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U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS  
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File: EAC-01-202-51127

Office: Vermont Service Center

Date:

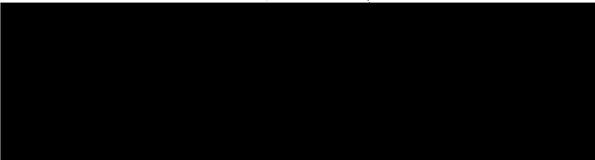
**JUL 02 2002**

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:



**JUL 18 9 09 PM '02**

**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.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the director and is now before the Associate Commissioner for Examinations on appeal. The decision of the director will be withdrawn and the petition will be remanded for further consideration.

The petitioner is a thoroughbred horse farm for breeding and racing thoroughbred horses. It has 20 employees and an approximate gross annual income of \$1.5 million. It seeks to employ the beneficiary as a farm manager for a period of three years. The director determined the petitioner had not established that the proffered position is a specialty occupation.

On appeal, counsel submits a brief.

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 director denied the petition because the petitioner had not provided sufficient evidence that horse farm managers require a bachelor's degree or an equivalent. On appeal, counsel states, in part, that the record contains numerous expert opinions to demonstrate that the proffered position is a specialty occupation. Counsel also submits additional evidence in support of his claim.

The term "specialty occupation" is defined at 8 C.F.R. 214.2(h)(4)(ii) as:

an occupation which requires theoretical and practical application of a body of highly specialized knowledge in fields of human endeavor including, but not limited to, architecture, engineering, mathematics, physical

sciences, social sciences, medicine and health, education, business specialties, accounting, law, theology, and the arts, and which requires the attainment of a bachelor's degree or higher in a 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.

The duties of the proffered position are described in pertinent part as follows:

Oversee and direct the day-to-day management of the farm, establishing goals and administrative policies. Daily supervision and inspection of 225+ thoroughbreds owned by the company and by clientele. Oversee all aspects of the farm's thoroughbred operations, including breeding, training and racing. Regular consultation with trainers, veterinarians, blacksmiths, technicians and various managers of the company to assess the progress and relative value of thoroughbreds. Supervision of yearling and broodmare managers and other full-time and part-time employees to ensure proper care and health of thoroughbreds. Prepare horses for racing and breeding. Direct consultation with the owner/president of the company on all matters relating to racehorses and racing schedules. Assist owner/president with sales and marketing activities, particularly breeding rights and consignment arrangements. Assert the usual responsibilities with regard to hiring, training and discharging employees. Represent company at local and international thoroughbred racing and horses sales events.

In a letter dated August 23, 2001, an academic expert states as follows:

As Thoroughbred Horse Farm Manager at Sugar Maple Farm, [the beneficiary] would be responsible for overseeing the training, breeding, and care of a large number of valuable Thoroughbreds. Moreover, he would be responsible for consulting with trainers, veterinarians, blacksmiths, technicians, and various managers of the company to assess the progress and relative value of Thoroughbreds. It is important, therefore, for the Thoroughbred Horse Farm Manager to possess expertise and advanced training in horse training and rehabilitation, equine management, and veterinary medicine and nutrition, especially at a place like Sugar Maple Farm. Thus, because of the high level of responsibility and specialized knowledge required to perform this position, I find that the position of Thoroughbred Horse Farm Manager clearly requires a bachelor's degree (or its equivalent) in Equine Management.

The proffered position appears to be that of an agricultural manager. A review of the Department of Labor's Occupational Outlook Handbook, 2002-2003 edition, finds that a bachelor's degree in business with a concentration in agriculture, or related degree, is important. In addition to a formal education, several years of work experience in the different aspects of farm and ranch operations are needed in order to qualify for an agricultural manager position.

It is noted that not all agricultural manager positions may be considered specialty occupations. Each position must be evaluated based upon the nature and complexity of the actual duties. In this instance, the duties are of such complexity as to require a baccalaureate degree in a specialized and related area. In view of the foregoing, it is concluded that the petitioner has demonstrated that the proffered position is a specialty occupation within the meaning of regulations.

The director has not determined whether the beneficiary qualifies to perform services in a specialty occupation. It is noted that although the record contains various opinions from academic experts indicating that the beneficiary holds the equivalent of a bachelor's degree in equine management or a related field, the record does not contain any corroborating evidence to support the evaluators' findings such as an evaluation from an official who has authority to grant college-level credit for training and/or experience in the specialty at an accredited college or university which has a program for granting such credit based on an individual's training and/or work experience, as required by 8 C.F.R. 214.2(h)(4)(iii)(D)(1). Accordingly, the matter will be remanded to the director to make such a determination and to review all relevant issues. The director may request any additional

evidence he deems necessary. The petitioner may also provide additional documentation within a reasonable period to be determined by the director. Upon receipt of all evidence and representations, the director will enter a new decision.

**ORDER:** The decision of the director is withdrawn. The matter is remanded to him for further action and consideration consistent with the above discussion and entry of a new decision which, if adverse to the petitioner, is to be certified to the Associate Commissioner for review.