



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 20106798

Date: MAY 25, 2023

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Other Worker

The Petitioner, a coffee and pastry retailer, seeks to employ the Beneficiary as a baker. It requests classification of the Beneficiary as a skilled worker under the third preference immigrant category. See Immigration and Nationality Act (the Act) section 203(b)(3)(A)(i), 8 U.S.C. § 1153(b)(3)(A)(i). This category allows a U.S. business to sponsor a foreign national with at least two years of training or experience for lawful permanent resident status.

The Nebraska Service Center Director revoked the approval of the Form I-140, Immigrant Petition for Alien Workers (I-140) and invalidated the underlying ETA Form 750 (labor certification), concluding that there was no bona fide job available at the time the Petitioner filed the labor certification and the record showed willful misrepresentation in labor certification. On appeal, the Beneficiary argues that a bona fide job offer existed at the time the Petitioner filed the labor certification and the I-140 petition.

The AAO reviews the questions in this matter de novo. *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). The Petitioner bears the burden of proof to establish eligibility for the requested benefit by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Upon de novo review, we will remand the case to the Director for the issuance of a new decision.

## **I. LAW**

Employment-based immigration generally follows a three-step process. First, an employer obtains an approved labor certification from the U.S. Department of Labor (DOL). See section 212(a)(5) of the Act, 8 U.S.C. § 1182(a)(5). Second, the employer files an immigrant visa petition with U.S. Citizenship and Immigration Services (USCIS). See section 204 of the Act, 8 U.S.C. § 1154. Third, if USCIS approves the petition, the foreign national may apply for an immigrant visa abroad or, if eligible, adjustment of status in the United States. See section 245 of the Act, 8 U.S.C. § 1255.

Section 205 of the Act, 8 U.S.C. § 1155, provides that the Secretary of Homeland Security may “for good and sufficient cause, revoke the approval of any petition.” By regulation this revocation authority is delegated to any USCIS officer who is authorized to approve an immigrant visa petition “when the necessity for the revocation comes to the attention of [USCIS].” 8 C.F.R. § 205.2(a). USCIS must

give the petitioner notice of its intent to revoke the prior approval of the petition and the opportunity to submit evidence in opposition thereto, before proceeding with written notice of revocation. See 8 C.F.R. § 205.2(b) and (c). A notice of intent to revoke (NOIR) “is not properly issued unless there is ‘good and sufficient cause’ and the notice includes a specific statement not only of the facts underlying the proposed action, but also of the supporting evidence.” *Matter of Estime*, 19 I&N Dec. 450, 451 (BIA 1987). *Vex Matter of Estime*, “[i]n determining what is ‘good and sufficient cause’ for the issuance of a notice of intention to revoke, we ask whether the evidence of record at the time the notice was issued, if unexplained and un rebutted, would have warranted a denial based on the petitioner’s failure to meet his or her burden of proof.” *Id.*

## II. PROCEDURAL HISTORY

In this case, DOL accepted the accompanying labor certification for filing on June 18, 2004. The labor certification states that the offered position requires eight years of grade school education, four years of high school education, and two years of experience in the position.<sup>1</sup> The Petitioner filed an I-140 petition utilizing this labor certification on October 20, 2006, and the Director approved it on November 30, 2010. On November 16, 2017, USCIS officers conducted a site visit at the location identified as the Beneficiary’s workplace. After the site visit, the Director issued the Petitioner a notice of intent to revoke (NOIR) the I-140 petition’s approval. In the NOIR, the Director informed the Petitioner that during the site visit:

The manager on duty confirmed that the beneficiary had been employed at that location as a baker since 2010. After touring the location, it was discovered that no baking was done at that location. The manager confirmed that cookies, croissants, and eggs were pre-made, frozen and only heated up on site. The manager also stated that bagels, donuts, and muffins were made and baked by [REDACTED] then delivered to the store in the morning and confirmed this process had been in place since early 2009. The manager also confirmed that no cakes, donuts, pies, cookies or puddings were made or decorated at that location.

The Director determined that, “as no baking facilities exist onsite,” the Beneficiary was not performing the duties listed on the labor certification and in the Petitioner’s letter. The Director further concluded that the Beneficiary’s duties were unskilled ones.

