U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39703273

Date: JAN. 5, 2026

Appeal of Service Center Operations (SCOPS) Decision

Form I-129, Petition for a Nonimmigrant Worker (L-1A Manager or Executive)

The Petitioner, a transportation company, seeks to temporarily employ the Beneficiary as its chief executive officer (CEO) under the L-1A nonimmigrant classification for intracompany transferees. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L). The L-1A classification allows a corporation or other legal entity, including its affiliate or subsidiary, to transfer a qualifying foreign employee to the United States to work temporarily in a managerial or executive capacity.

SCOPS denied the petition, concluding the record did not establish that the Beneficiary was employed abroad in a managerial or executive capacity and that he would be employed in the same capacity in the United States. In addition, SCOPS determined that the Petitioner and Beneficiary willfully misrepresented material facts related to the asserted U.S. and foreign employment. The matter is now before us on appeal under 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

To establish eligibility for the L-1A nonimmigrant visa classification, a qualifying organization must have employed the beneficiary "in a capacity that is managerial, executive, or involves specialized knowledge," for one continuous year within three years preceding the beneficiary's application for admission into the United States. Section 101(a)(15)(L) of the Act. 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 or executive capacity. *Id*. The petitioner must also establish that the beneficiary's prior education, training, and employment qualify him or her to perform the intended services in the United States. 8 C.F.R. § 214.2(l)(3).

II. FOREIGN EMPLOYMENT IN AN EXECUTIVE CAPACITY

The Petitioner does not claim that the Beneficiary was employed abroad in a managerial capacity. Therefore, we restrict our analysis to whether the Beneficiary was employed abroad in an executive capacity.

"Executive capacity" means an assignment within an organization in which the employee primarily directs the management of the organization or a major component or function of the organization; establishes the goals and policies of the organization, component, or function; exercises wide latitude in discretionary decision-making; and receives only general supervision or direction from higher-level executives, the board of directors, or stockholders of the organization. Section 101(a)(44)(B) of the Act.

When examining the asserted foreign executive capacity of a given beneficiary, we will review the petitioner's description of the job duties abroad. The petitioner's description of the foreign job duties must clearly describe the duties performed by the beneficiary and indicate whether such duties were in an executive capacity. *See* 8 C.F.R. § 214.2(l)(3)(ii).

A. Duties

To be eligible for L-1A nonimmigrant visa classification as an executive, the Petitioner must show that the Beneficiary performed the high-level responsibilities set forth in the statutory definition at section 101(a)(44)(B) of the Act. If the record does not establish that the foreign position meets all four of these elements, we cannot conclude that it was a qualifying executive position.

If the Petitioner establishes that the foreign position meets all elements set forth in the statutory definition, the Petitioner must prove that the Beneficiary was *primarily* engaged in executive-level duties, as opposed to ordinary operational activities alongside other foreign employees. *See Family Inc. v. USCIS*, 469 F.3d 1313, 1316 (9th Cir. 2006). In determining whether a given beneficiary's foreign duties were primarily executive, we consider the Petitioner's description of the job duties abroad, the foreign company's organizational structure, the duties of a beneficiary's subordinate employees abroad, the presence of other employees to relieve the beneficiary from performing operational duties, the nature of the foreign business, and any other factors that will contribute to understanding a beneficiary's actual duties and role in the business abroad.

The Petitioner stated that the foreign employer was established in 2003 and that its primary business was to design and manufacture promotional marketing materials "to raise awareness about a product or company or increase its appeal." The Petitioner indicated that the Beneficiary began his employment with the foreign employer in November 2006 as a sales representative and held this position until June 2012 when he was promoted to sales supervisor. The Petitioner stated the Beneficiary was later promoted to his purported qualifying foreign position in August 2015, executive director and general manager. The Petitioner explained that the Beneficiary worked in this capacity abroad until his entry into the United States as a nonimmigrant L1A intracompany transferee in

