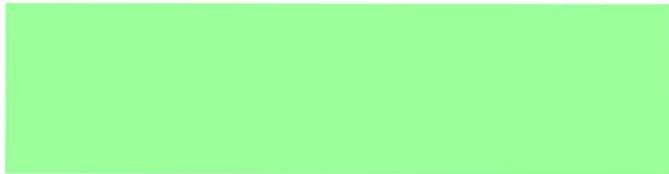




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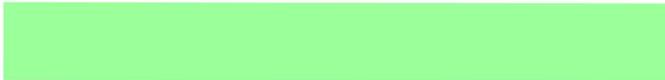
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DATE: **SEP 26 2014** OFFICE: TEXAS SERVICE CENTER

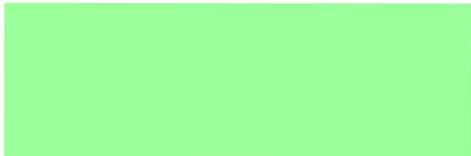
FILE: 

IN RE: Petitioner:  
Beneficiary:



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

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg  
Chief, Administrative Appeals Office

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

The petitioner is a New York corporation that seeks to employ the beneficiary in the United States as its president. Accordingly, the petitioner endeavors to classify the beneficiary as an employment-based immigrant pursuant to section 203(b)(1)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(C), as a multinational executive or manager.

The director denied the petition, concluding that the petitioner failed to establish eligibility based on three independent adverse findings. Namely, the director concluded that the petitioner failed to establish that (1) the beneficiary was employed abroad in a qualifying managerial or executive capacity; (2) the beneficiary would be employed in the United States in a qualifying managerial or executive capacity; and (3) the petitioner and the beneficiary's employer abroad have a qualifying relationship.

### I. The Law

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

(1) Priority Workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

\* \* \*

(C) Certain Multinational Executives and Managers. -- An alien is described in this subparagraph if the alien, in the 3 years preceding the time of the alien's application for classification and admission into the United States under this subparagraph, has been employed for at least 1 year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof and who seeks to enter the United States in order to continue to render services to the same employer or to a subsidiary or affiliate thereof in a capacity that is managerial or executive.

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

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

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

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

- (i) manages the organization, or a department, subdivision, function, or component of the organization;
- (ii) supervises and controls the work of other supervisory, professional, or managerial employees, or manages an essential function within the organization, or a department or subdivision of the organization;
- (iii) if another employee or other employees are directly supervised, has the authority to hire and fire or recommend those as well as other personnel actions (such as promotion and leave authorization), or if no other employee is directly supervised, functions at a senior level within the organizational hierarchy or with respect to the function managed; and
- (iv) exercises discretion over the day-to-day operations of the activity or function for which the employee has authority. A first-line supervisor is not considered to be acting in a managerial capacity merely by virtue of the supervisor's supervisory duties unless the employees supervised are professional.

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

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

- (i) directs the management of the organization or a major component or function of the organization;
- (ii) establishes the goals and policies of the organization, component, or function;
- (iii) exercises wide latitude in discretionary decision-making; and
- (iv) receives only general supervision or direction from higher level executives, the board of directors, or stockholders of the organization.

## II. Facts and Procedural History

The instant petition was filed on May 21, 2012 and was accompanied by a supporting statement, dated April 30, 2012, in which [REDACTED] the petitioner's CEO, stated that the beneficiary has been working for [REDACTED] (hereinafter referred to as the employer abroad) since May 2005 "without any interruption prior to his immigrant petition." Mr. [REDACTED] indicated that the beneficiary's foreign employer owns 51% of the petitioning entity, thus indicating that the petitioner is the foreign employer's subsidiary. He described the beneficiary as "a highly experienced and professional trained executive manager who has solid industry knowledge and investment [and] project management experiences [sic]."

