

PUBLIC COPY

U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536



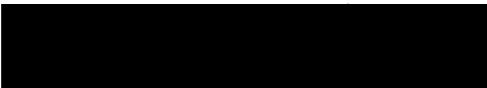
U.S. Citizenship
and Immigration
Services

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



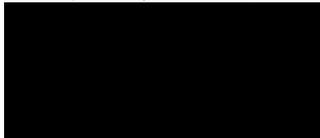
D2

FILE: SRC 02 202 54337 Office: TEXAS SERVICE CENTER Date: **APR 27 2004**

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 of the Administrative Appeals Office 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.

Mari Johnson

Robert P. Wiemann, Director
Administrative Appeals Office

Section 4 is the only provision at issue, because there is no evidence relevant to the other three sections.

Pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(D), equating the beneficiary's credentials to a United States baccalaureate or higher degree under 8 C.F.R. § 214.2(h)(4)(iii)(C)(4) shall be determined by one or more of the following:

- (1) 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;
- (2) The results of recognized college-level equivalency examinations or special credit programs, such as the College Level Examination Program (CLEP), or Program on Noncollegiate Sponsored Instruction (PONSI);
- (3) An evaluation of education by a reliable credentials evaluation service which specializes in evaluating foreign educational credentials;
- (4) Evidence of certification or registration from a nationally-recognized professional association or society for the specialty that is known to grant certification or registration to persons in the occupational specialty who have achieved a certain level of competence in the specialty;
- (5) A determination by the Service that the equivalent of the degree required by the specialty occupation has been acquired through a combination of education, specialized training, and/or work experience in areas related to the specialty and that the alien has achieved recognition of expertise in the specialty occupation as a result of such training and experience.

Only sections 1 and 5 need be addressed: there is no evidence of record regarding sections 2, 3, or 4.

Counsel's contends that the petitioner satisfied section 1 by its earlier submission of an evaluation of the beneficiary's work experience by Dr. [REDACTED] Marketing Management Program Director at Broward Community College (BCC). Dr. [REDACTED] issued his work-experience evaluation in a letter which stated, in most pertinent part:

The competencies that [the beneficiary] needed to perform successfully in his various positions are equivalent with the competencies that one would acquire in earning a BA degree in marketing management. Obviously, there are additional competencies that [the beneficiary] possesses that one would obtain from graduate work toward an MBA degree. Likewise, I would also assume that [the beneficiary] lacks some of the liberal arts background that one would acquire in a college curriculum.

In any event, based upon my experience working with life/work experiential programs, there are a number of colleges and universities that would probably grant [the beneficiary] a BA degree if he were to pursue an MBA program at that institution.

Counsel submits several documents in reply to the director's express finding that the record lacked documentation of the evaluator's "authority to grant college-level credit for training and/or experience in the specialty." As will be discussed below, these submissions fail to establish Dr. [REDACTED] a section 1 official with "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."

The documents on appeal include a letter in which Dr. Sheeks states that he (1) is a certified reviewer for the American Council on Education (ACE), and (2) as Program Manager for the Marketing Managing Program at BBC, is responsible for evaluating "the extracurricular learning for scores of incoming BCC students each year." Related submissions on appeal include: a copy of Dr. [REDACTED] resume; a brochure from the ACE College Credit Recommendation Service (CREDIT); and excerpts from the BCC 2002-2003 college catalog.

The evidence about Dr. [REDACTED] credentials as an ACE CREDIT reviewer does not establish him as the type of official described at section 1. The ACE CREDIT letter does not corroborate Dr. [REDACTED] assertion that he is currently an accredited reviewer. Rather, the letter only acknowledged his availability to serve on a course evaluation team at one location on August 13, 1999. Furthermore, the ACE CREDIT letter clearly indicates that Dr. Sheeks would be working for ACE CREDIT only in an advisory capacity, as part of team making recommendations on a particular institution's coursework. Also, the ACE CREDIT letter does not indicate that authority to award college-level credit on behalf of a college or university for a person's training or work experience was ever an attribute of Dr. [REDACTED] ACE CREDIT work. In fact, the letter and the ACE CREDIT brochure indicate that ACE CREDIT teams do not evaluate a person's training or work experience, but rather make recommendations on rating an institution's training-courses in the *National Guide to Educational Credit For Training Programs*.