November 2018.[1] The Petitioner indicated that the Beneficiary oversaw the entire organization abroad, drove its vision, and ensured company-wide goals were achieved. The Petitioner listed the following duties for the Beneficiary while employed abroad:

> **Developing strategic development plan to advance [the foreign employer's] mission and objectives and promote revenues, profitability and growth as a high-end promotional marketing service provider (15%)**
>
> - Formulating the company's development strategies based on in-depth understanding of market change; convening with [foreign employer] subordinate managers (Operation Department and Marketing Department Managers) to study review, and revise business development plan if necessary; meet and confer with Operation Department Manager and Marketing department Manager to ensure day to day activities are appropriately carried out according to the company's mission and vision [6%]
> - Direct the overall management of the company ensuring it operates efficiently and goals are met based on the direction established in the strategic plan; Developing [the foreign employer's] three-year and five-year development goals in line with the company's strategic planning; approving annual implementation plan to promote profitability and growth (6%)
> - Attending industry summit conferences [...] to keep abreast with market trends and to learn from other companies' advanced experience in business operation (3%)
>
> **Identifying, reviewing and approving investment decisions and directing implementation of activities in pursuance with the Company's development strategy (10%)**
>
> - Monitoring the process of entrusting third-party agency to identify marketing opportunities suitable for the Company's business development to realize business expansion and increase profitability (6%)
> - Directing major negotiations, due diligence, contract execution and other implementation activities; Close new business deals, developing and negotiating contracts; integrating contract requirements with business operations (4%)
>
> **Planning and directing [the foreign employer's] activities to achieve annual stated/agreed targets and standards for financial and trading performance, quality, culture and legislative adherence (10%)**
>
> - Reviewing activity reports and financial statements to determine progress and status in attaining objectives and revising objectives and plans in accordance with current conditions (3%)
> - Reviewing operation reports including financial statements, business goal achievement reports, sales revenues realization reports; conducting in-depth

[1] The Petitioner was previously approved for L1A nonimmigrant intracompany visas on behalf of the Beneficiary from November 1, 2018, through October 14, 2021, and from October 15, 2021, to October 14, 2023. The current petition requested approval from October 15, 2023, to October 14, 2025. However, new facts discovered and information from an intervening site visit in June 2022 require that this extension be considered further.

analysis on discrepancies and invariances to make adjustments to annual plan if necessary (3%)
- Review reports prepared by Accountant (2%)
- Setting and monitoring annual financial goals including revenues, costs and expenses, control, and profit (2%)

Responsible for building up and maintaining [the foreign employer's] core management team (5%)

- Supervising recruiting and building management team, and the development and implementation of employee training strategies and policies. In coordination with the Operation Department and Marketing Department Managers, oversee employee presence/attendance and compliance with company policies; have a final say on new hire for new positions within the company (3%)
- Directing [foreign employer's] managerial teamwork, enterprise cultural establishment, HR system and the formulation of the Company's HR policies and enterprise core values; set expectations, goals and performance standards for each department (1%)
- Monitoring the establishment and implementation of the Company's performance evaluation system; evaluating performance of managerial personnel each quarter for compliance with established policies and objectives of the company and contributions in attaining objectives (1%)

Overseeing [the foreign employer's] operations of each function to ensure efficient, quality, service and cost-effective management of resources (60%)

- Formulating annual business goals for each department (Operations and Marketing): the following year's operation objective planning starts every October, to be completed in December (15%)
- Monthly planning management: carrying out annual plan in every month to ensure that the annual profit plan is realized (15%)
- Reviewing activity reports and financial statements to determine progress and status in attaining objectives and revising objectives and plans in accordance with current conditions, reviewing operation reports every quarter including financial statements, business goal achievement reports, sales revenues realization reports; conducting in-depth analysis on discrepancies and invariances to make adjustments to annual plan (10%)
- Managing HR function: supervising and monitoring HR function's compliance with policies on personnel arrangement, benefits, personnel maintenance to ensure efficient operation of each division (10%)
- Monitoring daily business operation of each department to ensure [the foreign employer's] normal operation (10%)

