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

ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 Eye Street N.W.
Washington, DC 20536



OCT 28 2003

File: LIN 02 150 53185 Office: NEBRASKA 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 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 Citizenship and Immigration Services (CIS) 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, Nebraska Service Center, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed. The petition will be denied.

The petitioner is a Woodridge, Illinois company specializing in the purchase and sale of postage stamps for collectors. It employs nine individuals and has a gross annual income of \$2,000,000. It seeks to employ the beneficiary as a purchase price analyst for a period of three years. The director determined that the position offered was not a specialty occupation because the petitioner had not established that a bachelor's degree, or its equivalent, in a specific field of study is required. On appeal, the petitioner asserts that the position of purchase price analyst is a specialty occupation, because it requires a bachelor's degree in one of a variety of specific specialties.

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 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 issue in this proceeding is whether the petitioner has established that the proffered position is a specialty occupation. In its original filing, received at the service center on April 3, 2002, the petitioner indicated the beneficiary would apply principles of historical geography, economics, and stamp technology to determine the present and future value and price of stamps. The petitioner did not state that it requires a bachelor's degree in a specific specialty. On April 17, 2002, the director requested evidence that the proffered position requires an undergraduate degree in a specific field of study. In response, the petitioner submitted three letters from national auction houses.

On July 17, 2002, the director denied the petition. The director noted that none of the three letters submitted stated that an undergraduate degree in a specific field of study is necessary to perform the duties of the proffered position. On appeal, the petitioner asserts that the director interpreted too narrowly the requirement that the degree be in a specific field of study. The petitioner holds that the proffered position falls under the definition of a specialty occupation because it requires a bachelor's degree in "one of a variety of specific specialties."

The Department of Labor's *Occupational Outlook Handbook* (Handbook) 2002-2003 edition on page 82 discusses the educational requirements for purchasing managers, buyers, and purchasing agents. This category is the most appropriate designation for the offered position. The *Handbook* indicates that there are many avenues to entry into this field, including rising through the ranks on the job, and being hired upon completion of a bachelor's or master's degree. The *Handbook* does not state that a specific field of study is a requisite; rather, a variety of disciplines, from business, to engineering, to economics, would suffice.

The AAO notes that it is not necessary that the degree be in a field not offered by universities, but it must be in a limited field of study somehow related to the duties to be performed. *Tapis International v. INS*, 94 F.Supp.2d 172 (D. Mass. 2000). In this case, for example, there is no unrealistic expectation that the beneficiary hold a degree in "philately." However, Citizenship and Immigration Services (CIS) notes that if a bachelor's degree or its equivalent in a variety of disciplines is the minimum entry requirement, then the job is not a specialty

occupation. Section 214 (i)(1) of the Act, 8 U.S.C. §1184(i)(1).

A review of the entire record fails to reveal any evidence that the offered position requires a bachelor's degree, or its equivalent, in a specific discipline. Accordingly, it is 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. Accordingly, the director's decision will be affirmed.

ORDER: The director's decision denying the petition is affirmed.