The petitioner also submitted a number of supporting documents, including a Certificate of Incorporation showing that the petitioner was authorized to issue a total of 200 shares, accompanied by stock certificate

Nos. 1 and 2 showing that 200 shares were issued; the petitioner's organizational chart depicting the beneficiary in the position of president and Mr. [REDACTED] below the beneficiary in the position of CEO; and the petitioner's bank, tax, and payroll records.<sup>1</sup>

With regard to the beneficiary's foreign employer, the petitioner provided the following:

1. A statement, dated June 19, 2008, signed by [REDACTED] the foreign employer's director and vice president, indicating that the beneficiary was the entity's co-founder and has been working for the entity as director of the board, president, and CEO since June 2, 2003.
2. A document titled, "Letter of Appointment," dated April 15, 2005, indicating that through board resolution, the beneficiary was being appointed to act as president and CEO.
3. The foreign entity's payroll document listing the beneficiary's name as an employee. This translated document contains no other employee names nor shows the time period or salary regarding the beneficiary's claimed employment. .

After reviewing the record, the director determined that the record contained numerous anomalies and deficiencies that precluded approval of the petition. Accordingly, on November 19, 2013, the director issued a notice of intent to deny (NOID), listing the various inconsistencies he found after comparing the evidence provided in support of two earlier petitions – a Form I-526, Immigrant Petition by Alien Entrepreneur, and a subsequently filed Form I-140 petition seeking to classify the beneficiary as a professional or skilled worker – with evidence submitted in support of the instant Form I-140 regarding the beneficiary's employment history. The director inquired into the documents that pertained to another petition in support of which the beneficiary was shown as having been employed as a specialty chef in a full-time capacity, while other documents, which pertain to the beneficiary's entries into the United States in the B1/B2 visa classification, indicated that the beneficiary was employed by [REDACTED] an employer that neither the petitioner nor the beneficiary identified in connection with either of the Form I-140 immigrant petitions. In addition, the director pointed to an inconsistency between the petitioner's by-laws, which indicate that the positions of president and CEO of the petitioning entity are to be held by the same person, and the evidence presented, which indicates that the two offices are held by two different individuals with the beneficiary holding the office of president while [REDACTED] holds the position of CEO.

The petitioner's response included a statement, dated December 19, 2013, authored by [REDACTED] who offered new claims regarding the beneficiary's employment history. Namely, he claimed that the beneficiary was employed simultaneously in different positions such that he was both heading the foreign entity in the position of CEO and assuming the position of a cook at the restaurant within the same entity. The petitioner provided third party attestations from individuals who claimed to have had knowledge of the beneficiary's dual roles to support the revised claim. With regard to the inconsistency concerning the petitioner's by-laws, Mr. [REDACTED] claimed that "the original boilerplate by-laws" did not reflect the intentions of the petitioner's board of directors and thus the by-laws were amended via shareholder resolution, which was offered in support of this explanation. Lastly, with regard to the anomaly concerning the foreign employment the beneficiary claimed when applying for his B1/B2 visa, Mr. [REDACTED] claimed that the translation listing [REDACTED] as the beneficiary's employer was incorrect and that, in fact, the beneficiary worked for [REDACTED] during the time of the application process. Mr. [REDACTED] claimed that the beneficiary did not claim the foreign entity as his employer because the registered capital of the [REDACTED]

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<sup>1</sup> The petitioner stated that it was submitting its Articles of Incorporation, but it was not in the record of proceedings.

was greater than that of the foreign employer and may therefore have worsened the beneficiary's chances of being granted the nonimmigrant visa. Mr. pointed out that the beneficiary simultaneously held positions with multiple companies, including the foreign employer named in support of the instant petition as well as the thus indicating that his earlier claim was not factually misleading.

After reviewing the evidence, the director determined that the petitioner failed to overcome the adverse findings that were issued in the NOID and therefore issued a decision, dated January 16, 2014, denying the petition based on conclusion that the petitioner failed to meet the following eligibility criteria: (1) failure to establish that the beneficiary was employed abroad in a qualifying managerial or executive capacity; (2) failure to establish that the beneficiary would be employed in the United States in a qualifying managerial or executive capacity; and (3) failure to establish that the petitioner has a qualifying relationship with the beneficiary's former employer abroad. The director restated the various inconsistencies that were previously discussed in the NOID.