SCOPS issued a notice of intent to deny (NOID) in August 2024 pointing to other nonimmigrant visa

records reflecting the Beneficiary's application for B1/B2 nonimmigrant travel visas.[2] SCOPS emphasized that a visa application in October 2013 showed different foreign employment for the Beneficiary, reflecting he worked abroad as a service manager at an automobile service technology company from June 2007 to January 2011. This listed experience conflicted with the Beneficiary's claimed employment with the foreign employer that the Petitioner stated began in November 2006 and continued through to his entry into the United States as a nonimmigrant in November 2018.

Further, SCOPS indicated that another B1/B2 nonimmigrant travel visa submitted in August 2015 indicated that the Beneficiary was employed abroad with a different company as a sales manager with a medical instrument company. The Petitioner later indicated he was employed with this medical instrument company in China from February 2011 to December 2015. SCOPS emphasized that the stated employment in the two other B1/B2 visas, which reflected other employment from June 2007 to January 2011 and from February 2011 to December 2015, conflicted with the Beneficiary's claimed employment with the foreign employer that the Petitioner stated began in November 2006 and continued through to November 2018. The Beneficiary's apparent conflicting employment with the medical instrument company employment also overlapped with his claimed August 2015 promotion to executive director and general manager of the foreign employer.

In response to the NOID, the Petitioner claimed that the Beneficiary did not report his employment with the foreign employer in the discussed B1/B2 nonimmigrant visa applications because the visa application form allowed only one primary employer to be listed. The Petitioner indicated that the Beneficiary held positions at both the foreign employer and the other companies simultaneously. The Petitioner explained that the Beneficiary's employment with the automobile service technology company and the medical instrument company was his primary employment when it overlapped with his asserted employment with the foreign employer. However, the Petitioner did not clarify in detail the amount of time he devoted to each position when they did overlap. This issue goes to whether the Petitioner could have credibly worked for multiple employers simultaneously. The Petitioner did note that prior to 2015 the foreign employer "was not yet successful or prominent and took several years to have steady business."

The Beneficiary's listing of differing foreign employment conflicting with his claimed foreign employment raised substantial uncertainty regarding his claimed qualifying employment abroad. However, in response to the NOID, the Petitioner submitted little supporting evidence to substantiate his asserted qualifying employment as executive director and general manager of the foreign employer from August 2015 to November 2018. For instance, the Petitioner provided a generic job duty description for his asserted qualifying foreign employment that could apply to any executive working in any role in any company or industry. The Petitioner did not detail or document the development strategies and plans the Beneficiary formulated and revised, strategic plans he implemented, annual implementation plans he put in place, or major negotiations he handled. Likewise, the Petitioner did not describe or document financial discrepancies and variances he detected, annual financial goals he set, employee training strategies and policies he implemented, human resources policies he established, or performance evaluation systems he put in place. In fact, 60% of the Beneficiary's

[2] We note that SCOPS also issued a request for evidence (RFE) in February 2024 requesting additional evidence to substantiate that the Petitioner was employed in a qualifying executive capacity with the foreign employer, including copies of training, pay, or other personnel records and a letter from an authorized representative of the foreign employer describing his executive position abroad. The Petitioner responded in May 2024.

stated duties submitted in response to the RFE and NOID were largely a reiteration of tasks previously articulated in the initially provided duty description.

