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U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
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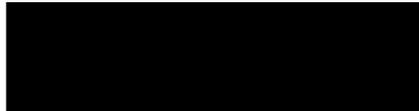


File: EAC 00 225 50625 Office: Vermont Service Center

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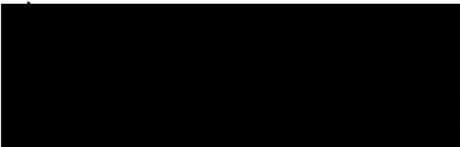
MAY 15 2001

IN RE: Petitioner:
Beneficiary:



Petition: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(H)(i)(b)

IN BEHALF OF PETITIONER:



Public Copy

Identification data deleted to prevent clearly unwarranted invasion of personal privacy

INSTRUCTIONS:

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

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Vermont Service Center, and the matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be sustained and the petition will be approved.

The petitioner is a full-service accounting office that services the Russian and Ukrainian communities in the greater Philadelphia area. It has 10 employees, an approximate gross annual income of \$378,270, and it seeks to employ the beneficiary as an accountant for a period of three years. The director determined that the petitioner had not established that the beneficiary qualifies to perform services in a specialty occupation.

On appeal, counsel submits a brief. The petitioner submits a copy of the beneficiary's transcript from the International Christian University in Vienna, Austria, and a letter from the Chair of the Business Administration Division at Ohio Valley College.

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), provides in part for nonimmigrant classification to qualified aliens who are coming temporarily to the United States to perform services in a specialty occupation. Section 214(i)(1) of the Act, 8 U.S.C. 1184(i)(1), defines a "specialty occupation" as an occupation that requires theoretical and practical application of a body of highly specialized knowledge, and 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 section 214(i)(2) of the Act, 8 U.S.C. 1184(i)(2), to qualify as an alien coming to perform services in a specialty occupation the beneficiary must hold full state licensure to practice in the occupation, if such licensure is required to practice in the occupation. In addition, the beneficiary must have completed the degree required for the occupation, or have experience in the specialty equivalent to the completion of such degree and recognition of expertise in the specialty through progressively responsible positions relating to the specialty.

The issue to be examined in this proceedings is whether the beneficiary is qualified to perform services in a specialty occupation, which in this case, is in the field of accounting.

In denying the petition, the director found that the beneficiary was not qualified to occupy an accounting position because she only completed 18 credit hours in accounting-related classes at Ohio Valley College. According to the director, "[t]he record contains no documentary evidence which would clearly establish that in the industry this is considered sufficient to perform the duties of an accountant." The director further noted that the Department of Labor's (DOL) Occupational Outlook Handbook (Handbook), 2000-2001

edition, states that the Federal government requires entry level accountants or auditors to have a minimum of 24 credit hours in accounting or auditing.

On appeal, counsel states that the director erred in not finding that the beneficiary qualifies as an accountant. According to counsel, the beneficiary received her bachelor's degree in business administration with a minor in accounting. Counsel states that in addition to the accounting courses, the beneficiary also completed courses in microeconomics, statistics, and finance, all of which are closely related to the beneficiary's minor in accounting. Counsel also notes that the beneficiary completed 3 credit hours of accounting at a university in Austria, and completed 3 credit hours of a federal tax course at Temple University. Counsel maintains that all of the beneficiary's credit hours in accounting and accounting-related classes equal 24 credit hours, which the director found was the necessary requirement for the occupation of an accountant.

Additionally, the petitioner submits a letter from the Chair of the Business Administration division at Ohio Valley College, where the beneficiary received her bachelor's degree. According to this professor, who is also a licensed Certified Public Accountant (CPA), the beneficiary was not able to obtain her bachelor's degree with a major in accounting because that major was not offered at the time the beneficiary attended Ohio Valley College. The professor states that the beneficiary completed all of the accounting courses that were available at the time of her enrollment at the college, and she qualifies to perform the duties of an accountant.

Counsel's argument on appeal is persuasive in overcoming the director's objections. The beneficiary's educational background, when considered in its entirety, is sufficient for the proffered position.

According to the Department of Labor's (DOL) Occupational Outlook Handbook (Handbook), 2000-2001 edition, at page 21, the usual requirement for an accounting position is a bachelor's degree in accounting or a related field. In the instant case, however, the record indicates that the beneficiary received a bachelor of science degree in business administration.

Although the beneficiary's bachelor's degree is in the general field of business administration, the record contains sufficient evidence that the beneficiary has taken a sufficient number of accounting and accounting-related courses throughout her educational career, which qualify her for a position in the field of accounting. In particular, the number of semester hours in accounting and accounting-related classes that the beneficiary successfully completed either met or exceeded the 24 credit hours

that the director noted was required for an entry-level accounting position. Accordingly, the decision of the director will be withdrawn, as the petitioner has persuasively established the beneficiary's qualifications for the offered position.

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

ORDER: The appeal is sustained. The petition is approved.