Family." The corporate profile describes the same organizational structure depicted in the organizational chart.

3. The petitioner's Legal Entity Registration issued by the State of Washington.

4. The petitioner's Certificate of Formation, filed with the State of Washington.

5. An Amended and Restated Limited Liability Company Agreement, dated January 1, 2008, between the petitioner and [redacted], a Washington Corporation, identified as "the sole owner" of the petitioner. This agreement states, in pertinent part, that an Interest Purchase Agreement dated effective December 5, 2007 was entered into, in which [redacted] Washington acquired all of the percentage interests in the petitioner from three individual members as of the closing date of January 1, 2008. The agreement also states that the petitioner is authorized to issue one hundred membership units with equal voting rights, and that the petitioner "may, but is not required to, issue Certificates representing the Membership Units."

On October 3, 2011, the director issued a request for additional evidence ("RFE") advising the petitioner that it had not submitted sufficient evidence to establish a qualifying relationship with the beneficiary's foreign employer. The director observed that "USCIS's VIBE indicates that your company does not have a relationship to [the] foreign entity." In particular, the director requested the federal income tax returns for both the petitioner and [redacted] Washington for 2009 and 2010 as evidence of the qualifying relationship.

In response to the RFE, counsel for the petitioner asserted that the petitioner had already provided "the best evidence" of the qualifying relationship between the Canadian companies and the U.S. petitioner, specifically, the letter from [redacted] and the corporate organizational chart. Counsel explained that the U.S. companies consist of a holding company and two limited liability companies, each registered and in good standing in the United States. Counsel asserted that USCIS is required to consider the totality of the evidence, and cannot rely solely on USCIS's VIBE system. Counsel supplemented the record by providing the following additional evidence:

1. A letter dated October 20, 2011 from [redacted] the Director of Finance for [redacted] and the custodian of its corporate records and tax records. In this letter, Ms. [redacted] asserted that the previously submitted letter from [redacted] accurately described the corporate relationship between the petitioner and the foreign companies. Ms. [redacted] further asserted that because the petitioner is structured as a

limited liability company, "the parent company, , is the tax payer."

2. Organizational Structure of Chart, depicting Canada as wholly owning Washington, a U.S. holding company. In turn, the chart shows that Washington wholly owns the petitioner, and another company, located in New Mexico. The chart states that the petitioner is structured as a limited liability company, "[t]herefore, the parent company, Corp., is the tax payer" for the petitioner.

3. 2010 IRS Form 1120-F, U.S. Income Tax Return of a Foreign Corporation, for . ("Canada"). On this form, Canada affirmatively claimed to have owned, directly or indirectly, 50% or more of the voting stock of a U.S. corporation. It affirmatively claimed an individual, partnership, corporation, estate or trust owned, directly or indirectly, 50% or more of the corporation's voting stock. In a statement accompanying Form 1120-F, Canada stated that it "owns 100% of " In another statement accompanying Form 1120-F, Canada stated that the ", a Canadian resident, owns 50% or more of the corporation's voting stock as at [*sic*] December 31, 2010."

4. 2010 IRS Form 1120, U.S. Corporation Income Tax Return, for Washington. On this form, the company affirmatively indicated that one foreign person of Canadian nationality owned, directly or indirectly, 100% of total voting power of all classes of stock or total stock. On Schedule G, Information on Certain Persons Owning the Corporation's Voting Stock, Washington listed as owning 100% of the corporation's voting stock.

5. 2010 IRS Form 5472, Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business, for Washington). On this form, Washington listed the following 25% foreign shareholders: (1) . (direct shareholder); (2) direct shareholder); (3) (indirect shareholder); and (4) (indirect shareholder). All foreign shareholders were listed as principally conducting business in Canada, having Canadian citizenship, and filing taxes in Canada. In the Explanation of the Attribution of Ownership Statement 13 to Form 5472, Washington stated that owns 100% of the outstanding voting shares of the direct 25% foreign shareholder listed in Part II, Line 1a" (referring to , located in Canada). In addition, the petitioner indicated that "Mr. owns at least 25% of the direct 25% foreign shareholder (also referring to).

6. 2009 IRS Form 1120-F, for Canada. On this form, Canada affirmatively claimed to have owned, directly or indirectly, 50% or more of the voting stock of a U.S.

corporation. It affirmatively claimed an individual, partnership, corporation, estate or trust owned, directly or indirectly, 50% or more of the corporation's voting stock. In a statement accompanying Form 1120-F, Canada stated that it owns 100% of Washington and that is its "50% or more owner."