Although we do not expect the Petitioner to detail every executive-level task of the Beneficiary, the lack of detail combined with the claimed overlapping employment leaves substantial uncertainty as to whether he primarily performed executive-level duties abroad, was employed with the foreign entity as claimed, and whether it provided accurate dates and duties for his asserted qualifying employment. Specifics are clearly an important indication of whether a beneficiary's duties are primarily executive nature, otherwise meeting the definitions would simply be a matter of reiterating the regulations. *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, the Petitioner submitted little additional evidence such as sufficient pay records with his claimed qualifying foreign employer or related to the Beneficiary's employment with the automobile service technology company, or the medical instrument company to corroborate his asserted dual employment. The Petitioner also did not explain how he devoted his time to these different positions. For instance, in response to the NOID, the Petitioner submitted no additional supporting documentation specific to his asserted qualifying foreign employment while he held apparent conflicting foreign employment. Further, in response to the previous RFE, the Petitioner provided only one payroll listing related to the foreign employer showing the Beneficiary from April 2018, a time not coinciding with his asserted dual employment. Therefore, the Petitioner submitted little detail and supporting documentation to overcome the discrepancies listed in his B1/B2 nonimmigrant visa applications, and more critically, it did not sufficiently substantiate the Beneficiary's claimed foreign employment in an executive-level position.

In contrast, the Petitioner instead provided supporting documentation of the Beneficiary purportedly acting in his asserted executive-level role abroad well after his time of qualifying foreign employment, and presumably while he was employed in the United States. For instance, the Petitioner provided service contracts the Beneficiary was claimed to have signed for the foreign employer in 2023 and 2024 and a lease agreement he executed in April 2023.[3] The Petitioner also submitted asserted foreign payroll records from May through August 2024 listing the Beneficiary. It further provided [redacted] Special Invoices of Value-Added Tax" from 2024 listing the Beneficiary as the "payee," reviewer, and "drawer." It is questionable that the Petitioner did not submit this type of supporting evidence with a corresponding date range to substantiate his claimed foreign employment from August 2015 to November 2018 in response to the RFE or the NOID.

Now, on appeal, the Petitioner submits foreign internal payroll documentation listing the Beneficiary dating from December 2015 through November 2016. However, SCOPS requested additional evidence of the Beneficiary's qualifying foreign employment in the RFE and the NOID. Because the Petitioner was put on notice and given a reasonable opportunity to provide this evidence, we will not consider it for the first time on appeal. See Matter of Furtado, 28 I&N Dec. 794, 801-02 (BIA 2024) (declining to consider new evidence on appeal when the petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it) (citing Matter of Soriano, 19 I&N Dec.

[3] The current petition was filed on October 12, 2023. U.S. Citizenship and Immigration Services (USCIS) records do not indicate that the Beneficiary ever returned to China following his entry as a nonimmigrant in 2018.

764, 766 (BIA 1988)); see also 8 C.F.R. § 103.2(b)(11) (requiring that in response to a request for evidence or notice of intent to deny, all evidence must be submitted together at one time and that submitting only some of the requested evidence will be considered a request for a decision on the record).

Therefore, the only supporting documentation contemporaneous to his foreign employment in the record provided in response to the RFE and NOID was an internally generated payroll document from April 2018 that does not sufficiently substantiate his asserted foreign executive-level role. The Petitioner must resolve inconsistencies and ambiguities in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

Even though the Beneficiary claimed to have held a senior position within the organization, the fact that he managed or directed the business abroad does not necessarily establish eligibility for classification as an intracompany transferee in an executive capacity within the meaning of section 101(a)(44)(B) of the Act, or by the time of filing. By statute, eligibility for this classification requires that the duties of a foreign position be "primarily" executive in nature. *Id.* The Beneficiary may have exercised discretion over the foreign employer's day-to-day operations and possess the requisite level of authority with respect to discretionary decision-making; however, the position descriptions that the Petitioner submitted alone are insufficient to establish that his foreign duties were primarily executive as the descriptions do not provide sufficient detail.

B. Operations and Staffing

The Petitioner submitted a foreign organizational chart indicating that he oversaw operation and marketing department managers. The operation department manager was shown to supervise an accountant and a logistics specialist, while the chart reflected that the marketing department manager oversaw a public relations specialist and four sales representatives.