In the NOIR response, Counsel explained that the Beneficiary had applied for and received approval of a Form I-485 Supplement J, Confirmation of a Bona Fide Job Offer or Request for Job Portability Under INA Section 20-4(j) (Supplement J). The response further noted that the Beneficiary ported to his new employer, a retailer of pastries, donuts, and coffee, and that the Beneficiary had been working for the new employer since December 17, 2017. For ease of reference, we refer to the new employer as J&M.<sup>2</sup> Counsel provided photos of the new worksite as well as a letter from the new employer’s

---

<sup>1</sup> The labor certification listed the job duties to be performed as “prepares and bakes cakes, donuts, pies, and puddings according to recipe, measuring and mixing ingredients to form dough, to shape it for cookies, pies, and donuts, pouring fillings into pies and donuts shells, decorates cakes and pastries” (all-capitalized letters in original removed).

<sup>2</sup> The record reflects an inconsistency in the new employer’s name. The new employer identified itself in a letter dated January 16, 2018, as [REDACTED] while the Supplement J states that the new employer is [REDACTED].

president, [ ] attesting to the Beneficiary performing the same duties as described in the original labor certification.<sup>3</sup> The NOIR response did not address the Director's determination that, prior to porting, the Beneficiary was not performing the duties listed on the labor certification.

The Director revoked the petition and invalidated the labor certification in August 2021, providing notice to both the Petitioner and the Beneficiary.<sup>4</sup> The revocation decision stated that the NOIR response had not established that a bona fide position as described on the labor certification had been available at the time of filing. The Director further concluded that the I-140 petition was approved in error and as such, the Beneficiary was not eligible to port a new offer of employment. Finally, the Director invalidated the labor certification, stating that the record showed willful misrepresentation concerning the information listed therein.

The Beneficiary filed the instant appeal, arguing that at the time of filing the labor certification, the Petitioner's worksite contained baking facilities. The Beneficiary also argues that in 2004, when the labor certification was filed, and in 2006, when the I-140 petition was filed, the Petitioner prepared and baked the bakery products onsite. Accordingly, the Beneficiary argues that a bona fide job offer existed at the time of filing the labor certification.

### III. ANALYSIS

The Director determined that, "as no baking facilities exist onsite," the Beneficiary was not performing the duties listed on the labor certification and in the Petitioner's letter. The Director further concluded that the Beneficiary's duties were unskilled ones. However, whether baking facilities existed on site may be irrelevant, as the job offer here is a future one. When considering this issue, the Director may wish to examine whether sufficient evidence to support the finding that the job duties at the time of filing were accurate.

In addition, the Director did not identify which entity or individual misrepresented information in the labor certification concerning the job offered. Therefore, when considering how the lack of baking facilities onsite relates to the future nature of the job offer and whether the job duties at the time of filing were accurate, the Director may wish to further explore and clarify the misrepresentation finding. When considering these issues, the Director may take into account the below deficiencies and inconsistencies related to the Petitioner's ability to pay and the Beneficiary's experience.

#### A. The Petitioner's Ability to Pay

---

<sup>3</sup> It appears that [ ] signed the labor certification and Form I-140 as the Petitioner's authorized representative, and also serves as the new employer's authorized representative. In addition, it appears that the same attorney represents the Petitioner, J&M, and the Beneficiary.

<sup>4</sup> The Director determined that the Beneficiary had met the requirements for standing, as explained in *Matter of V-S-G, Inc.*, Adopted Decision 2107-06 (AAO Nov. 11, 2017), and therefore granted the Beneficiary eligibility to receive notices and to participate in the proceedings. The Beneficiary filed a Form I-485, Application to Register Permanent Residence or Adjust Status (Form I-485) on November 5, 2007. While that Form I-485 was pending, the Beneficiary then submitted a second Form I-485 on November 21, 2011. On March 21, 2014, he withdrew the second Form I-485 in favor of pursuing the originally filed Form I-485. The originally filed Form I-1485 remains pending.

