

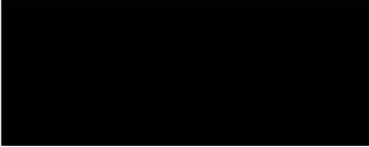
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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

**identifying data deleted to  
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invasion of personal privacy**

ADMINISTRATIVE APPEALS OFFICE  
425 Eye Street N.W.  
BCIS, AAO, 20 Mass, 3/F  
Washington, D.C. 20536



APR 21 2003

File: EAC 02 096 53292

Office: VERMONT SERVICE CENTER Date:

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)

ON BEHALF OF PETITIONER: SELF-REPRESENTED

**PUBLIC COPY**

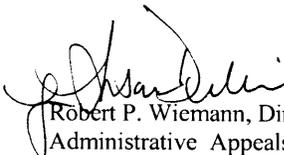
INSTRUCTIONS:

This is the decision 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.

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 that 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 Bureau of Citizenship and Immigration Services (Bureau) 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 that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner is a hotel with three employees and a stated gross annual income of \$300,000. It seeks to employ the beneficiary as a customer service manager/auditor for a period of three years. The director determined the petitioner had not established that the proffered position is a specialty occupation or that the beneficiary qualifies to perform services in a specialty occupation.

On appeal, counsel submits a statement.

The term "specialty occupation" is defined at section 214(i)(1) of the Immigration and Nationality Act, 8 U.S.C. § 1184(i)(1), 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.

The term "specialty occupation" is further 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.

The director determined the petitioner had not shown that the duties of the position are so specialized and complex as to require a baccalaureate degree in a specific specialty.

On appeal, the petitioner asserts that the financial duties of the position parallel those of a financial officer, and as such require the services of an individual with a baccalaureate or higher degree in a specific specialty. The petitioner further asserts that the beneficiary qualifies to perform the duties of the position because he holds a bachelor's degree in tourism.

When determining whether a particular job qualifies as a specialty occupation, the Bureau (formerly the Service) considers the specific duties of the offered position combined with the nature of the petitioning entity's business operations. In the initial I-129 petition, the petitioner described the duties of the offered position as follows:

Manage a hotel property, resolve customer complaints and interact with foreign clientele. Also keeps track of hotel financial records and billing statements.

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 petitioner has not met any of the above requirements to classify the offered position as a specialty occupation.

The proffered position appears to combine the duties of a motel front office manager with those of a bookkeeper and an accounting clerk. The Department of Labor (DOL) describes the duties of front office managers at page 71 of the *Occupational Outlook Handbook*, (*Handbook*) 2002-2003 edition, as follows:

*Front office managers* coordinate reservations and room assignments, as well as train and direct the hotel's front desk staff. They ensure that guests are treated courteously, complaints and problems are resolved, and requests for special services are carried out. Front office managers often have authorization to adjust charges posted on a customer's bill.

A review of the *Handbook* at page 71 finds no requirement of a baccalaureate degree in a specific specialty for front office manager positions. Postsecondary training in hotel or restaurant management is preferred for most hotel management positions, although a college liberal arts degree may be sufficient when coupled with related hotel experience. Training in hotel management is offered by community colleges, junior colleges and some universities. Although postsecondary training in hotel management is preferred, there is no indication in the *Handbook* that a baccalaureate degree in a specific specialty is the normal minimum requirement for entry into the occupation.

Additionally, the Bureau does not agree with the petitioner's assertion that the financial duties of the position more closely parallel those of a financial officer than they do those of a bookkeeper or accounting clerk. According to the *Handbook* at page 50:

Treasurers and finance officers direct the organization's financial goals, objectives, and budgets. They oversee the investment of funds and manage associated risks, supervise cash management activities, execute capital-raising strategies to support a firm's expansion, and deal with mergers and acquisitions.

In this case, the beneficiary will not be called upon to direct the hotel's financial goals and objectives, oversee the investment of funds and manage associated risks, execute capital-raising strategies to support the motel's expansion, or deal with mergers

or acquisitions. Rather, the beneficiary will oversee the motel's daily financial transactions and billing statements.

Although the petitioner's description of the financial requirements of the position is vague and gives little information regarding the beneficiary's actual day-to-day financial responsibilities, these tasks appear to be those of a bookkeeper or accounting clerk. In contrast to the description of a financial officer, the DOL describes the position of a bookkeeper and accounting clerk at page 390 of the *Handbook* as follows:

In small establishments, bookkeeping clerks handle all aspects of financial transactions. . . . More advance accounting clerks may total, balance, and reconcile billing vouchers; ensure completeness and accuracy of data on accounts; and code documents according to company procedures.