As noted, the Petitioner asserted that the Beneficiary was employed in an executive capacity abroad. The statutory definition of the term "executive capacity" focuses on a person's elevated position. Under the statute, a beneficiary must have the ability to "direct the management" and "establish the goals and policies" of an organization or major component or function thereof. Section 101(a)(44)(B) of the Act.

To show that a beneficiary will "direct the management" of an organization or a major component or function of that organization, a petitioner must show how the organization, major component, or function is managed and demonstrate that the beneficiary primarily focuses on its broad goals and policies, rather than the day-to-day operations of such. An individual will not be deemed an executive under the statute simply because they have an executive title or because they "direct" the organization, major component, or function as the owner or sole managerial employee. A beneficiary must also exercise "wide latitude in discretionary decision making" and receive only "general supervision or direction from higher level executives, the board of directors, or stockholders of the organization." *Id.* An executive directs the management of the organization, major component, or essential function of a given organization by controlling the work of managerial or lower-level executive employees. *See generally* 2 *USCIS Policy Manual* L.6(D), https://www. uscis.gov/policy-manual. *See also BlueStar Cabinets, Inc. v. Jaddou*, No. 21-10116, 2022 WL 4364734, at *7 (5th Cir. Sept. 21, 2022) (holding

that "'[d]irect[ing] the management of the organization' necessarily includes directing managers of the organization.")

As discussed, the Petitioner submitted little supporting evidence to establish that he acted in an elevated position primarily setting broad goals and policies while controlling the work of subordinate managers or lower-level executives. For example, there is little documentation coinciding with his claimed foreign employment from 2015 to 2018 showing his performance of qualifying executive-level duties or reflecting his direction of, or delegation to, his subordinate operation and marketing department managers. Additional documentation is critical in this matter based on the generic job duties submitted, and the two visa applications submitted with differing claimed foreign employers.

Further, much like the Beneficiary's asserted foreign duties, the Petitioner provided generic duty descriptions for his claimed subordinates abroad. For instance, the operation department manager's duty description indicates that he was tasked with "supervis[ing] business supporting staff to ensure the smooth of the business operation [sic], safety and efficiency; [and] direct[ing] [the] supporting team to ensure an accurate and rapid turnaround of all customer related activities." It is not clear to which staff the Petitioner is referring nor what business and "customer related activities." Similarly, the duty description for the marketing department manager stated that he was responsible for managing "marketing campaigns across various direct marketing mail, email, Internet, and print" and determining "the demand for the company's and competitor products and services." Again, there was little indication from the submitted evidence what marketing campaigns the foreign employer implemented or what their products and services were. These vague subordinate duties do little to substantiate these foreign positions and include little credible discussion of the foreign employer's business abroad. The duty descriptions for the subordinates below his claimed managers were similarly generic and could apply to any employees working in any company or industry. The Petitioner also did not provide any documentation to substantiate the Beneficiary's direction of his claimed subordinate managers or their departments. This lack of documentation is noteworthy considering the Beneficiary was asserted to have worked in this role for three years and particularly in light of the discussed discrepancies in his foreign employment listed in the B1/B2 nonimmigrant visa applications.

For the foregoing reasons, the Petitioner did not establish that the Beneficiary was employed abroad in an executive capacity. Since this identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve its appellate arguments regarding whether the Beneficiary acted in an executive capacity in the United States. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

III. WILLFUL MISREPESENTATON OF A MATERIAL FACT

SCOPS further determined that the Petitioner and Beneficiary willfully misrepresented material facts related to his asserted U.S. and foreign employment.

Section 212(a)(6)(C)(i) of the Act renders inadmissible any foreign national who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, admission into the United States, or other benefit provided under the Act.

To find willful misrepresentation, the Director must find all of the following elements:

- The person procured, or sought to procure, a benefit under U.S. immigration laws;
- The person made a false representation;
- The false representation was willfully made;
- The false representation was material; and
- The false representation was made to a U.S. government official, generally an immigration or consular officer.