The Petitioner, [REDACTED], submitted the labor certification and I-140 petition signed by the Petitioner's president, [REDACTED]. The initial filing included [REDACTED] Internal Revenue Service (IRS) Form 1120S, U.S. Income Tax Return for S Corporation (1120S), for the years 2004 and 2005, as well as two IRS Form 941s, Employer's Quarterly Federal Tax returns, one for the first quarter of 2005 and one for the second quarter of 2006. In the heading of the quarterly tax return for 2005, the Petitioner appears to have crossed out the year 2005 and replaced it with "2006." There is no indication from the record whether the quarterly return was actually filed with or accepted by the IRS and to which year it pertains. All of the tax forms were signed by president [REDACTED]. The Petitioner also provided an October 2006 letter from [REDACTED] [REDACTED] stating that the permanent employment position of baker continued to exist for the Beneficiary.<sup>5</sup>

As evidence of the Petitioner's ability to pay, the Petitioner provided [REDACTED] tax returns for tax years 2004 through 2009. In addition, the Petitioner provided a sporadic sampling of the Beneficiary's pay stubs and Forms W-2 from the years 2005 through 2010. The below table summarizes the evidence regarding the Petitioner's ability to pay from 2004, the year of the priority date through to 2010, the year USCIS approved the I-140 petition. The evidence of record, as reflected in the below table, is inconsistent concerning the Petitioner's name as well as what entity paid the Beneficiary during the pendency of the Form I-140 petition. Therefore, the Director may wish to determine whether the Petitioner has established its ability to pay the Beneficiary.

Year	Beneficiary's W-2	Beneficiary's Paystubs	1120S Tax Return <sup>6</sup>
2004	None	None	[REDACTED] \$134,272
2005	One J&M W-2	Paystubs from [REDACTED] [REDACTED]	[REDACTED] \$162,559
2006	One J&M W-2 and One [REDACTED] W-2	Paystubs from [REDACTED]	[REDACTED] \$271,643
2007	One J&M W-2	None	[REDACTED] \$20,998
2008	One J&M W-2	None	[REDACTED] \$107,342
2009	One J&M W-2	None	[REDACTED] 29,436
2010	None	Paystubs from [REDACTED] from January 2010 to September 2010	None

According to the evidence provided, the Beneficiary received a W-2 from J&M beginning in 2006 and paystubs, if provided, from [REDACTED]. In the Petitioner's RFE response, Counsel stated that "[i]n 2007, the Petitioner's business was under construction and was unable to operate its business for part of the relevant year." While Counsel's explanation is relevant for the purposes of the ability to pay analysis, this does not address the change in the entity that paid the Beneficiary. Moreover, we cannot ascertain what Counsel means by "under construction," and whether this refers to construction of the physical store location, or from a corporate or business structure perspective, or otherwise.

<sup>5</sup> The footer portion of this letter contains what appears to be a file path from the root of drive C: and the name [REDACTED]. It is not apparent to whom [REDACTED] refers. The appearance of this name casts doubt upon who the letter is from and whether the letter is accurate as it pertains to the Beneficiary of this petition.

<sup>6</sup> These figures are found on line 21 of the 1120S, corresponding to "ordinary business income (loss)."

<sup>7</sup> The Petitioner submitted a series of the Beneficiary's paystubs with the name [REDACTED] and several that contain the name [REDACTED].

Based upon the evidence in the record, we cannot conclude that the same entity employed the Beneficiary between 2004 and 2010.<sup>8</sup>

The Petitioner submitted the Beneficiary's 2005 Petitioner-issued paystubs and a 2005 J&M-issued W-2. The evidence for 2006 involves Petitioner-issued paystubs and two W-2s, one issued by the Petitioner, and one issued by J&M. The Petitioner has not explained why the name of the issuing entity for the Beneficiary's paystubs does not align with the name of the issuing entity for his W-2s. Further, the Petitioner has not explained its franchisor and franchisee relationship, if any. Nor has the Petitioner reconciled the submission of its own [redacted] 1120S returns with the Beneficiary's J&M-issued W-2s. Here, it does not appear as if the Petitioner, [redacted] paid the Beneficiary from the priority date onward. Notably, [redacted] and J&M do not share the same Federal Employee Identification Number (FEIN). Accordingly, we cannot determine the relationship between J&M and [redacted]. This is relevant, as it informs our analysis of whether J&M is a successor-in-interest, as well as whether the Petitioner had the ability to pay the Beneficiary the proffered wage from the priority date onward, per 8 C.F.R. § 204.5(g)(2).<sup>9</sup>

Additionally, the change from [redacted] as the issuing entity for a portion of the Beneficiary's paystubs in 2006 casts doubt on the legitimacy of the paystubs. It appears they may have been created or altered specifically to serve as evidence, rather than having been legitimately generated by a payroll department or service. Similar discrepancies appear throughout the evidence of record. For example, when we examine other letters in the record from [redacted] we note spelling errors concerning the Petitioner's name. The letterhead also appears to be altered or manipulated. For instance, two letters from [redacted] one from 2007 and another from 2012, contain the name [redacted] [redacted] (all-capital formatting removed, and italics added). While we understand that typographical errors do occur, we question the credibility of documents when, over the span of years, repeated errors appear in the Petitioner's name and on its own letterhead.