7. 2009 IRS Form 1120 for . (" Washington"). On this form, Washington affirmatively indicated that one foreign person of Canadian nationality owned, directly or indirectly, 100% of total voting power of all classes of stock or total stock. On Schedule G, Washington listed Canada as owning 100% of the corporation's voting stock.

8. 2009 Form 5472, for . (Washington). On this form, Washington claimed two foreign shareholders: (direct shareholder), and (indirect shareholder). In Statement 17 accompanying Form 5472, Washington stated that Mr. owns 100% of the direct 25% foreign shareholder listed in Part II, Line 1a (referring to , located in Canada).

The director denied the petition on December 9, 2011, concluding that the petitioner submitted insufficient evidence to establish a qualifying relationship to the foreign entity. In denying the petition, the director observed that the petitioner failed to submit independent documentation, such as the petitioner's tax returns, establishing that Canada owns 100% of Washington, which in turn owns 100% of the petitioner.

The petitioner filed an appeal on Form I-290B, Notice of Appeal or Motion, on January 5, 2012. On appeal, counsel for the petitioner asserts that the director ignored "the best primary evidence" of ownership, i.e., the previously submitted statement by Counsel asserts that the director also ignored the 2009 and 2010 federal income tax returns, as well as the letter from , submitted in response to the RFE. Counsel asserts that the tax returns "corroborate the corporate relationships (and control by voting shares)" between the foreign entity and the petitioner. The petitioner submits new evidence on appeal which includes the following:

1. A new declaration of affirming: that Canada was the sole shareholder of Washington; that Canada subsequently assigned all of its shares in Washington to ; and that . is the sole shareholder of Washington.

2. Certificate of Incorporation for (" Washington"), issued by the State of Washington, effective November 28, 2007.

3. Articles of Incorporation for . (" Washington"), filed with the State of Washington on November 28, 2007.

4. Stock Transfer Ledger of Washington, reflecting that Canada was the owner of 500,000 shares as of November 28, 2007, as evidenced by certificate number 1. The stock ledger further reflects that Canada transferred its 500,000 shares to as of April 30, 2011, as evidenced by stock certificate number 2.

5. Stock certificate number 2 issued by . (" Washington") to . for 500,000 shares, dated April 30, 2011.

6. Membership Interest Ledger for the petitioner, reflecting that (30% ownership), (30% ownership), (30% ownership), and (10% ownership) transferred all their shares to Washington on January 1, 2008.

7. Certificate number 1 issued by the petitioner to Washington for 100 membership units on January 1, 2008.

8. Supplemental Statement of , dated December 28, 2011, attesting that he is the Director of Group Operations for the petitioner and that the petitioner is "owned and controlled 100% by ."

9. Board Meeting Agenda, updated September 3, 2011, for a simultaneous board meeting conducted by the board members of Canada, Washington and

10. Board Meeting Minutes for , (" Washington") dated September 3, 2010.

11. Board Meeting Minutes for (" Canada"), dated February 15, 2011.

III. Analysis

Upon review, the AAO concurs with the director's determination that the petitioner failed to establish the qualifying relationship between the U.S. and foreign entities.

The regulation and case law confirm that ownership and control are the factors that must be examined in determining whether a qualifying relationship exists between United States and foreign entities for purposes of this visa classification. *Matter of Church Scientology International*, 19 I&N Dec. 593 (Comm'r 1988); *see also Matter of Siemens Medical Systems, Inc.*, 19 I&N Dec. 362 (Comm'r 1986); *Matter of Hughes*, 18 I&N Dec. 289 (Comm'r 1982). In the context of this visa petition, ownership refers to the direct or indirect legal right of possession of the assets of an entity with full power and authority to control; control means the direct

or indirect legal right and authority to direct the establishment, management, and operations of an entity. *Matter of Church Scientology International*, 19 I&N Dec. at 595.

As a preliminary matter, the AAO withdraws the director's determination that the tax returns for the petitioning entity were not provided. In response to the RFE, the petitioner provided the 2009 and 2010 tax returns for " Canada" and Washington, and explained that the petitioner's tax returns are filed by its parent company, Washington. The petitioner fully complied with the director's RFE, as the only documents the director requested pertaining to the qualifying relationship were the 2009 and 2010 tax returns for the petitioner and Washington.

