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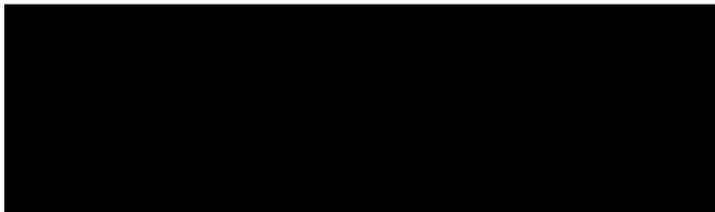
U.S. Department of Homeland Security
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U.S. Citizenship
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Services

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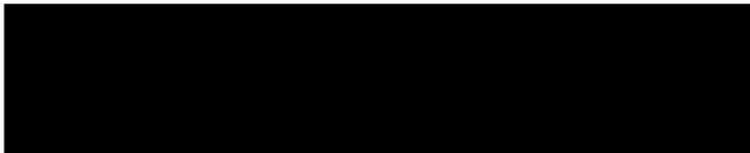
File: EAC 07 205 52172 Office: VERMONT SERVICE CENTER Date: **FEB 02 2009**

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.

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


John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the petition for a nonimmigrant visa. A subsequent motion to reopen was granted, and the director affirmed the denial. 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 extend the employment of the beneficiary as its executive manager as an L-1A 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 is a limited liability company organized in the State of Florida that is engaged in construction and engineering. The petitioner claims that it is the subsidiary of [REDACTED] located in Adana, Turkey. The petitioner seeks to extend the beneficiary's stay for three additional years.

On September 26, 2007, the director denied the petition, concluding that the petitioner did not establish that the beneficiary will be employed in the United States in a primarily managerial or executive capacity. Specifically, the director noted that the beneficiary was performing many day-to-day tasks of the business, and appeared to be a middleman for the foreign entity, whose business dealings involved selling homes for profit through the U.S. entity.

Counsel for the petitioner subsequently filed a motion to reopen, which was granted by the director. Upon review, the director determined that the motion had failed to overcome the grounds of the denial, and the director's initial decision of September 26, 2007 was affirmed.

On appeal to the AAO, counsel contends that the director's decisions in this matter were based upon an incorrect application of law. In support of this contention, counsel submits a detailed brief.

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 regulation at 8 C.F.R. § 214.2(l)(14)(ii) also provides that a visa petition, which involved the opening of a new office, may be extended by filing a new Form I-129, accompanied by the following:

- (A) Evidence that the United States and foreign entities are still qualifying organizations as defined in paragraph (l)(1)(ii)(G) of this section;
- (B) Evidence that the United States entity has been doing business as defined in paragraph (l)(1)(ii)(H) of this section for the previous year;
- (C) A statement of the duties performed by the beneficiary for the previous year and the duties the beneficiary will perform under the extended petition;
- (D) A statement describing the staffing of the new operation, including the number of employees and types of positions held accompanied by evidence of wages paid to employees when the beneficiary will be employed in a management or executive capacity; and
- (E) Evidence of the financial status of the United States operation.

The primary issue in the present matter is whether the beneficiary will be employed by the United States entity in a primarily managerial or executive capacity.

Section 101(a)(44)(A) of the Act, 8 U.S.C. § 1101(a)(44)(A), defines the term "managerial capacity" as 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), defines the term "executive capacity" as 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.

In a letter of support dated June 20, 2007, the petitioner claimed that its main purpose was to construct and sell town homes, with a goal of selling four homes monthly. Regarding the beneficiary's position and role in the company, the petitioner stated as follows:

The Beneficiary is actively involved in managing the whole project as an Executive Manager as he has extensive construction and engineering experience. Over the last year, he has performed the following duties: formulated general strategies and policies for the business, determined a market niche in which a business would operate and identified target customers, oversaw and directed all process at the first stage, directed calculation of bids for contractors. Beneficiary

also directed work with Architects and Engineers, and different departments of local municipality such as Planning Department, Fire Department, Water Department, Building Department, Treasurer's Office, Plumbing Department, Health Department, City of Fort Walton Beach, Okaloosa County, Building Inspector, U.S. Army Corps of Engineers, Department of Environmental Protection. That took most of his time as the preparation stage is very time consuming. All above mentioned was necessary to secure compliance with Building Code and other regulations. For example, work with Building Department was necessary to insure compliance with the provisions of the Zoning Ordinance.