On appeal, the Beneficiary stated that "in 2001 and in 2004, respectively, the Petitioner had the need for the position and the intended place of employment had kitchen and baking facilities on site." The Beneficiary acknowledges that at the time of the site visit, the Petitioner received its frozen bakery products from [redacted]. However, the Beneficiary argues that during the site visit, the manager at the location told USCIS officers that the [redacted] deliveries began in 2013. In support, the Beneficiary states that [redacted] did not establish its business until October 2010 and did not begin delivering products until April 2013. The Beneficiary argues that in 2004, when the labor certification was filed, and in 2006, when the I-140 petition was filed, the Petitioner prepared and baked the bakery products onsite. Accordingly, the Beneficiary argues that a bona fide job offer existed at the time of filing the labor certification.

---

<sup>8</sup> Additionally, as stated previously, the Beneficiary stated on the labor certification that he worked for [redacted] [redacted] from March 2001 to the "present," which would have been at least until April 2004, as that was when the Beneficiary signed the labor certification.

<sup>9</sup> A valid successor-in-interest relationship exists if three conditions are satisfied. See *Matter of Dial Auto Repair Shop, Inc.*, 19 I&N Dec. 481 (Comm'r 1986). First, the successor must fully describe and document the transfer and assumption of the ownership of the predecessor by the successor. Second, the successor must demonstrate that the job opportunity is the same as originally offered on the labor certification. Third, the successor must establish by a preponderance of the evidence that it is eligible for the immigrant visa in all respects. *Id.*

We observe that the Beneficiary's statements on appeal pertain to the Petitioner's business history as well as to information of which the Beneficiary does not appear to have first-hand knowledge. To illustrate, the Beneficiary has not demonstrated how he would know whether the Petitioner, [REDACTED] had kitchen and baking facilities onsite in 2001, nor is it apparent how the Beneficiary would know what the manager told USCIS officers during the site visit. As previously noted, the Beneficiary states on appeal that "[i]n 2001 and in 2004, respectively, the Petitioner had the need for the position and the intended place of employment had a kitchen and baking facilities on the site."<sup>10</sup> Although the Beneficiary asserts that the Petitioner prepared and baked its products onsite in 2006, this does not address whether the Petitioner needed a baker at the time the Petitioner filed the Form I-140 petition in 2006.

During the site visit, the manager stated that the Beneficiary had been working at that location since 2010. The Beneficiary also confirms this timeframe on appeal. However, the Petitioner submitted multiple W-2 forms indicating that the Beneficiary worked for J&M prior to 2010. We cannot determine what relevance the Beneficiary's J&M W-2s have in determining the Petitioner's ability to pay the proffered wage. Furthermore, we cannot ascertain when the Beneficiary began working for the Petitioner or where, as opposed to when and where, he worked for J&M. This further casts doubt on how the Beneficiary would have knowledge of the Petitioner's business activities and staffing needs. Although the Beneficiary claims that the Petitioner prepared and baked the bakery products onsite at the time of filing the labor certification and the petition, he has not provided evidence to corroborate his claims, nor has he demonstrated how he would have knowledge of the Petitioner, such that he can comment on the Petitioner's business needs and baking facilities prior to 2010. It is the Petitioner's burden to submit evidence that sufficiently corroborates its claims. Statements made without supporting documentation are of limited probative value and are insufficient to satisfy the burden of proof. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998).

On appeal, the Beneficiary also submits a letter from the president of [REDACTED] stating that [REDACTED] was established in [REDACTED] 2010 and began delivering finished and unfinished bakery products to [REDACTED] stores on April 28, 2013. This letter, signed by a [REDACTED] with an illegible first name, contains a grammatical error and unusual font size, margins, and spacing. While the president of [REDACTED] purportedly signed the letter, given its appearance we question the letter's legitimacy.