However, the petitioner has provided inconsistent claims and documentation regarding its ownership and control. With the initial petition, the petitioner claimed that the petitioner is a tiered subsidiary "under common ownership and control" of . In and through the letter from submitted at the time of filing, the petitioner claimed that "owns all of the outstanding stock" of Canada, that Canada "owns all of the outstanding stock" of Washington, which in turn "purchased all of the outstanding membership interests of the petitioner."

In response to the RFE, the petitioner continued to maintain that it is wholly owned by Washington, which is, in turn, directly owned by Canada, the beneficiary's foreign employer. However, while the 2009 IRS Form 1120 and accompanying schedules for Washington identified Canada as its 100% shareholder, its 2010 tax returns identified as its 100% shareholder. This information contradicted the statements of and .

On appeal, the petitioner indicates for the first time that Washington, its U.S. parent company, is wholly owned by , and not by Canada as stated prior to adjudication of the petition. According to the stock certificate issued to it became the sole owner of Washington in April 2011, four months before this petition was filed. The petitioner offers no explanation for its earlier claims that Washington was owned by Canada at the time of filing. Nor does the petitioner explain why the 2010 IRS Form 1120 identified as the director owner of Washington, prior to the claimed transfer of stock from Canada to . 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).

This unexplained discrepancy also undermines the petitioner's claims that internally prepared organizational charts and statements from the company's corporate attorney and its finance director constitute "the best evidence" as neither of their statements, based on the evidence submitted on appeal, correctly identified the petitioner's foreign owner at the time the petition was filed. It appears that the petitioner sought to rely on letters from corporate attorneys and officers in lieu of providing all relevant evidence pertaining to the ownership and control of the petitioner and the foreign employer, noting that certain information "may be difficult to interpret by a lay person." The AAO notes that the corporate relationship described at the time of filing was a simple indirect parent-subsidiary relationship between Canada, Washington and

the petitioning company. This type of relationship is not difficult to document or difficult to interpret. While it appears based on the evidence submitted on appeal that this relationship may have existed in 2010, the petitioner has not adequately documented the changes in ownership that took place in 2011 and the resulting effect on the qualifying relationship between Canada, Washington and the petitioning company.

The best evidence of a qualifying relationship is relevant primary documentary evidence relating to the ownership of the companies involved, such as stock certificates and membership certificates. Further, as general evidence of a petitioner's claimed qualifying relationship, stock certificates alone are not sufficient evidence to determine whether a stockholder maintains ownership and control of a corporate entity. The corporate stock certificate ledger, stock certificate registry, corporate bylaws, and the minutes of relevant annual shareholder meetings must also be examined to determine the total number of shares issued, the exact number issued to the shareholder, and the subsequent percentage ownership and its effect on corporate control. Additionally, a petitioning company must disclose all agreements relating to the voting of shares, the distribution of profit, the management and direction of the subsidiary, and any other factor affecting actual control of the entity. *See Matter of Siemens Medical Systems, Inc., supra.* Without full disclosure of all relevant documents, USCIS is unable to determine the elements of ownership and control.

As the petitioner claims on appeal that its foreign parent company is in fact and not Canada, it could still establish that it has a qualifying relationship with the beneficiary's foreign employer by establishing an affiliate relationship with Canada. The petitioner has stated that Canada is wholly owned by ; however, there is insufficient documentary evidence to support that claim. Further, there are inconsistencies in the record which undermine the petitioner's claims regarding the ownership of Canada.

The petitioner submitted a copy of the 2010 IRS Form 1120-F for Canada. At page 2, part V of the Form 1120-F, the company was asked to identify whether an individual, partnership, corporation, estate or trust owned directly or indirectly 50% or more of Canada's voting stock. The preparer marked "yes" and entered the percentage owned as "100%." In its accompanying Statement 3, the company stated: "For Question V, page 2 of Form 1120-F: a Canadian resident, owns 50% or more of the corporation's voting stock as at December 31, 2010." In responding to the same question on its 2009 IRS Form 1120-F, Canada identified as its 50% or more owner. Therefore, the information provided on the tax returns appears to be inconsistent from year to year, and it does not support the petitioner's claim that Canada is wholly owned by ., such that it could establish an affiliate relationship with the petitioner.

While the petitioner states that is ultimately owned by and/or the , there is no primary evidence in the record to document the ownership of . The petitioner has submitted a stock transfer ledger and stock certificate number 2 for Washington and a membership interest ledger and one membership certificate for the petitioning company. However, it has not disclosed all relevant documents related to the ownership of the Canada or Inc. This is especially critical as the petitioner now claims that both Canada and Washington

are directly owned by ., rather than claiming that Canada owns Washington. 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'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm'r 1972)).