Under the extended position [the beneficiary] will perform mostly the same executive duties, overseeing the entire operations of town home project. He will direct the management toward the company's overall goal of establishing itself in the United States business market. He will develop and nurture business contacts, generate new relationship through a promotional campaign. [The beneficiary] will formulate general strategies and policies for the business; hire, train, and oversee staff. His credentials and extensive construction and engineering experience will be extremely valuable at the main stage of the project, which is going to take up to two years.

Additionally, in a July 2, 2007 statement from counsel, it was noted that the beneficiary manages two non-paid managers, namely, a general manager and operational manager, both of whom are identified as company shareholders with a 24% interest in the company. Additionally, a "functional chart" was submitted, which showed the beneficiary as the overseer of many departments and unnamed employees, ranging from contractors to building inspector to architects, as well as the various departments, such as health, fire, and water, discussed in the petitioner's statement above.

On August 14, 2007, the director requested additional evidence. Specifically, the director requested additional evidence to establish that the beneficiary will be employed in a managerial or executive capacity, including but not limited to a comprehensive overview of the beneficiary's duties, position descriptions and job titles for all of beneficiary's subordinates, and the amount of time the beneficiary will allocate to managerial/executive functions in comparison to the time allocated to non-qualifying functions.

In a response received on September 20, 2007, the petitioner submitted an updated overview of the beneficiary's duties, in addition to Forms 941, Employer's Quarterly Federal Tax Return, evidencing wages paid for the last four quarters. The petitioner provided the following updated description of duties for the beneficiary:

The following skills in our opinion are necessary to perform the Beneficiary's duties in the U.S. The most important is financial management, an important part

of which is a fund-raising. The next skill is an ability to set strategy and vision. Decision making is the next one. As a co-owner and Assistant of Director General of Turkish company . . . the Beneficiary has plenty of those skills. As a business owner and a manager of Turkish company he has plenty of experience as a negotiator. That is also a valuable skill.

Beneficiary will spend most of his time by fulfilling his executive/managerial duties. He has full authority to make decisions and reports only to the Board of Directors.

In addition, the petitioner submitted a breakdown of a typical 40 hour work week for the beneficiary, which it claimed was composed of the following:

Analyzing financial and economic news (5 hours).

Setting strategy and vision. Checking if the business is developing within the strategy and vision (3 hours).

Overview of a business plan. Correcting [the petitioner's] operations for the previous week, based on General Manager's report. Comparing it with what was planned (3 hours).

Checking [the petitioner's] financial figures (1.5 hours).

Making corrections based on general economic situation (1 hour).

Checking with the company's budget. Addressing [the petitioner's] financial needs and fund-raising issues. Preparing of proposals to the Board of Directors if needed (1.5 hours).

Checking with a General Manager regarding human resources needs, business culture issues, safety regulations, sales, advertising (4 hours).

Building company's culture (1 hour). Correcting [the petitioner's] strategy, plans if needed (1 hour).

Overview of General Manager's task for the current week (0.5 hour).

Making some prognosis for the near future. Making decisions (3 hours).

Meeting with contractors, customers (3 hours).

Meeting with local authorities, attorneys, architects on an as needed basis (3 hours).

Solving problems by using past executive's and engineering experience (2 hours).

Solving various other issues (3 hours).

The petitioner also provided an updated organizational chart, which indicated that the beneficiary would oversee (1) a secretary (to be hired); (2) [REDACTED] (3) Tuncay [REDACTED] (4) a bookkeeper, to be hired; and (5) a file clerk/runner, to be hired. It is noted that [REDACTED] and [REDACTED] are allegedly the two unpaid employees each with a 24% interest in the petitioner.

The payroll records submitted, which covered the period from July 2006 through June 2007, indicated that only one employee was paid by the petitioner during this period. The returns for 2006 did not have attachments; however, the returns for the first two quarters of 2007 indicated that the beneficiary was the sole payroll employee of the petitioner.