### III. Issues on Appeal

As indicated above, the primary issues to be addressed in this proceeding call for an examination of the beneficiary's former and proposed positions with the foreign and U.S. entities, respectively, as well as evidence pertaining to the petitioner's qualifying relationship with the beneficiary's former employer abroad.

#### A. Qualifying Employment Abroad

The first issue to be addressed in this proceeding is whether the petitioner established that the beneficiary was employed abroad in a managerial or executive capacity.

While we typically start our discussion of a beneficiary's employment capacity with a review of the beneficiary's job duties with the entity in question, the circumstances in this matter lend themselves to a different approach, which calls for greater scrutiny to be placed on the veracity of the petitioner's claims, which are called into question when considered in light of deficient supporting evidence and inconsistent claims that were made previously by the beneficiary in support of prior petitions.

The first discrepancy calls into question the commencement date of the beneficiary's employment with . In the initial supporting statement, dated April 30, 2012, the petitioner claimed that (1) the foreign entity was established in 1999, (2) the beneficiary's employment with that entity commenced in May 2005, and (3) the beneficiary worked for that entity for seven years, "without any interruption," in a managerial capacity. Based on documents contained within the petitioner's record, all three of these original assertions are called into question. Specifically, the petitioner provided a corresponding supporting document in the form of an employment verification letter, dated June 19, 2008, in which the author, who identified himself as the director of the board and vice president of the foreign entity, stated that the beneficiary is the co-founder of the foreign entity and thus was employed as the entity's board director, president, and CEO since the entity was established on June 2, 2003. A separate document, titled "Letter of Appointment," which was dated April 15, 2005, indicates that the foreign entity's shareholders issued a shareholder resolution wherein the beneficiary was appointed to act as president and CEO of the foreign entity. These three supporting documents are entirely inconsistent as to the basic fact of when the beneficiary actually commenced his employment with the foreign entity. Therefore, we find that all three documents are

unreliable and fail to establish when or whether the beneficiary was employed by the foreign entity and if so, in what capacity he was employed.

In addition, while the letter of appointment contains the word "translation" underneath the document's heading to indicate that the original letter was written in a foreign language, the document was not accompanied by a statement from a certified translator attesting to his/her ability to accurately translate from Chinese to English. We note that the petitioner's failure to submit certified translations of the documents precludes this office from being able to determine whether the evidence supports the petitioner's claims. See 8 C.F.R. § 103.2(b)(3). Accordingly, the evidence is not probative and will not be accorded any evidentiary weight in this proceeding. Similarly, we note that the current Form I-140 was also accompanied by a one-page document, which contained the foreign entity's name and the words "payroll" and "translation" at the heading followed by the beneficiary's name in a largely blank payroll chart. As with the letter of appointment, this document also lacks a translator's certification and thus lacks probative value for that initial reason. Further detracting from the document's probative value is the fact that the petitioner provided no explanation as to why the chart lacks any relevant data, other than the beneficiary's name. In other words, if the chart was intended to establish that the beneficiary was employed by the foreign entity, it is unclear why there is no indication as to the dates of employment, and the salary paid over the course of such employment. While this deficient document is followed by what appears to be a 12-month payroll account in 2007, the payroll document does not have a corresponding translation and thus similarly lacks any probative value in this matter. *Id.*

After the director issued a NOID informing the petitioner of the various inconsistencies pertaining to the beneficiary's position and associated job duties during his employment abroad, the petitioner responded with more documents, some of which present additional discrepancies. Namely, we first point to NOID response Exhibit M, which is titled "Certificate," dated December 10, 2013, and names [REDACTED] as the "certifier," who claimed that in June 2003, when the foreign entity was established, the beneficiary asked Mr. [REDACTED] to assume the position of deputy manager, a position subordinate to the beneficiary within the foreign entity's organization. Mr. [REDACTED] further certified that based on "the record of personnel files" the beneficiary worked as both CEO and cook with the foreign entity. He added that the beneficiary worked at least 40 hours per week as a cook and at least 50 hours per week as CEO.