The Beneficiary also provides an October 2021 affidavit from [REDACTED], one of the Petitioner's shareholders. [REDACTED] asserts that he was the manager on duty during the USCIS site visit. In his affidavit, [REDACTED] writes that he told USCIS officers during the site visit that [REDACTED] began delivering finished and unfinished bakery products to the worksite location in 2013 and further claimed that he "did not state to the USCIS Officer, on November 16, 2017, that [REDACTED] had started to deliver finished and/or unfinished bakery products to this business since 2006." As noted previously, the Director's decision stated that the manager told USCIS officers that the [REDACTED] deliveries had been in place since early 2009. The Director's decision did not claim that the onsite manager had told

---

<sup>10</sup> The phrase "[i]n 2001 and in 2004, respectively" seems to suggest that the position and facilities existed at the worksite in 2001, but the position and facilities did not necessarily exist in the intervening years of 2002 or 2003, and then again existed in 2004.

USCIS officers that [ ] deliveries had been in place since 2006. Overall, [ ] statements do not align with USCIS' findings, as described in the Director's decision.<sup>11</sup> Simply asserting in an affidavit what happened four years prior does not qualify as independent and objective evidence. Evidence created after USCIS points out the deficiencies and inconsistencies in the petition will not be considered independent and objective evidence. Necessarily, independent and objective evidence would be evidence that is contemporaneous with the event to be proven and existent prior to appellate proceedings. The Beneficiary must support his assertions with relevant, probative, and credible evidence. See Chawathe, 25 I&N Dec. at 376. Although we acknowledge the affidavit, it has limited probative value as it refers to events that occurred in 2017 (USCIS site visit) and purportedly in 2013 (commencement of [ ] deliveries) and does not appear to be independent or objective.

The Director may determine the relationship, if any, between J&M and [ ] This is material issue, as it informs the analysis of whether J&M is a successor-in-interest of [ ] as well as whether [ ] had the ability to pay the Beneficiary the proffered wage from the priority date onward.

#### B. The Beneficiary's Experience

As evidence of the Beneficiary's qualifications for the baker position, the initial submission included an employer letter from [ ] the owner of [ ] [ ] stating that the Beneficiary worked for [ ] as a baker from January 1996 to May 1998. The letter described the Beneficiary's duties in terms nearly verbatim to the ones provided on the labor certification. As such, the Director may question whether the Petitioner had influence over the contents of the letter. At the very least, the nearly verbatim language reduces the probative value of the letter, as it does not appear to have been independently written. Further, the letter contains unusual punctuation and capitalization, appears to be on altered or imitated letterhead, and does not include [ ] contact information or a date. Due to its appearance, the Director may question the validity of the letter as well as the probative value of the statements therein.

In the Petitioner's response to the Director's request for evidence (RFE), Counsel stated that the Beneficiary could not provide any tax returns or W-2s from [ ] to corroborate his employment with [ ] during the years 1996 to 1998 because the Beneficiary was paid in cash and did not have a social security number until 1999.<sup>12</sup> Counsel also provided a telephone number for [ ] and stated that his letter was written on December 20, 2005. Notably, without documentary evidence to corroborate them, the claims of Counsel will not satisfy the Petitioner's burden of proof. Counsel's unsupported claims do not constitute evidence. Matter of Arambula-Bravo, 28 I&N Dec. 388, 396 (BIA 2021); Matter of Obaighena, 19 I&N Dec. 533, 534 n.2 (BIA 1988); Matter of Laureano, 19 I&N Dec. 1, 3 n.2 (BIA 1983); Matter of Ramirez-Sanchez, 17 I&N Dec. 503, 506 (BIA 1980). Aside from the questionable letter from [ ] the Director may wish to determine whether the record contains evidence to corroborate the claim that the Beneficiary gained the requisite two years' experience as a baker as of the petition's priority date. The Director may acknowledge that the labor certification states the Beneficiary gained experience as a baker with J&M from March 2001

<sup>11</sup> [ ] also asserts in his affidavit that "prior to April 28, 2013, this [ ] location produced all bakery products on its site by employees" and that at the time of filing the petition in 2006, "we had an open position as a baker which was offered to [the Beneficiary]."