If all of the above elements are present, then the person is inadmissible for willful misrepresentation. *See Matter of Y-G-,* 20 I&N Dec. 794, 796 (BIA 1994), *see also Matter of Tijam,* 22 I&N Dec. 408, 424 (BIA 1998), *see also Matter of G- G-*, 7 I&N Dec. 161 (BIA 1956), *see generally* 8 *USCIS Policy Manual* J.2(B), https://www.uscis.gov/policymanual.

As noted, SCOPS issued a NOID in August 2024 discussing discrepancies in the Beneficiary's reported foreign employment appearing in B1/B2 nonimmigrant visa applications. SCOPS further discussed a June 2022 site visit to the Petitioner's asserted work location. SCOPS indicated that when questioned by USCIS officers at his claimed work location, the Beneficiary, the claimed CEO, was unable to provide a clear organizational chart of the Petitioner's employees, their duties, and titles. In addition, SCOPS stated that the Beneficiary struggled to write down his resume and work history, including the details of his prior qualifying foreign employment allegedly from November 2006 to November 2018. The lack of response calls into question the Beneficiary's true role with both the Petitioner and the foreign employer, as well as the validity of the Petitioner's U.S. operations.

In response, the Petitioner asserted that USCIS did not provide sufficient translation services during the site visit, noting that although the USCIS officers provided a translator via telephone, this communication was "challenging and prone to misunderstandings." The Petitioner contended that the Beneficiary was deprived of his constitutional rights due to the asserted inadequate translation and his lack of legal representation. The Petitioner stated that his inability to recall specific details regarding the company was due to the stress stemming from the unannounced visit and the inadequate translation services. The Petitioner also indicated that USCIS erred by not providing contemporaneous notes or a recording of the site visit denying him a meaningful opportunity to rebut the information collected. The Petitioner claimed it provided sufficient supporting documentation to demonstrate his qualifying executive-level role in the United States.

SCOPS later dismissed the petition concluding that the Petitioner and the Beneficiary willfully misrepresented material facts related to the Beneficiary's work experience and position based on the conflicting visa applications and information from the June 2022 site visit and as a result found that the record did not demonstrate that the Beneficiary was employed abroad in a qualifying position, or that the Beneficiary will be employed in a qualifying capacity with the Petitioner.

On appeal, the Petitioner largely resubmits the same assertions provided in response to the NOID and contends that the Petitioner and Beneficiary did not willfully misrepresent material facts regarding his foreign and U.S. employment. The Petitioner again asserts that his qualifying roles with the foreign employer and the Petitioner are "well documented and supported by evidence in the record."

In making a finding of inadmissibility under section 212(a)(6)(C)(i) of the Act, there must be at least some evidence in the record showing that a reasonable person would find a petitioner or beneficiary willfully misrepresented a material fact in an attempt to obtain a visa, other documentation, admission into the United States, or any other immigration benefit. 8 USCIS Policy Manual J.3(A)(1), https://www.uscis.gov/policymanual. The Act makes clear that an alien seeking admission must establish admissibility "clearly and beyond doubt." Sections 235(b)(2)(A) and 240(c)(2)(A) of the Act.

As discussed, the Petitioner asserts on appeal that the Beneficiary did not misrepresent himself at the June 2022 site visit contending he did not properly understand the English commands of USCIS officers and translation provided via telephone. We do not find this contention on the part of the Petitioner and the Beneficiary plausible given the documentary evidence provided, which the Petitioner asserts conclusively demonstrates his executive-level position. For instance, there is substantial documentary evidence throughout the record reflecting the Beneficiary's apparent understanding of the English language, including evidence contemporaneous, and prior, to the June 2022 site visit. The Petitioner submitted numerous emails dating from August 2020 to April 2024, over a nearly four year period, reflecting the Beneficiary regularly writing in English to his subordinates and third parties regarding a litany of day-to-day operational matters, including purchasing trucks and arranging for financing, renewing lease agreements, arranging an interview with a new assistant, hiring new truck drivers, reviewing lists of trailers and arranging for their purchase, arranging for insurance for new truck drivers, amongst other similar tasks. The emails from his subordinates and third parties were also in English, as such, it is reasonable to presume the Beneficiary was able to understand them given his responses. For instance, the Petitioner provided an email exchange between the Beneficiary and his asserted operation manager in May 2022, just prior to the USCIS site visit, where his subordinate sent him a lengthy list of available trailers in English. The Beneficiary responded to this list in English by stating "[Operation manager], please let the dealer send pics of the first five trailers," and he later indicated in English his intention to purchase a specific trailer.