On September 26, 2007, the director denied the petition. The director noted that despite the petitioner's contentions that the beneficiary functioned in a qualifying position, the information submitted with regard to the beneficiary's position, coupled with payroll records which indicated that he was the petitioner's sole employee, indicated that he performed all the day-to-day duties required to operate the company, and thus could not be considered primarily a manager or executive. The director concluded that the beneficiary was merely a middleman for the foreign entity whose intent was to construct and sell homes in the United States.

The petitioner, through counsel, filed a motion to reopen, which was granted. The petitioner submitted a brief and additional evidence, which included the petitioner's Form 941 for the third quarter of 2007, ending on September 30, 2007. This return indicated that the petitioner employed three persons, namely, the beneficiary, the general manager, and the field manager, as listed on the updated organizational chart. The petitioner's Florida Form UCT-6, Employer's Quarterly Report, further demonstrates that the general manager and the field manager first received wages in September 2007. The petitioner also submitted affidavits from the beneficiary, the general manager, counsel for the petitioner, architect and engineer for the petitioner, and the listing agent for the petitioner, all of which attested to the beneficiary's employment in a qualifying capacity.

On February 13, 2008, the director affirmed the prior decision, noting that the petitioner had not established that as of July 7, 2007, the date of filing the extension request, the petitioner had a subordinate staff to relieve him of non-qualifying duties. The director further noted that although the general manager and field manager, also 24% partners in the entity, appeared to be executive figures as opposed to subordinate to the beneficiary, and thus the beneficiary would not be relieved from performing the day-to-day required tasks of the entity.

On appeal, counsel for the petitioner submits a brief but submits no new evidence. In the brief, counsel asserts that the director disregarded the evidence submitted on motion and erroneously concluded that the beneficiary was the sole employee at the time of filing. Counsel reasserts that although there were no paid employees at the time of filing, the two managers identified above were in fact functioning as managers within the petitioner's structure. The petitioner relies on the affidavits submitted on motion from the attorney, the architect/engineer, and the listing agent as evidence of the beneficiary's capacity as an executive and the petitioner's business dealings.

Upon review, the AAO concurs with the director's findings.

When examining the executive or managerial capacity of the beneficiary, the AAO will look first to the petitioner's description of the job duties. *See* 8 C.F.R. § 214.2(l)(3)(ii). The definitions of executive and managerial capacity have two parts. First, the petitioner must show that the beneficiary performs the high level responsibilities that are specified in the definitions. Second, the petitioner must prove that the beneficiary *primarily* performs these specified responsibilities and does not spend a majority of his or her time on day-to-day functions. *Champion World, Inc. v. INS*, 940 F.2d 1533 (Table), 1991 WL 144470 (9th Cir. July 30, 1991).

In this matter, the petitioner provided a lengthy description of duties for the beneficiary, both with the petition and in response to the request for evidence. However, the description of duties fails to specifically state the exact nature of the beneficiary's duties. In fact, a review of the details provided by the petitioner in the weekly breakdown suggests that the beneficiary has been primarily engaged in the manifestation of the petitioner's products and services, as opposed to maintaining managerial or supervisory authority over subordinate employees. For example, duties such as "meeting with contractors, customers," and "meeting with local authorities, attorneys, architects on an as needed basis" are tasks that clearly require the beneficiary's participation or involvement. Based on this, it appears that the beneficiary plays an intricate and active role in the creation and implementation of the business goals and expansion of the petitioner in the housing market. An employee who "primarily" performs the tasks necessary to produce a product or to provide services is not considered to be "primarily" employed in a managerial or executive capacity. *See* sections 101(a)(44)(A) and (B) of the Act (requiring that one "primarily" perform the enumerated managerial or executive duties); *see also Matter of Church Scientology Int'l.*, 19 I&N Dec. 593, 604 (Comm. 1988).

Upon review of the request for evidence, it is evident that the director specifically requested to differentiate between the amount of time the beneficiary devoted to managerial or executive duties and non-qualifying duties. The petitioner's response failed to adequately address the director's queries. Moreover, some of the duties listed in the breakdown provided, such as "solving various other issues" and "building company's culture" are so vague and non-descript that they provide little or no evidentiary value when reviewing the beneficiary's eligibility. Reciting the beneficiary's vague job responsibilities or broadly-cast business objectives is not sufficient; the regulations require a detailed description of the beneficiary's daily job duties. The

petitioner has failed to answer a critical question in this case: What does the beneficiary primarily do on a daily basis? The actual duties themselves will reveal the true nature of the employment. *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F.2d 41 (2d. Cir. 1990).