<sup>12</sup> We acknowledge a copy of a 2010 printout purportedly from the Social Security Administration, which verifies the Beneficiary's social security number.

to the “present.” However, the Director may determine that the Petitioner has not provided sufficient evidence to establish this, such as through tax documents, a letter, or paystubs.<sup>13</sup>

When issuing a new decision, the Director may consider what corroborative evidence, if any, the record contains to support Counsel’s claim that the Beneficiary does not have W-2s from [ ] because he was paid in cash and had no social security number. For the reasons described above, the Director may determine the letter from [ ] concerning the Beneficiary’s employment at [ ] is insufficient to conclude that the Beneficiary had the requisite two years of experience as of the priority date of the petition.<sup>14</sup>

#### IV. CONCLUSION

The Director may acknowledge the Beneficiary’s claims that a bona fide job offer existed at the time of filing the labor certification and the I-140 petition; however, the Director may wish to examine whether Beneficiary has provided sufficient evidence to corroborate his claims and how the Beneficiary would have knowledge of the Petitioner, such that he can comment on the Petitioner’s business needs and baking facilities. It is the Petitioner’s (here, the Beneficiary’s) burden to submit evidence that sufficiently corroborates its claims. Statements made without supporting documentation are of limited probative value and are insufficient to satisfy the Petitioner’s (Beneficiary’s) burden of proof. Soffici, 22 I&N Dec. at 165.

We will remand the case to the Director to consider this, as well as to consider how the lack of baking facilities onsite relates to the future nature of the job offer. In so doing, the Director may examine whether the job duties at the time of filing were accurate. If the record supports a finding of misrepresentation, the Director may wish to provide additional information about which entity or individuals committed the misrepresentation. When considering these issues, the Director may consider the deficiencies and inconsistencies related to the Petitioner’s ability to pay and the Beneficiary’s experience.<sup>15</sup> The Director may also issue a new NOIR in accordance with the requirements of 8 C.F.R. § 205.2(b) and (c) and Matter of Estime.

---

<sup>13</sup> The record also contains a W-2 for tax year 2000 issued to the Beneficiary naming his employer as [ ]. The complete name of the employer appears to be cut off. The FEIN for this employer differs from both the Petitioner’s J&M’s FEIN.

<sup>14</sup> As explained above, during the site visit, the manager stated that the Beneficiary had been working at that location since 2010. The Beneficiary confirms this timeframe on appeal. However, the Petitioner submitted multiple W-2 forms indicating that the Beneficiary worked for J&M prior to 2010. Furthermore, we cannot ascertain when the Beneficiary began working for the Petitioner or where, as opposed to when and where, he worked for J&M.

<sup>15</sup> On top of the deficiencies and inconsistencies described above, the Director may also wish to apply additional scrutiny to the parties underlying the petition. The Beneficiary has the surname [ ]. President [ ] served as the Petitioner’s authorized representative and also appears to serve as the new employer’s authorized representative. He signed all tax documents and employment letters, except for an employer experience letter from [ ] on behalf of [ ]. As noted above, [ ] provided an affidavit, while a [ ] with an illegible first name signed a letter purportedly from [ ]. In examining the shareholders listed on [ ] 1120s returns, we note all shareholders share the surname [ ]. The shareholders all provide the same address for themselves, which the Beneficiary also listed as his own home address on several documents throughout the record, suggesting that the Beneficiary lived with and may be related to the Petitioner’s shareholders. Government records also indicate that the Petitioner’s shareholders and several of their relatives listed a foreign address abroad, which is the same address that the Beneficiary listed for his address abroad. In addition, the shareholders’ relatives, the Petitioner, the Beneficiary, and the new employer J&M, all retained the same attorney to



**ORDER:** The Director's decision is withdrawn. The matter is remanded for further consideration and the entry of a new decision consistent with the foregoing analysis.

---

process their immigration applications and petitions. While the current labor certification form explicitly includes a question concerning a familial relationship between a petitioner's shareholders and a beneficiary, we acknowledge that the labor certification form from 2004 does not explicitly request disclosure of this information. Nevertheless, taken together, the Director may wish to explore whether these shared addresses, surnames, and attorney suggest that the Petitioner and Beneficiary share a family relationship. When exploring this issue, the Director may wish to determine how a potential family relationship affects the overall legitimacy and veracity of the evidence provided.