

F9700000604/

TRANSMITTAL LETTER

To: Qualification/Tax Lien Section  
Division of Corporations

pg 540

SUBJECT: AXIA Incorporated  
(Name of corporation - must include suffix)

Dear Sir or Madam:

W97-24472

The enclosed "Application by Foreign Corporation for Authorization to Transact Business in Florida",  
"Certificate of Existence", and check are submitted to register the above referenced foreign corporation to  
transact business in Florida.

Please return all correspondence concerning this matter to the following:

Mark T. Ziegenhorn  
(Name of Person)  
AXIA Incorporated  
(Firm/Company)  
100 W. 22nd Street, Suite 134  
(Address)  
Lombard, IL 60148  
(City/State/Zip)

FILED  
97 NOV 17 AM 10:59  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

Should you need to call someone concerning this matter, please call:

500002330615--7  
-10/27/97--01140--002  
\*\*\*\*\*70.00 \*\*\*\*\*70.00

Mark T. Ziegenhorn at ( 630 ) 629-2178  
(Name of Person) (Area Code & Daytime Telephone Number)

11/17

COURIER ADDRESS:

Qualification/Tax Lien Section  
Division of Corporations  
409 E. Gaines St.  
Tallahassee, FL 32399

MAILING ADDRESS:

Qualification/Tax Lien Section  
Division of Corporations  
P.O. Box 6327  
Tallahassee, FL 32314



AXIA Incorporated

100 W. 22nd Street  
Suite 134  
Lombard, Illinois 60148  
TEL (630) 629-3360  
FAX (630) 629-3361

November 10, 1997

Florida Department of State  
Division of Corporations  
P.O. Box 6327  
Tallahassee, FL 32314

Attention: Freta Lott

re: Letter number: 197A00052255  
Axia Incorporated  
Reference number: W97000024472

Dear Ms. Lott:

We are writing in response to your attached notice, dated October 28, 1997, in which the state of Florida is proposing a charge in the amount of \$14,386.25 for delinquent annual report fees and related penalties.

Based on the reasons provided in the sworn affidavit statement that is attached, we are respectfully requesting a waiver of the report fees and penalties. The affidavit explains why we believed it was not necessary to qualify our corporation to do business in your state.

If you would like to discuss the affidavit, or would like further information, please contact me directly at (630) 629-2178.

Thank you for your consideration of this matter.

Very truly yours,

Mark T. Ziegenhorn  
Tax Manager

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97 NOV 17 AM 10:59  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA



FLORIDA DEPARTMENT OF STATE  
Sandra B. Mortham  
Secretary of State

October 28, 1997

MARK T. ZIEGENHORN  
AXIA INCORPORATED  
100 W. 22DN ST., #134  
LOMBARD, IL 60148

SUBJECT: AXIA INCORPORATED  
Ref. Number: W97000024472

We have received your document for AXIA INCORPORATED and your check(s) totaling \$70.00. However, the document has not been filed and is being retained in this office for the following:

Pursuant to section 607.1502(4), Florida Statutes, this office collects a civil penalty of \$1000 for each year this entity transacted business in Florida prior to qualification and the appropriate charter tax and annual report fees that would have been due this office had the corporation qualified the year it began operations in this state. Please complete the enclosed form INHSE37 and contact this office for the charter tax due. The amount entitled this office in annual report fees and penalty fees is \$14,386.25.

Enclosed please find a copy of section 607.1501 or 617.1501, Florida Statutes, which lists those activities that do not constitute transacting business in this state. If after reviewing this section you determine erroneous information was inserted on the application, a sworn affidavit containing the following information must be submitted: 1.) a statement indicating erroneous information was listed on the application; and 2.) the correct date the corporation began transacting business in Florida prior to the year the application was submitted did not constitute transacting business pursuant to section 607.1501 or 617.1501, Florida Statutes.

If you have any questions concerning the filing of your document, please call (850) 487-6093.

Freta Lott  
Corporate Specialist Supervisor

Letter Number: 197A00052255



AXIA Incorporated

100 W. 22nd Street  
Suite 134  
Lombard, Illinois 60148  
TEL (630) 629-3360  
FAX (630) 629-3361

IN THE MATTER OF AXIA INCORPORATED

Ref. No. W97000024472

AFFIDAVIT OF LYLE J. FEYE

STATE OF ILLINOIS     )  
                              )  
COUNTY OF DUPAGE     )     SS.

FILED  
97 NOV 17 AM 11:00  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

1. I am the age of legal majority and can truthfully and competently testify to the matters contained herein based on my personal knowledge.

2. I am the Vice President-Finance and Treasurer of Axia Incorporated.

3. On October 21, 1997, Axia filed an Application by Foreign Corporation for Authorization to Transact Business in Florida ("Application").