Likewise, the Petitioner provided an employee performance review of its claimed operations manager conducted by the Beneficiary in December 2021. The Beneficiary wrote the following in English in the review:

> Thanks for your hard work. The driver turnover rate has dropped significantly compared with the previous year. The on time rate of the range delivery has increased, and customer satisfaction has increased. However, I hope that drivers can be urged to maintain the clean [sic] in the vehicle, increase mechanical knowledge, enrich experience, help drivers solve vehicle problems on the road more quickly and reduce failure rates.

Similarly, another performance review of the company's asserted office manager completed by the Beneficiary was also written in English at this same time.

The record further includes numerous other documents reflecting the Beneficiary's understanding of English, including meeting minutes in English dating from January 2021 to April 2022 all signed by the Beneficiary. Meeting minutes from June 2021 indicated that the Beneficiary was tasked to "explore a new parking lot" and "visit all clients." It appears unlikely that the Beneficiary would be able to sign these meeting minutes or complete these tasks without a functional understanding of the English language. The Petitioner further provided an internal approval form in English dated in March 2021, signed by the Beneficiary, reflecting his approval of a truck purchase for approximately $41,000. Similarly, the Petitioner submitted a March 2021 letter in English from an auctioneer of trucks addressed in the Beneficiary. Notably, the Petitioner submitted another internal approval form related to a finance agreement dated in March 2024 reflecting the Beneficiary's approval in English, while his subordinate signed this document in Mandarin.

The record also reflects numerous contracts signed by the Beneficiary over the years, all fully in English and signed by him in English, including security, lease, finance, amongst other agreements. It is relevant to note that in a lease agreement dated in August 2020, not only did the Beneficiary sign the agreement in English, but he wrote the address of the Petitioner in English just below the signature line. In sum, the record includes overwhelming evidence that the Beneficiary has a functional understanding of the English language. Therefore, the core of the Petitioner's contentions on appeal are highly questionable, namely that he was unable to understand any commands from the USCIS officers during the June 2022 site visit, whether in English or through a Mandarin translator.

Further, it is also clear that he understood the commands of the USCIS officers given that he willingly gave them a tour of the office, answered questions about the location, and sat to provide the requested information regarding the U.S. organization and his employment. The Petitioner must resolve inconsistencies, discrepancies, incongruities, and ambiguities in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Unresolved material inconsistencies may lead us to reevaluate the reliability and sufficiency of other evidence submitted in support of the requested immigration benefit. *Id.; see also Matter of O-M-O-*, 28 I&N Dec. 191, 197 (BIA 2021) ("by submitting fabricated evidence, the appellant compromised the integrity of his entire claim") (cleaned up).

The Petitioner contends on appeal that the documentation on the record conclusively demonstrates his executive level role and overcomes the questions raised by the site visit. We disagree. As noted in SCOP's decision, the Beneficiary struggled to write down his work history and resume, despite allegedly working for the foreign employer for twelve years, and at that time for the Petitioner for a four-year time period, reportedly as CEO.[4]