In addition to the insufficient description of duties for the beneficiary, a second issue is the fact that at the time of filing, the petitioner employed no additional employees aside from the beneficiary. Pursuant to section 101(a)(44)(C) of the Act, 8 U.S.C. § 1101(a)(44)(C), if staffing levels are used as a factor in determining whether an individual is acting in a managerial or executive capacity, United States Citizenship and Immigration Services (USCIS) must take into account the reasonable needs of the organization, in light of the overall purpose and stage of development of the organization. In the present matter, however, the regulations provide strict evidentiary requirements for the extension of a "new office" petition and require USCIS to examine the organizational structure and staffing levels of the petitioner. See 8 C.F.R. § 214.2(l)(14)(ii)(D). The regulation at 8 C.F.R. § 214.2(l)(3)(v)(C) allows the "new office" operation one year within the date of approval of the petition to support an executive or managerial position. There is no provision in USCIS regulations that allows for an extension of this one-year period. If the business does not have sufficient staffing after one year to relieve the beneficiary from primarily performing operational and administrative tasks, the petitioner is ineligible by regulation for an extension.

Despite the petitioner's claims that the two managers, who allegedly each own a 24% interest in the petitioner, were working as subordinates for the beneficiary but earned no salary, the petitioner failed to submit sufficient evidence documenting this fact. 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)). While the AAO notes that the two managers were added to the petitioner's payroll for the third quarter of 2007, it appears that this step was taken simply to overcome the director's basis for the denial. A visa petition may not be approved based on speculation of future eligibility or after the petitioner or beneficiary becomes eligible under a new set of facts. See *Matter of Michelin Tire Corp.*, 17 I&N Dec. 248 (Reg. Comm. 1978); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm. 1971). A petitioner may not make material changes to a petition in an effort to make a deficient petition conform to USCIS requirements. See *Matter of Izummi*, 22 I&N Dec. 169, 176 (Assoc. Comm. 1998). In the instant matter, the petitioner has not reached the point that it can employ the beneficiary in a predominantly managerial or executive position.

Beyond the decision of the director, the AAO notes an additional basis for denial on this issue not addressed by the director. Specifically, the petitioner states that the beneficiary was initially granted a one-year period of stay, from August 15, 2006 to August 15, 2007, to open a new office in the United States. The record, however, contains evidence that suggests that the beneficiary was not in fact present in the United States during the entire period of validity. Specifically, on Form I-129, the petitioner claims that the beneficiary was present in the United

States from October 19, 2006 to June 2, 2007. However, the record contains a copy of the beneficiary's Form 1040NR, Nonresident Alien Income Tax Return for 2006, which indicates that he was present in the United States for only ten days during the validity period, from October 20, 2006 to October 29, 2006. If the beneficiary departed the United States on October 29, 2006, as claimed on his Form 1040NR, and did not return to the United States during the validity period, the extent of the beneficiary's claimed duties and managerial role in the company would be drawn into question.

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). In order to rebut the findings of the AAO as outlined above, the petitioner was afforded the opportunity to submit evidence to definitively establish that the beneficiary was present in the United States during the requisite period. In a request for evidence issued on October 21, 2008, the AAO requested a complete copy of the beneficiary's passport and a copy of the beneficiary's Form 1040NR, Nonresident Alien Income Tax Return for 2007, indicating definitely when the beneficiary entered and exited the United States.

The petitioner failed to respond to the request for evidence. Therefore, for the reasons discussed above, the AAO is unable to verify that the beneficiary was in fact present in the United States during the petitioner's initial year of operations, thereby calling into question the validity of the petitioner's claims with regard to the beneficiary's alleged duties for the previous year and his proposed duties under the expended petition. Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. at 591. If USCIS fails to believe that a fact stated in the petition is true, USCIS may reject that fact. See e.g. *Anetekhai v. I.N.S.*, 876 F.2d 1218, 1220 (5th Cir.1989); *Lu-Ann Bakery Shop, Inc. v. Nelson*, 705 F. Supp. 7, 10 (D.D.C.1988); *Systronics Corp. v. INS*, 153 F. Supp. 2d 7, 15 (D.D.C. 2001).