Next, we point to NOID response Exhibit N, which was similarly titled "Certificate," and dated December 10, 2013, and identified [REDACTED] as the "certifier," who claimed to have worked as the personnel manager at [REDACTED] in 1999 during which time she claims that the beneficiary worked for the same company as "boss as well as a cook." Ms. [REDACTED] claimed that she transferred to the personnel department at [REDACTED] the beneficiary's foreign employer, when the entity was established in June 2003. Like Mr. [REDACTED] Ms. [REDACTED] also referred to the foreign entity's personnel files, claiming that such files contained information indicating that from 2000 to 2007 the beneficiary assumed the positions of president, CEO, and cook within the foreign entity's organization. Given the claim that the foreign entity was not established until 2003, the claim that the beneficiary had been working for the foreign entity since the year 2000 is factually impossible and therefore unreliable. These dates of employment are also inconsistent with the claims made in Mr. [REDACTED] statement. Ms. [REDACTED] also indicated that the beneficiary worked at least 40 hours per week as a cook and at least 50 hours per week as CEO of the foreign entity. However, as noted above, the personnel records referenced here and in exhibit

M were not provided to support the assertions being made or to resolve the apparent inconsistency in Ms. [REDACTED] own statement.

The petitioner provided a third document, which was included as part of NOID response Exhibit N and was also titled "Certificate," and dated December 10, 2013. The "certifier" in this document was identified as [REDACTED] who claimed to have been working for the beneficiary's foreign employer since 2003 as a cook and since 2008 as an executive chef. He stated that before he assumed the role of executive chef, the beneficiary had held the positions of CEO and cook and that he spent at least 40 hours per week performing his cook duties.

Despite the fact that all three of the individuals in the NOID response Exhibits M and N similarly claimed that the beneficiary worked as a cook in the foreign entity's organization for 40 hours per week, the time period of the beneficiary's alleged employment remains in question, given the inconsistent accounts of the written testimonies discussed above.

In addition, the petitioner provided NOID response Exhibit P, which consists of a statement from the beneficiary's attorney abroad, who stated that he has worked for the beneficiary since April 1999 and is therefore aware of the beneficiary's various investments. The attorney stated that the beneficiary served as CEO of [REDACTED] from April 1999 to December 27, 2003 and that he served as CEO of [REDACTED] from June 2, 2003 to January 12, 2010. However, counsel made no mention of the beneficiary's alleged position as a cook in any of his foreign investments, nor did he refer to the beneficiary's alleged investment in 2005 in [REDACTED] which served as the basis for beneficiary's filing of a Form I-526, Immigrant Petition by Alien Entrepreneur.

Next, we will address NOID response Exhibit U, which includes another document titled "Certificate," stating that the beneficiary was elected to serve as CEO of and had been a restaurant manager at [REDACTED] from April 1999 to December 2003. The document states that from June 2, 2003 to April 2005 the beneficiary served as CEO, restaurant manager, and cook at [REDACTED] while "other shareholders had been managing the business of [REDACTED] until the beneficiary was elected president and CEO and assumed the management responsibility from April 2005 to January 2010. Based on the information provided in this statement, it appears that the beneficiary's employment as CEO, restaurant manager, and cook at [REDACTED] overlapped with his employment in similar capacities with the foreign employer for approximately six-months. The certificate further indicated that in addition to the above responsibilities, the beneficiary has held a part-time position as chairman of the board of [REDACTED] since December 27, 2003. Although the certificate contains a date of December 13, 2013, it contains no information identifying the author of the statement, thus precluding us from being able to determine whether the individual who signed the document was qualified to make the representations on behalf of [REDACTED] with regard to the beneficiary's employment history.