[4] Additionally, the supporting documentation we have discussed related to his U.S. position overwhelmingly reflects the Beneficiary's involvement in nearly every non-qualifying operational aspect of the business, including every truck driver hire, interview, truck purchase, insurance premium, lease renewal, client visit, amongst other examples. For instance, the Petitioner provided a copy of its insurance policy from August 2024 reflecting that the Beneficiary is listed as an insured truck driver, leaving even further questions as to his claimed executive-level role. The evidence does not demonstrate that the Beneficiary was acting in an elevated position, primarily directing the management and establishing the broad goals and policies of the organization while controlling the work of managerial or lower-level executive employees. Section 101(a)(44)(B) of the Act. *See generally* 2 *USCIS Policy Manual* L.6(D), https://www. uscis.gov/policy-manual. *See also*

Likewise, as discussed in the previous section, the Petitioner also did not provide clear objective evidence to overcome the significant uncertainties raised by his conflicting foreign employment reported in prior B1/B2 nonimmigrant visa applications.

On appeal, the Petitioner also contended that the Beneficiary was deprived of his constitutional rights due to inadequate translation and due to his lack of legal representation at the site visit. Again, based on our extensive discussion above, it appears unlikely based on the submitted evidence that the Beneficiary was unable to understand either the questions provided in English or the interpreter, whom the Petitioner and Beneficiary acknowledge was provided.

The Petitioner further indicates that USCIS erred by not providing contemporaneous notes or a recording of the site visit thereby denying him a meaningful opportunity to rebut the information collected. However, USCIS is not required to provide a copy of the investigative report, as 8 C.F.R. as § 103.2(b)(16)(i) requires that a petitioner and/or beneficiary only be "advised of" the derogatory information relied on in the adverse decision. The regulation does not place upon USCIS a requirement that the actual documents be provided to a petitioner or beneficiary in order to comply with due process. *Mangwiro v. Napolitano*, 939 F. Supp. 2d 639, 646 (N.D.Tex., 2013) (adopting the reasoning of non-precedent BIA decisions). The Petitioner and Beneficiary were advised that he was unable to clearly indicate the company's organizational structure and his work history abroad during the site visit and they were given an opportunity in response to the NOID, and now on appeal, to remedy these deficiencies.

The Petitioner and Beneficiary clearly sought to procure an immigration benefit, a L-1A intracompany transferee visa. Based on the foregoing discussion, we conclude the Petitioner and Beneficiary made false representations regarding his qualifying foreign employment, and his asserted employment with the Petitioner. Given that these statements were willingly submitted in support of the petition and on appeal, we determine they were willfully submitted to U.S. government officials. The Beneficiary's, and in turn the Petitioner's, signature on the Form I-129 and Form I-290B, Notice of Appeal or Motion "establishes a strong presumption" they knew and assented to the contents. *See Matter of Valdez*, 27 I&N Dec. 496, 499 (BIA 2018). Lastly, the Beneficiary's U.S. and foreign employment are unmistakenly material to the benefit sought. Therefore, we determine that a reasonable person would conclude that the Petitioner and Beneficiary sought to procure a benefit under U.S. immigration laws using willfully false material representations to U.S. government officials related to his foreign and U.S. employment and his ability to understand and answer questions posed by USCIS officers during the site visit. By extension, and for similar reasons, we conclude that the Petitioner and Beneficiary also willfully misrepresented material facts, since the Beneficiary is the sole owner of the Petitioner and signed the Forms I-129 and I-290B.

The Petitioner and Beneficiary were provided with opportunities in response to the NOID and here on appeal to rebut the derogatory information apparent in the visa applications and detected at the site

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BlueStar Cabinets, Inc. v. Jaddou, at *7. In fact, the evidence indicates that the Beneficiary was engaged in ordinary operational activities alongside his subordinates. *See Family Inc. v. USCIS*, 469 F.3d at 1313, 1316. As such, the Petitioner did not provide clear objective evidence to overcome the material discrepancies raised by the U.S. site visit but only casts more doubt as to this asserted role with the provided supporting documentation.

visit leading to the SCOPS conclusion of misrepresentation. However, they did not submit clear, objective evidence to overcome the misrepresentation. Accordingly, the appeal is dismissed and we uphold the finding of misrepresentation against the Petitioner and the Beneficiary.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.