4. A true, genuine and accurate copy of Axia's Application is attached hereto and marked Exhibit A.

5. Axia's principal place of business is Lombard, Illinois.

6. Axia's Florida business activities are limited to the ownership of rental construction tools and the presence of resident employees. Axia conducts its Florida business activities through various divisions.

7. Axia has had resident employees in Florida since 1992. The activities of Axia's resident employees in Florida are limited to soliciting or obtaining orders. Any orders solicited or obtained by Axia employees are sent outside Florida for acceptance or rejection.

8. The division of Axia that owns the rental construction tools in Florida is different than the division that employs the resident employees.

9. The division of Axia that owns the rental construction tools conducts no business activities in Florida other than ownership of the rental construction tools. The tools are leased to a subsidiary corporation that is qualified in the state of Florida and numerous other states. It was our belief that the mere ownership of the tools in this arrangement would not require qualification on the part of Axia. It was our belief that the more significant activities of our subsidiary could be considered "doing business" and, therefore, the subsidiary corporation was qualified in Florida.

10. Fla. Stat. §607.1501(2) provides, among other things, that the following activities do not constitute "transacting business" in Florida for purposes of obtaining a certificate of authority from the Department of State: 1) soliciting or obtaining orders, whether by mail or through employees, agents, or otherwise, if the orders require acceptance outside this state before they become contracts; and 2) owning, without more, real or personal property.

11. Because Axia's Florida business activities are limited to the ownership of rental construction tools and the presence of resident employees whose duties are limited to the solicitation of orders that must be accepted or rejected outside Florida, in my opinion, Axia is not "transacting business," as that term is used in Fla. Sec. §607.1501 in the state of Florida.

12. The rental construction tools referred to above require periodic repair and cleaning and are shipped to centers located outside Florida for repair and cleaning purposes.

13. Axia owns rental construction tools and employs resident sales persons in Florida and other states throughout the country.

14. Axia files corporate income tax returns in the states of Illinois and Florida, among others, and apportions its income among those states where it conducts its interstate business.

15. Under Fla. Sec. §607.1501(2)(i), transacting business in interstate commerce is not considered "transacting business" in Florida for purposes of obtaining a certificate of authority from the Department of State.

16. Axia transacts business in interstate commerce and, in my opinion, is therefore not required to obtain a certificate of authority from the Department of State.

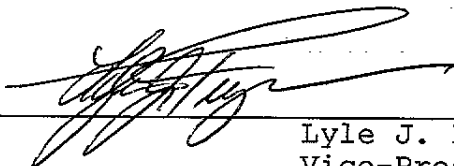
17. Nonetheless, Axia seeks to obtain a certificate of authority from the Department of State in order to preserve its right to file suit as a plaintiff in a Florida court of law.

18. Axia first filed a Florida corporate income tax return for the year ending December 31, 1984.

19. Axia began filing Florida sales and use tax returns in 1992 after its first resident employee moved to Florida.

20. Despite the fact that Axia has been filing Florida corporate income tax returns since 1984 and Florida sales and use tax returns since 1992, the Department of State failed to notify Axia that it did not have a certificate of authority and also failed, prior to October 1997, to request that Axia obtain a certificate of authority.

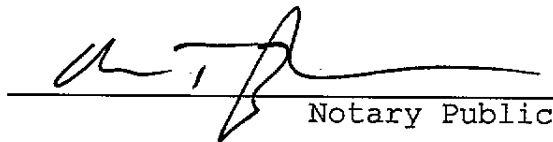
Further, Affiant says not.



Lyle J. Feye  
Vice-President-Finance and Treasurer  
Axia Incorporated

FILED  
NOV 17 AM 11:00  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

SUBSCRIBED AND SWORN TO  
before me this 10th day of  
November, 1997.



Notary Public



**APPLICATION BY FOREIGN CORPORATION FOR AUTHORIZATION  
TO TRANSACT BUSINESS IN FLORIDA**

**IN COMPLIANCE WITH SECTION 607.1503, FLORIDA STATUTES, THE FOLLOWING IS  
SUBMITTED TO REGISTER A FOREIGN CORPORATION TO TRANSACT BUSINESS IN THE  
STATE OF FLORIDA:**

1. AXIA Incorporated  
(Name of corporation: must include the word "INCORPORATED", "COMPANY", "CORPORATION" or words or abbreviations of like import in language as will clearly indicate that it is a corporation instead of a natural person or partnership if not so contained in the name at present.)
2. DELAWARE 3. 13-3205251  
(State or country under the law of which it is incorporated) (FEI number, if applicable)
4. 2/15/84 5. PERPETUAL  
(Date of Incorporation) (Duration: Year corp. will cease to exist or "perpetual")
6. 10/31/84  
(Date first transacted business in Florida. (SEE SECTIONS 607.1501, 607.1502, AND 817.155, F.S.))
7. 100 W. 22nd Street, Suite 134 Lombard, IL 60148