There is no indication in the *Handbook* that a baccalaureate degree in a specific specialty is the normal minimum requirement for employment as either a bookkeeper or an auditing clerk. Thus, the petitioner has not shown that a baccalaureate degree in a specific specialty is normally the minimum requirement for entry into the occupation.

The petitioner asserts that the proffered position is a specialty occupation because it has been assigned a specific SVP rating in the DOL's *Dictionary of Occupational Titles (DOT)* (4th Ed., Rev. 1991). However, the *DOT* is not considered to be a persuasive source of information regarding whether a particular job 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.

The DOL has replaced the *DOT* with the *Occupational Information Network (O\*Net)*. Both the *DOT* and *O\*Net* provide only general information regarding the tasks and work activities associated with a particular occupation, as well as the education, training and experience required to perform the duties of that occupation. The DOL's *Handbook* provides a more comprehensive description of the nature of a particular occupation and the education, training and experience normally required to enter into an occupation and advance within that occupation. For this reason, the Bureau is

The beneficiary has received additional postsecondary training in tourism and related subjects. Specifically, the beneficiary was awarded certificates for completion of the following training courses:

1. Advanced Java Programming;
2. Computerized Reservation System;
3. Airlines Travel & Tourism Management from July to October 1998;
4. Two-month intensive course in Russian awarded March 3, 1998;
5. German as a foreign language from January 17, 1998 to May 21, 1998;
6. Java programming, HTML, SQL, and UML; and
7. International Air Transport Association (IATA) and Universal Federation of Travel Agents' Association (UFTAA) Standard Course.

The record shows that the beneficiary has the following work experience:

1. He was employed by Okisoft Systems Pvt. Ltd. as a customer service coordinator from March 1996-June 1997. The beneficiary's duties involved the testing of software before it was delivered to the company's clients.
2. He was employed as a fares distribution analyst in a joint venture between RDM India Pvt. Ltd. And Lufthansa Process Management from May 1999 to August 2000. The beneficiary's duties involved monitoring and tracking the filings of Lufthansa and other competitive airlines, filing on behalf of Lufthansa with the Airline Tariff Publishing Company, managing and administering IATA related documents received from Geneva, and reporting to his German counterparts on a weekly basis.
3. From August 2000 to January 2001 the beneficiary was employed as a sales and marketing executive by Citizen Express Travel

Services. The beneficiary's duties included managing the sales and marketing department, making contact with Indian and foreign travel agencies, and developing pricing strategies to make tours more profitable.

4. From January 2001 to January 28, 2002, the filing date of the petition, the beneficiary was employed by Standard Crafts as an export manager. His duties included analyzing and studying client demands for new products, traveling abroad to recruit new clients, and developing pricing strategies to make new products more profitable for the company.

In a notice dated January 31, 2002 the Bureau requested that the petitioner provide an evaluation of the beneficiary's training and work experience from an official who has the authority to grant college credit for training and/or work experience at a college that has a program for granting such credit. The petitioner declined to provide the requested evaluation, asserting that the beneficiary qualifies for the proffered position based solely on his bachelor's degree and postsecondary diploma in travel and tourism management.

Although the beneficiary has training and work experience in the airline industry and in marketing management, he has no prior training or work experience in hotel and restaurant management. While the Moonlight Motel may cater to tourists, the duties of a front office manager are different from those of an export manager, sales and marketing manager, or fares distribution analyst. The duties of the proffered position do not involve marketing, analysis of airline fares, export management, or the testing of software. Accordingly, it is concluded the petitioner has not submitted sufficient evidence to show that the beneficiary qualifies to perform the duties of the position.

The beneficiary is not a member of any organizations whose usual prerequisite for entry is a baccalaureate degree in a specialized area. The record contains no evidence that the beneficiary holds a state license, registration, or certification which authorizes him to practice a specialty occupation in a foreign country. The record does not contain any published material by or about the alien in professional publications, trade journals, or major newspapers. No evidence has been submitted to document any achievements which a

recognized authority has determined to be significant contributions to the field of a specialty occupation.

In view of the foregoing, it is concluded that the petitioner has not demonstrated that the beneficiary has the equivalent of a baccalaureate degree in a specialty occupation.

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 not sustained that burden.

**ORDER:** The appeal is dismissed.