Lastly, when reviewing evidence provided in support of the beneficiary's Form I-526, Immigrant Petition by Alien Entrepreneur, we note that a May 15, 2005 statement, which was written by the beneficiary's attorney in the United States, referenced the beneficiary's employment background in sales from 1990 to 1997. In discussing the beneficiary's role with respect to the investment entity, counsel stated that the beneficiary was to "oversee the management and financial dealings of the company." There are no references pertaining to this alleged investment in any documentation pertaining to the beneficiary's current endeavor associated with the petitioner's filing of a Form I-140 in order to classify the beneficiary as a multinational manager or

executive. Counsel also made no reference to acknowledge the fact that the beneficiary was in the United States, purportedly in an attempt to invest in another business in which he planned to take part, all while he was allegedly appointed as president and CEO in of [REDACTED] where the beneficiary was also purportedly employed as a cook. Moreover, the beneficiary's presence in the United States in 2005 while attempting to obtain immigrant classification as an alien entrepreneur is wholly inconsistent with the petitioner's April 30, 2012 supporting statement, where the petitioner claimed that the beneficiary was employed by the foreign entity for a period of seven years "without any interruption." Regardless of whether that period of employment commenced in 1999, 2003, or 2005, the alleged seven years of continuous employment abroad could not have taken place if the beneficiary was in the United States in 2005 overseeing the start-up of a business in which the beneficiary was allegedly an investor.

It is incumbent upon the petitioner to resolve any inconsistencies in the record by providing 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). Accordingly, while the beneficiary provides a personal affidavit on appeal in an effort to explain and ultimately resolve the numerous inconsistencies catalogued above, his personal account of the facts in question is not sufficient to overcome adverse findings concerning the credibility of the petitioner's claim. Further, we find that the inconsistent third party attestations that the petitioner has provided to establish the dates and circumstances surrounding the beneficiary's former employment with the foreign entity particularly troubling, as the conflicting information perpetuated further confusion about basic facts concerning the beneficiary's employment abroad. Such statements cannot be deemed as the type of objective evidence that is necessary to resolve the considerable inconsistencies that have been discussed thus far. While the petitioner's counsel submits an appellate brief maintaining that the assertions found in the various written testimonies that were submitted in response to the NOID are reliable sources of information, the record indicates that there is no evidence to support counsel's position. Namely, based on the numerous inconsistencies we observed during the course of reviewing the third party testimonies, we find such testimonies to be unsuitable for the purpose of resolving factual inconsistencies, as they are incapable of "pointing to where the truth lies" due to their own various inconsistencies. *Id.* We note that the unsupported statements of counsel on appeal or in a motion are not evidence and thus are not entitled to any evidentiary weight. See *INS v. Phinpathya*, 464 U.S. 183, 188-89 n.6 (1984); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503 (BIA 1980).

A few errors or minor discrepancies are not reason to question the credibility of an alien or an employer seeking immigration benefits. See, e.g., *Spencer Enterprises Inc. v. U.S.*, 345 F.3d 683, 694 (9th Cir., 2003). However, anytime a petition includes numerous errors and discrepancies, and the petitioner fails to resolve those errors and discrepancies after USCIS provides an opportunity to do so, those inconsistencies will raise serious concerns about the veracity of the petitioner's assertions. As previously stated, doubt cast on any aspect of the petitioner's proof may undermine the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. at 591. In this case, the discrepancies and errors catalogued above lead to the conclusion that the evidence of the beneficiary's eligibility is not credible. Accordingly, in light of petitioner's submission of inconsistent evidence that served to undermine the petitioner's credibility, we decline to give consideration to any assertions the petitioner offered with regard to the beneficiary's organizational placement and job duties performed within the foreign entity's organization. We find that the petitioner has failed to provide probative credible evidence to establish that the beneficiary was employed abroad in a qualifying managerial or executive capacity and on the basis of this initial conclusion this petition cannot be approved.

### B. Qualifying Relationship

Next, we will address the issue of a qualifying relationship that the petitioner claims to have with [REDACTED], the beneficiary's claimed former employer abroad. To establish the existence of 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. a U.S. entity with a foreign office) or that the two employers are related as a "parent and subsidiary" or as "affiliates." *See generally* § 203(b)(1)(C) of the Act, 8 U.S.C. § 1153(b)(1)(C); *see also* 8 C.F.R. § 204.5(j)(2) (providing definitions of the terms "affiliate" and "subsidiary").