(Current mailing address)

8. Any permissible corporate activity allowable in the state of Florida including, but not limited to, the leasing of construction tools and sales of metal products.  
(Purpose(s) of corporation authorized in home state or country to be carried out in the state of Florida)

9. **Name and street address of Florida registered agent: (P.O. Box or Mail Drop Box NOT acceptable)**

Name: C T CORPORATION SYSTEM


Office Address: 1200 South Pine Island Road

Plantation, Florida, 33324

(Zip Code)

**10. Registered agent's acceptance:**

*Having been named as registered agent and to accept service of process for the above stated corporation at the place designated in this application, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relative to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.*

  
(Registered agent's signature)

11. Attached is a certificate of existence duly authenticated, not more than 90 days prior to delivery of this application to the Department of State, by the Secretary of State or other official having custody of corporate records in the jurisdiction under the law of which it is incorporated.

12. Names and addresses of officers and/or directors: (Street address ONLY- P. O. Box NOT acceptable)

**A. DIRECTORS (Street address only- P. O. Box NOT acceptable)**

Chairman: Dennis W. Sheehan

Address: AXIA - 100 W. 22nd Street, Suite 134, Lombard, IL 60148

Vice Chairman: \_\_\_\_\_

Address: \_\_\_\_\_

Director: Dennis W. Sheehan

Address: AXIA - 100 W. 22nd Street, Suite 134, Lombard, IL 60148

Director: T. Richard Fishbein

Address: Cortec Group Fund, L.P.

200 Park Ave., New York, NY 10166

**B. OFFICERS (Street address only- P. O. Box NOT acceptable)**

President: Dennis W. Sheehan

Address: AXIA- 100 W. 22nd Street, Suite 134, Lombard, IL 60148

Vice President: Lyle J. Feye

Address: AXIA -100 W. 22nd Street, Suite 134, Lombard, IL 60148

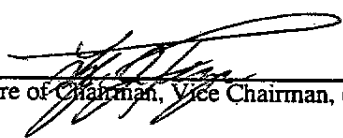
Secretary: LaRue Carlson

Address: AXIA -100 W. 22nd Street, Suite 134, Lombard, IL 60148

Treasurer: Lyle J. Feye

Address: AXIA -100 W. 22nd Street, Suite 134 Lombard, IL 60148

**NOTE:** If necessary, you may attach an addendum to the application listing additional officers and/or directors.

13.   
(Signature of Chairman, Vice Chairman, or any officer listed in number 12 of the application)

14. Lyle J. Feye  
(Typed or printed name and capacity of person signing application)

97 NOV 17 AM 11:00  
STANDARD  
TALLAHASSEE  
FILED



ADDENDUM TO OFFICERS FOR AXIA INCORPORATED

**B. OFFICERS (Street address only- P. O. Box NOT acceptable)**

Vice President Richard S. Schafler

Address: Cortec Group Fund, L. - 200 Park Avenue, New York NY 10166

Address: \_\_\_\_\_

Address: \_\_\_\_\_

FILED  
97 NOV 17 AM 11:00  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

# AXIA INCORPORATED

## OFFICERS

<u>TITLE</u>	<u>NAME</u>	<u>Business Address</u>
Chairman, President & CEO	Dennis W. Sheehan SS# 152-26-2291	100 W. 22nd Street Suite 134 Lombard, IL 60148
Vice President-Finance and Treasurer	Lyle J. Feye SS# 536-60-3385	100 W. 22nd Street Suite 134 Lombard, IL 60148
Secretary	LaRue Carlson SS# 318-32-3348	100 W. 22nd Street Suite 134 Lombard, IL 60148
Vice President	Richard S. Schafner SS# 053-38-0627	Cortec Group Fund, L. 200 Park Avenue New York, NY 10166

## DIRECTORS

Dennis W. Sheehan SS# 152-26-2291	100 W. 22nd Street Suite 134 Lombard, IL 60148
T. Richard Fishbein SS# 116-28-3087	Cortec Group Fund, L. 200 Park Avenue New York, NY 10166

SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

00:11:11 NOV 16

FILED

Sept. 2, 1997

Office of the Secretary of State

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "AXIA INCORPORATED" IS INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL CORPORATE EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE TENTH DAY OF OCTOBER, A.D. 1997.

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL REPORTS HAVE BEEN FILED TO DATE.

AND I DO HEREBY FURTHER CERTIFY THAT THE FRANCHISE TAXES HAVE BEEN PAID TO DATE.



*Edward J. Freel*

Edward J. Freel, Secretary of State

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AUTHENTICATION:

8697529

DATE:

10-10-97