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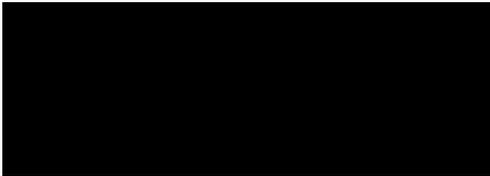


U.S. Citizenship  
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FILE: EAC 02 039 51902 Office: VERMONT SERVICE CENTER Date:

IN RE: Petitioner: [Redacted]  
Beneficiary: [Redacted]

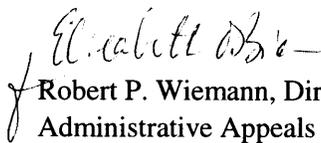
PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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.

  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The employment-based immigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The decision of the director will be withdrawn, the appeal will be sustained, and the petition will be approved.

The petitioner is a company that designs administrative software. It seeks to employ the beneficiary permanently in the United States as a systems analyst pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(2). As required by statute, the petition was accompanied by certification from the Department of Labor. The director determined the petitioner had not established that the beneficiary has five years of progressive work experience.

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

(2) Aliens Who Are Members of the Professions Holding Advanced Degrees or Aliens of Exceptional Ability. --

(A) In General. -- Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.

The regulation at 8 C.F.R. § 204.5(k)(2) states:

Advanced degree means any United States academic or professional degree or a foreign equivalent degree above that of baccalaureate. A United States baccalaureate degree or a foreign equivalent degree followed by at least five years of progressive experience in the specialty shall be considered the equivalent of a master's degree. If a doctoral degree is customarily required by the specialty, the alien must have a United States doctorate or a foreign equivalent degree.

The regulation at 8 C.F.R. § 204.5(k)(3)(i) states:

(i) To show that the alien is a professional holding an advanced degree, the petition must be accompanied by:

(A) An official academic record showing that the alien has a United States advanced degree or a foreign equivalent degree; or

(B) An official academic record showing that the alien has a United States baccalaureate degree or a foreign equivalent degree, and evidence in the form of letters from current or former employer(s) showing that the alien has at least five years of progressive post-baccalaureate experience in the specialty.

The director acknowledged that the beneficiary possesses the foreign equivalent to a United States bachelor's degree in electrical engineering, but concluded that the beneficiary's "five-plus years of experience in computer science and systems analysis is not progressive, because the beneficiary's duties were not increasingly complex and responsible."

On appeal, the petitioner argues that the evidence provided is sufficient to demonstrate that the beneficiary has more than five years of progressive experience as a systems analyst. Specifically, the petitioner had submitted three letters (one from SCT Corporation, the beneficiary's current employer since September 2000, and two from previous employers) detailing his work experience as systems analyst from 1995 through the petition's filing date.

The record reflects that the petitioner received his bachelor's degree in May 1995. A letter contained in the record confirms that the petitioner worked as a "Programmer/Analyst" for Distribution Architects International from 1995 through December 1998. The letter states that the beneficiary "assisted senior programmers in enterprise application development."

A letter from Compuware Corporation states that the beneficiary was employed there as a "Lead Systems Analyst from January 1999 through September 2000." The letter states that the beneficiary's responsibilities included "train[ing] and lead[ing] a team of programmers in application development."

A letter provided on appeal from the petitioner's current employer, SCT Corporation, states:

[The beneficiary] graduated from college in 1995 and began his employment with Distribution Architects International. He held the position of Programmer/Systems Analyst. Because this was his first position out of college, he held a position that was considered entry-level since he possessed no prior work experience. This position required a high level of supervision and direction.

\* \* \*

[The beneficiary] joined SCT Corporation in September 2000 in the position of Systems Analyst. As evidence of his progression in position responsibilities and level of supervision, [the beneficiary] was in a position, based on his experience, to travel independently to client sites. In this position, [the beneficiary] was expected to provide training to a team of programmers in application development and perform code conversions. In contrast, while at Distribution Architects [the beneficiary] received training from higher-level programmers. At Compuware, he still received some training while needing less supervision and at SCT, he was now the person who was giving the training to less experienced team members. Similarly, while at Distribution Architects he traveled to client sites with more experienced team members and/or management and provided virtually no input. At Compuware, he also traveled to client sites with team members and/or management and his experience and knowledge enabled him to participate in client meetings. At SCT, his experience and knowledge were such that he was expected to travel to client sites and provide input without management.

In review, [the beneficiary] is now the higher-level team member at SCT that he once received training from at Distribution Architects [sic]. Although his tasks at each position appear to be similar, when considering his role in performing these tasks, his level of supervision and level of decision-making, it is clear that [the beneficiary] has progressively moved up the Systems Analyst career path. [The beneficiary] is now able to provide client support and enhancements without assistance from higher-level team members. This is a clear progression from his start at Distribution Architects where all directions were provided to him and all tasks were performed with a high level of supervision. At SCT,

[the beneficiary] is creating service strategies and software tools for future clients as well as leading a team of beginner developers and analysts.

We believe that [the] evidence clearly indicates [the beneficiary's] progressive experience as a Systems Analyst. Distribution Architects was [the beneficiary's] first position upon graduating college and gave him the fundamental basics [for] performing as a Systems Analyst. This position also gave him the client exposure that enabled him to accept the position at Compuware. Compuware built upon his experience in a way that lead to greater autonomy and less supervision. Finally, at SCT, [the beneficiary] needs virtually no supervision and is in a position to now provide training to his less experienced team members. [The beneficiary] is now the person who independently visits client sites and directs his team members on tasks that need to be performed in order to meet project deadlines.

Due to the beneficiary's movement into positions of supervision and greater responsibility, the highly technical aspects of his work, and the continuous nature of improvements in the computer field, we conclude that his previous job experience was progressive in nature. We find that the letters from the beneficiary's current and former employers are adequate to demonstrate that he has at least five years of progressive post-baccalaureate experience as a systems analyst. Consequently, the beneficiary qualifies as an advanced degree professional.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has met that burden.

**ORDER:** The appeal is sustained and the petition is approved.