Finally, on appeal, the petitioner further confuses the record by providing different descriptions of who has "ownership and control" of the petitioner and the foreign entities. In the petitioner's brief, it states that it is "100% owned and controlled by the same Canadian company (.) a Canadian Holding Company owned and operated by the ." The petitioner then states that the evidence submitted on appeal "is additional evidence of common management and control of the companies by the same Board of Directors and Executive ( ) in Canada." In a letter dated October 11, 2012, counsel states the petitioner is "under the ownership and control of -Canada and executive[s] .[2]" With the initial petition, however, the petitioner claimed that it was a wholly owned subsidiary of the parent company, Canada, and indirectly owned by Canada, but it made no express claim of common ownership and control by individual members of the .

On appeal, the petitioner emphasizes the common ownership and control by the as well as the fact that) is the common executive within the group of companies. Specifically, the petitioner submits for the first time on appeal the agenda and minutes of board meetings, and the supplemental statement of , as "additional evidence of common management and control of the companies by the same Board of Directors and Executive ( ) in Canada."

However, a broad and unsupported claim that the U.S. and foreign entities share familial ownership and control is insufficient to establish a qualifying relationship as a matter of immigration law. The regulations require that the entities be owned and controlled by the same parent, individual, or the same group of individuals, with each individual owning controlling approximately the same share or proportion of each entity. 8 C.F.R. § 214.2(l)(1)(ii)(K), (L). The petitioner failed to identify who, or what legal entity, constitutes "[3] The petitioner failed to establish that these individual family members constituting " " own and control approximately the same share or proportion of each entity in order to establish an affiliate relationship. *See* 8 C.F.R. § 214.2(l)(1)(ii)(L); *Ore v. Clinton*, 675 F.Supp.2d 217, 226 (D.C. Mass. 2009) (finding that the petitioner and the foreign company did not qualify as "affiliates" within the precise definition set out in the regulations at 8 C.F.R. § 214.2(l)(1)(ii)(L)(1), despite petitioner's claims that the two companies "are owned and controlled by the same individuals, specifically the Ore family").

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[2] It is assumed that and is the same individual.

[3] The 2010 IRS Form 5472 for Washington lists " " as one of the direct foreign shareholders. The 2010 IRS Form 1120-F Statement 2 for Canada lists " Business Trust" as its majority owner. The petitioner has not established that t and its reference to " " all pertain to the same legal entity.

In the context of the L-1 nonimmigrant classification, the phrase "qualifying relationship" is a fundamental requirement for visa eligibility and is defined by the regulation. *See* 8 C.F.R. § 214.2(l)(1)(ii)(G). However, this element of eligibility is not a simple determination or one where there is always an obvious answer. To determine whether common ownership and control exists, whether by *de jure* or *de facto* control, by reviewing corporate stock certificates, a stock certificate registry or ledger, corporate bylaws, the minutes of relevant annual shareholder meetings, proxy agreements, and any other relevant documentation. *See Matter of Church Scientology International*, 19 I&N Dec. 593 (Comm'r 1988); *see also Matter of Siemens Medical Systems, Inc.*, 19 I&N Dec. 362 (Comm'r 1986); *Matter of Hughes*, 18 I&N Dec. 289 (Comm'r 1982). Additionally, a petitioning company must disclose all agreements relating to the voting of interests, the distribution of profit, the management and direction of the entity, and any other factor affecting actual control of the entity. *See Matter of Siemens Medical Systems, Inc.*, 19 I&N Dec. 362 (BIA 1986).

While the AAO acknowledges that the submitted documentation corroborates some of the petitioner's claims, and the AAO does not doubt that the petitioner operates as a member of the " " group of companies. However, the petitioner has not consistently identified the claimed qualifying relationship with the beneficiary's foreign employer or consistently documented the common ownership and control between the petitioner and the beneficiary's foreign employer, Canada. The AAO concludes that the documentation contains a number of unresolved discrepancies and omissions. A few errors or minor discrepancies are not reason to question the credibility of a petitioner seeking immigration benefits. *See, e.g., Spencer Enterprises Inc. v. U.S.*, 345 F.3d 683, 694 (9th Cir., 2003). However, any time a petition includes numerous errors and discrepancies, and the petitioner fails to resolve those errors, those inconsistencies will raise concerns about the accuracy of the petitioner's assertions. Again, 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 petition will be denied and the appeal dismissed for the above stated reasons. 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.