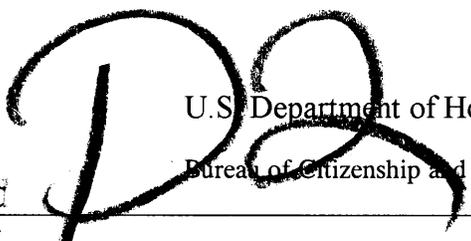
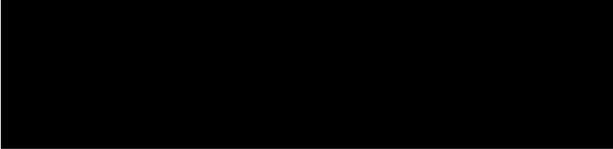


**PUBLIC COPY**

**identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**

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

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



**AUG 18 2003**

File: WAC 01 198 54559 Office: CALIFORNIA 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:



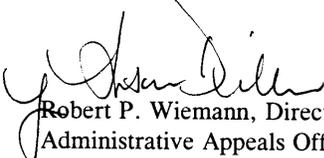
**INSTRUCTIONS:**

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.

  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the Director, California Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is an Arizona corporation that operates special sports and leisure industry events on behalf of a variety of clients. It has three employees and a gross annual income of \$1,400,000. The petitioner seeks to employ the beneficiary as a Director of Operations for a period of three years. The director denied the petition on the ground that the proffered position is not a specialty occupation.

On appeal, counsel indicated that he would file a brief in support of the appeal within 30 days. The appeal was filed on April 15, 2002. The AAO contacted counsel on February 3, 2003, indicating that no brief had been received. Counsel has failed to file a brief or offer additional information in support of the appeal. The record is therefore, deemed complete, and a decision will be rendered based upon the evidence in the record of proceeding.

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 the classification of qualified nonimmigrant aliens who are coming temporarily to the United States to perform services in a specialty occupation.

Section 214(i)(1) of the Immigration and Nationality Act (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.

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 field 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.

In correspondence supporting the initial petition, the petitioner stated that the proffered position would be responsible for the development, application and management of all software and computer systems required by the employer for company produced events. The director of operations would be required to interface and coordinate all corporate efforts with individual client's management and professional staff in the areas of marketing, advertising, event management, scoring and software coordination. The petitioner claimed that, in order to perform the duties of the position, an individual would need a bachelor's degree in marketing, leisure management, computer science/marketing, or its equivalent.

The director determined that the initial evidence submitted by the petitioner was insufficient to support its petition. On August 4, 2001, the following additional evidence was requested from the petitioner: a more detailed description of the work to be performed; copies of the petitioning company's present and past job announcements; evidence that the proffered position was a specialty occupation; an explanation as to how the beneficiary's educational background qualified him for the position of director of operations; evidence from the beneficiary's past employers establishing that the beneficiary has training and/or experience in the specialty occupation; and a credentials evaluation. The petitioner responded that the nature of the petitioner's business necessitated the hiring of a professional director of operations with a minimum of a bachelor's degree in order to carry out the specialized tasks and responsibilities of the position. The beneficiary's job responsibilities were described, in part, as follows:

- Select and train other employees for the operations staff of each event;
- Procure volunteer groups for event day activities;
- Insure that the employer (RacePlace Events) meets its contractual commitments and adheres to local law enforcement requirements regarding safety and traffic/crowd control; [and]
- Confirm and re-confirm the responsibilities of others for each scheduled event.

The petitioner stated that these responsibilities required a person who had completed college level English and Communication course work. Completion of college level public relations and marketing courses was also a necessity to help the director of operations address various audiences in an appropriate manner.

**EVENT MANAGEMENT**

- Set the date;
- Pull permits and secure insurance;
- Design traffic and barricade plans;
- Develop time lines;
- Order appropriate staging, sound and catering equipment;
- Determine communication (radio) needs; and
- Anticipate emergency requirements and secure appropriate medical response teams.

The petitioner indicated that these duties require an individual who has completed college level coursework in facility management, leisure and recreational management, and business operations in the recreation industry.

**SPORTS AND ATHLETIC EXPERIENCE**

- Be familiar with and understand the unique skills and requirements of athletes competing in all kinds of weather; and
- Understand the rules of conduct and good sportsmanship as determined by the appropriate governing body of each sport, such as the Athletic Conference, the United States Swimming Association or the Triathlon Federation in order to mediate disputes between athletes or resolve misunderstandings of spectators;

The petitioner stated that these duties require the director of operations to have some background in physical education and ideally to have at least college level participation in competitive sports.

**COMPUTER AND TECHNOLOGY SKILLS**

- A working familiarity with proprietary software so that the needs of clients can be translated to the company computer programmer to accommodate special event requirements;

- Establish and maintain appropriate data bases for particular events;
- Assign and supervise data entry of employees, applying registration and scoring software to the data bases; and
- Capture finish line scoring data and produce results.

The petitioner noted that these duties require completion of college level coursework in business administration in order to accomplish the tasks.

#### **BUSINESS MANAGEMENT**

- Ability to manage and adhere to budget requirements for designated events.

#### **PERSONNEL MANAGEMENT**

- Ability to supervise and work with volunteers, other employees, outside contractors, corporate clients, and city/county and law enforcement officers.

An independent evaluation of the beneficiary's education and work experience determined that he had the equivalent of a Bachelor of Science degree in Business Administration with an emphasis in Management, offered by accredited institutions of higher education in the United States. The beneficiary possessed a Bachelor of Science degree in Maritime Administration earned in Great Britain.

The director denied the petition on March 15, 2002, stating that the petitioner failed to establish that the company normally required applicants for the position to possess baccalaureate level degrees in the field, or that the degree requirement was common to the industry in parallel positions among similar organizations. The director also held that the proposed duties and stated level of responsibility did not indicate complexity or authority beyond that normally encountered in the occupational field. On appeal, counsel states that the director's decision is incorrect and that the proffered position is a specialty occupation.

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

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 qualify the offered position as a specialty occupation. The proffered position requires a wide range of skills necessary for the planning and completion of events involving potentially thousands of participants. The skills required however, appear to be general managerial skills that can be obtained through education or past work experience. There is no requirement that the education conform to a specific specialty. Indeed, it appears that any number of educational pursuits, and/or work experiences would suffice, provided that supporting coursework include various courses specific to the proffered position. The petitioner has, therefore, failed to meet the first criterion listed above.

Second, the petitioner has not established that the degree requirement is common to the industry in parallel positions among similar organizations or, that the position is so complex or unique that it can be performed only by individuals with a degree. Third, the petitioner has not proven that it normally requires a degree. Finally, the nature of the specific duties does not appear to be so specialized and complex that knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree.

In an effort to establish that the attainment of a bachelor's degree is an industry standard for the proffered position, the petitioner submitted a letter from Hamilton Events, a company that stages a number of public participatory events. That organization employed a director of operations from 1992 - 1994 to act as liaison between a corporate sponsor and race directors in 15 different cities. Hamilton Events stated that its director had a college degree in an unspecified discipline, as did her successor. A letter from Running Masters further states that a director of operations in the industry requires an individual to perform many tasks, and that a bachelor's degree would be a minimum requirement

for successful performance in the position. These two letters however, are insufficient to establish that that a bachelor's degree in a specific specialty is common to the industry as a whole.

The petitioner has failed to establish that any of the four factors enumerated above are present in this proceeding. It is, therefore, concluded that the petitioner has not demonstrated that the offered position is a specialty occupation within the meaning of the regulations.

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 and the appeal shall accordingly be dismissed.

**ORDER:** The appeal is dismissed.