The evidence regarding Dr. [REDACTED] position at BCC does not qualify him as a section 1 official, because the record does not contain independent evidence of his authority to grant college-level credit on behalf of BCC. CIS will not accept a faculty member's opinion as to the college-credit equivalent of a particular person's work experience or training, unless authoritative, independent evidence from the official's college or university, such as a letter from the appropriate dean or provost, establishes that the official is authorized to grant academic credit for that institution on the basis of training or work experience. The general information in the BCC catalogue about an individual professor's role in the granting of "Prior Experiential Learning" is not an adequate substitute for such evidence.

Even if the record had adequately established Dr. [REDACTED] as a proper official under section 1, the opinion that he issued would be discounted.

Dr. Sheeks wrote about equivalent "competencies" and conjectured that "a number of colleges and universities" would "probably grant [the beneficiary] a BA degree if he were to pursue an MBA program at that institution." Dr. [REDACTED] did not opine that the beneficiary's work experience is equivalent to a U.S. baccalaureate degree or higher.

Dr. [REDACTED] opinion has an insufficient factual basis, described only as "a resume, employment history, and letters of reference," none of which are attached with the letter. The AAO will not speculate as to their

content. Furthermore, resumes and employment histories carry weight only to the extent that they are corroborated, and there is no evidence of any corroboration.

Dr. [REDACTED] provides no explanation for the degree-equivalencies that he attributed to the "job functions" of the beneficiary's employment positions, and there is no evidence in the record as to any special competence expertise or determining the baccalaureate or higher level equivalencies of "job functions."

CIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. However, where an opinion is not in accord with other information or is in any way questionable, CIS is not required to accept or may give less weight to that evidence. *Matter of Caron International*, 19 I&N Dec. 791 (Comm. 1988).

This adverse determination on section 1 of 8 C.F.R. § 214.2(h)(4)(iii)(D) leaves only the provisions of section 5 for consideration.

When CIS determines an alien's qualifications pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(D)(5), three years of specialized training and/or work experience must be demonstrated for each year of college-level training the alien lacks. It must be clearly demonstrated that the alien's training and/or work experience included the theoretical and practical application of specialized knowledge required by the specialty occupation; that the alien's experience was gained while working with peers, supervisors, or subordinates who have a degree or its equivalent in the specialty occupation; and that the alien has recognition of expertise in the specialty evidenced by at least one type of documentation such as:

- (i) Recognition of expertise in the specialty occupation by at least two recognized authorities in the same specialty occupation¹;
- (ii) Membership in a recognized foreign or United States association or society in the specialty occupation;
- (iii) Published material by or about the alien in professional publications, trade journals, books, or major newspapers;
- (iv) Licensure or registration to practice the specialty occupation in a foreign country; or
- (v) Achievements which a recognized authority has determined to be significant contributions to the field of the specialty occupation.

The AAO accorded no evidentiary weight to the beneficiary's resume, which is not supported by employer documentation. There is no detailed and corroborated evidence of the beneficiary's work history.

¹ *Recognized authority* means a person or organization with expertise in a particular field, special skills or knowledge in that field, and the expertise to render the type of opinion requested. A recognized authority's opinion must state: (1) the writer's qualifications as an expert; (2) the writer's experience giving such opinions, citing specific instances where past opinions have been accepted as authoritative and by whom; (3) how the conclusions were reached; and (4) the basis for the conclusions supported by copies or citations of any research material used. 8 C.F.R. § 214.2(h)(4)(ii).

Accordingly, the record has not “clearly demonstrated” either that “the alien’s training and/or work experience included the theoretical and practical application of specialized knowledge required by the specialty occupation,” or that “the alien’s experience was gained while working with peers, supervisors, or subordinates who have a degree or its equivalent in the specialty occupation.”

Finally, there is no evidence relating to the type of professional recognition required by 8 C.F.R. § 214.2(h)(4)(iii)(D)(5) (i) to (v).

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. The petition is denied.