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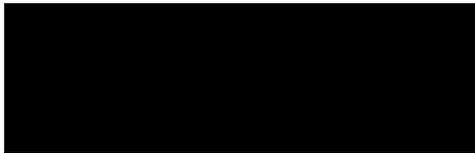
U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: WAC 03 137 50948 Office: CALIFORNIA SERVICE CENTER Date: APR 05 2005

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

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 214(e)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1184(e)(2)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The director of the service center denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The director's decision shall be withdrawn and the matter remanded to the director to determine whether the beneficiary is qualified to perform the proffered position.

The petitioner is a furniture importer and distributor. It seeks to employ the beneficiary as an international financial analyst. The petitioner endeavors to classify the beneficiary as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101 (a)(15)(H)(i)(b).

The director denied the petition because the proffered position is not a specialty occupation. On appeal, counsel states that the proffered position is a specialty occupation.

Section 214(i)(1) of the Act, 8 U.S.C. § 1184(i)(1), defines the term "specialty occupation" as an occupation that requires:

- (A) theoretical and practical application of a body of highly specialized knowledge, and
- (B) attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.

Pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(A), to qualify as a specialty occupation, the position must meet one of the following criteria:

- (1) A baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the particular position;
- (2) The degree requirement is common to the industry in parallel positions among similar organizations or, in the alternative, an employer may show that its particular position is so complex or unique that it can be performed only by an individual with a degree;
- (3) The employer normally requires a degree or its equivalent for the position; or
- (4) The nature of the specific duties is so specialized and complex that knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree.

Citizenship and Immigration Services (CIS) interprets the term "degree" in the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A) to mean not just any baccalaureate or higher degree, but one in a specific specialty that is directly related to the proffered position.

The record of proceeding before the AAO contains: (1) Form I-129 and supporting documentation; (2) the director's request for additional evidence; (3) the petitioner's response to the director's request; (4) the director's denial letter; and (5) Form I-290B and supporting documentation. The AAO reviewed the record in its entirety before issuing its decision.

The petitioner is seeking the beneficiary's services as an international financial analyst. Evidence of the beneficiary's duties includes: the Form I-129; the attachments accompanying the Form I-129; the company support letter; and the petitioner's response to the director's request for evidence. According to this evidence, the beneficiary would perform duties that entail reviewing budgets, financial forecasting, and overseas cashflow scheduling; providing general operations evaluations of foreign and domestic documents; developing, sourcing, and structuring foreign business performance plans and models; reviewing fiscal data with front/back results, promotional initiatives, profit risks and international market segments; designing, developing, and implementing global capital replacement analyses; monitoring capital plans; calculating growth rates and advising on international tax and regulatory requirements; performing in-house audits and preparing a plan of action based on findings; reviewing debt, receivables, payables and returns analyses; developing and obtaining approval for worldwide costing rates for services and establishing rate ranges for net return on investments; assisting with developing international business proposals and models including budget preparations, project specifications, capital investments, pricing structures, capital gains projections, and economic marketing strategies; and recommending procurement of equipment and facilities. The petitioner stated that a candidate must possess a bachelor's degree in accounting, economics, or a related financial field.

Referring to information in the Department of Labor's *Occupational Outlook Handbook* (the *Handbook*), the director determined that the petitioner's business would not require the services of a financial analyst; that the proffered positions duties are performed by financial and budget analysts, and accounting, bookkeeping, and auditing clerks, and that employers do not require a baccalaureate degree for such clerks. And also, the director stated that the petitioner did not submit evidence to show that similar businesses require the services of a financial analyst.

On appeal, counsel states that the proffered position is a specialty occupation. Counsel contends that the *Handbook* shows that the proposed position's accounting-related duties are performed by accountants and auditors, which are occupations requiring a bachelor's degree in accounting or a related field. The petitioner's business, counsel states, generates over \$4 million in annual income and has complex import and distribution transactions and specialized financial requirements. Pointing to the Internet postings, counsel states that they show that companies of various sizes and types require the services of a financial analyst.

Upon review of the record, the petitioner has established that the proffered position is a specialty occupation under the regulation at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4).

As described by the petitioner, the nature of the beneficiary's duties, such as reviewing budgets, financial forecasting, and overseas cashflow scheduling; developing, sourcing, and structuring foreign business performance plans and models; and calculating growth rates and advising on international tax and regulatory

requirements, are sufficiently specialized and complex that the knowledge required to perform them would be associated with a baccalaureate degree in accounting or a related field.

As related in the discussion above, the petitioner has established that the proffered position is a specialty occupation.

There is insufficient evidence in the record to determine whether the beneficiary is qualified to perform the proffered position. The record contains a copy of the beneficiary's credentials evaluation, degree, transcript, and his experience letters, along with translated copies of documents. The credentials evaluation from Educational International Inc. states that [REDACTED] known as [REDACTED] has the educational equivalent to a bachelor's degree in business administration, including a specialization in economics, from an accredited institution in the United States.

The record also contains, in response to the request for evidence, documents that relate to the beneficiary's change of name. The English translation of the document that grants the name change indicates that the official who gave consent to the name change had signed the original document. However, this record of proceeding contains only an unsigned copy of the original document. Consequently, the director's decision will be withdrawn and this matter shall be remanded to the director who shall determine whether the beneficiary is qualified to perform the duties of the proffered position. The director must afford the petitioner reasonable time to provide evidence pertinent to the issue of whether the beneficiary is qualified to perform the duties of the proffered position, and any other evidence the director may deem necessary. The director shall then render a new decision based on the evidence of record as it relates to the regulatory requires for eligibility. As always, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The director's January 13, 2004 decision is withdrawn. The petition is remanded to the director for entry of a new decision, which if adverse to the petitioner, is to be certified to the AAO for review.