In this matter, the record contains insufficient and conflicting evidence to support of the contention that the beneficiary was present in the United States during the claimed period. Despite being afforded an opportunity to supplement the record and clarify the inconsistencies between the petitioner's claims and the documentary evidence, the petitioner failed to do so. 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).

Therefore, the AAO cannot conclude that the beneficiary was present in the United States during the claimed period. Nevertheless, for the reasons set forth above, even if he had been present, the nature and extent of his claimed duties do not support a finding that he will be employed in a primarily managerial or executive capacity.

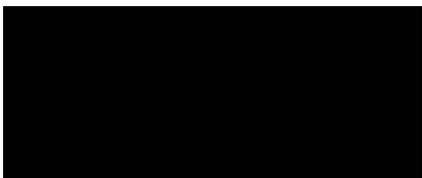
The record is not persuasive in establishing that the beneficiary will be employed in the United States in a primarily managerial or executive capacity. For this reason, the petition may not be approved.

Beyond the findings in the previous decision, the remaining issue in this proceeding is whether the petitioner has established that a qualifying relationship exists between the petitioning entity and a foreign entity pursuant to 8 C.F.R. § 214.2(l)(1)(ii)(G). In a request for evidence issued by the AAO on October 21, 2008, the AAO advised the petitioner of the deficiencies in the evidence with regard to this issue, and requested additional documentation to support the petitioner's claim that it is the subsidiary of [REDACTED]. The petitioner failed to respond to this request within the time period allotted; therefore, the record as currently stands will be deemed complete.

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 (BIA 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.

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.*, 19 I&N Dec. 362. Without full disclosure of all relevant documents, USCIS is unable to determine the elements of ownership and control.

In this matter, the petitioner claims that [REDACTED] is the majority owner of the U.S. entity by virtue of its ownership of owns 52% of the company. Specifically, the record contains membership certificates and an amendment to the petitioner's operating agreement dated July 1, 2006, indicating that the breakdown of ownership is as follows:



	260 shares, 52% interest
	120 shares, 24% interest
	120 shares, 24% interest

However, an independent review by the AAO of public corporate records maintained by the Florida Secretary of State, accessible at www.sunbiz.org, indicates that according to the U.S. entity's Articles of Organization, filed on September 12, 2005, the petitioner has only two members; namely, [REDACTED] and [REDACTED]. Subsequent annual reports filed with the State of Florida on April 3, 2006, July 5, 2007 and April 16, 2008 continue to list [REDACTED] and [REDACTED] as the only members of the entity.

The regulations specifically allow USCIS to request additional evidence in appropriate cases. *See* 8 C.F.R. § 214.2(l)(3)(viii). As ownership is a critical element of this visa classification, USCIS may reasonably inquire beyond the issuance of paper stock certificates and, in this case, an amendment to the operating agreement. Therefore, the AAO requested specific documentation to establish that the foreign entity is in fact the majority owner of the petitioner. Specifically, the AAO requested a copy of the petitioner's original operating agreement and any amendments thereto, copies of all membership certificates issued by the petitioner and the accompanying ledger, if applicable; a complete copy of the petitioner's 2007 corporate tax returns, including all required statements, schedules and other attachments; and any additional documentation pertaining to the ownership and control of the petitioner, the management and direction of the company, the distribution of profit of monies, and any other factor affecting ownership and control of the company.

The petitioner failed to respond to the request for evidence. Therefore, for the reasons discussed above, the record contains insufficient evidence to support a finding that a qualifying relationship exists between the U.S. entity and [REDACTED]. Despite being afforded an opportunity to supplement the record and clarify the inconsistencies between the submitted evidence and the corporate documentation filed with the State of Florida, the petitioner failed to do so. 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. at 591-92.

Therefore, the petitioner has not demonstrated that a qualifying relationship exists with a foreign entity as required by 8 C.F.R. § 214.2(l)(1)(ii)(G). For this additional reason, the petition will be denied.

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).

When the AAO denies a petition on multiple alternative grounds, a plaintiff can succeed on a challenge only if he or she shows that the AAO abused its discretion with respect to all of the AAO's enumerated grounds. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d at 1043.

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, 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.