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

*Affiliate* means:

- (A) One of two subsidiaries both of which are owned and controlled by the same parent or individual;
- (B) One of two legal entities owned and controlled by the same group of individuals, each individual owning and controlling approximately the same share or proportion of each entity;

\* \* \*

*Multinational* means that the qualifying entity, or its affiliate, or subsidiary, conducts business in two or more countries, one of which is the United States.

*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.

The regulation and case law confirm that ownership and control are the factors that must be examined in determining whether a qualifying relationship exists between United States and foreign entities for purposes of this visa classification. *Matter of Church Scientology International*, 19 I&N Dec. 593 (BIA 1988); *see also Matter of Siemens Medical Systems, Inc.*, 19 I&N Dec. 362 (Assoc. Comm. 1986); *Matter of Hughes*, 18 I&N Dec. 289 (Comm. 1982). In the context of this visa petition, ownership refers to the direct or indirect legal right of possession of the assets of an entity with full power and authority to control; control means the direct or indirect legal right and authority to direct the establishment, management, and operations of an entity. *Matter of Church Scientology International*, 19 I&N Dec. at 595.

In the present matter, the petitioner's original supporting evidence with regard to the issue of ownership and control included the State of New York Certificate of Incorporation showing that the petitioner was authorized to issue 200 shares of its stock to stockholders. The petitioner provided stock certificate nos. 1 and 2, both dated January 9, 2008, showing that the petitioner issued 102 shares and 98 shares to [REDACTED] respectively. In the November 19, 2013 NOID, the director noted a

discrepancy between these documents and information found in the New York Department of State, Division of Corporations, which shows that the petitioner issued 400 shares of stock.

In response to the director's question pertaining to the above inconsistency, the petitioner provided a statement, dated December 19, 2013, claiming that in an effort to raise capital to fund the U.S. entity, the petitioner decided to raise the number of shares it was authorized to issue to 400. Therefore, in order to maintain the 51%/49% share distribution between the foreign entity and Mr. [REDACTED] respectively, the petitioner claimed that it issued new stock certificates giving the foreign entity 204 shares of stock and giving Mr. [REDACTED] 196 shares. In its NOID response packet, the petitioner provided two stock certificate nos. 1 and 2, dated January 2, 2009, and in support of the appeal, the petitioner resubmitted photocopies of all four stock certificates – two initial and two updated certificates – along with a stock transfer ledger to reflect the updated stock distribution. The petitioner did not, however, provide evidence to establish that it was authorized to raise the number of shares issued, given that it started out with only 200 shares authorized. Nor did the petitioner explain why, if it amended the number of shares it was authorized to issue several years prior to the filing of the petition, the only stock certificates that it submitted prior to the NOID were those that reflected outdated information and submitted what is now claimed to be the current and up-to-date evidence only after being informed that there was an inconsistency between its supporting documents and information contained in the New York State Division of Corporations' database.

Moreover, while the above inconsistency by itself may not have served as a basis for finding the petitioner ineligible, when considered in light of the numerous discrepancies that were fully addressed earlier in this discussion, the anomaly concerning the number of shares the petitioner is authorized to issue creates further doubt as to the reliability and veracity of the petitioner's claimed qualifying relationship with the beneficiary's alleged employer abroad. Accordingly, in light of the adverse finding discussed herein, we find that the petitioner has failed to establish that it has the statutorily requisite qualifying relationship and on the basis of this conclusion the instant petition cannot be approved.

#### C. Qualifying Employment in the United States

The director denied the petition, in part, finding that the petitioner had failed to establish that the beneficiary had been employed abroad in a managerial or executive capacity. In light of the above discussion pertaining to the unreliability of the petitioner's supporting documents regarding the beneficiary's employment abroad and the petitioner's qualifying relationship with the beneficiary's employer abroad, we will not address and will instead reserve our determination on this additional issue.

#### IV. Conclusion

The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

**ORDER:** The appeal is dismissed.