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U.S. Department of Homeland Security  
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Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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*[Handwritten signature]*

DEC 02 2004

FILE: LIN 03 243 51673 Office: NEBRASKA SERVICE CENTER Date:

IN RE: Petitioner: [Redacted]  
Beneficiary: [Redacted]

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.

*[Handwritten signature]*

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The service center director denied the nonimmigrant visa petition 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 job placement service that seeks to employ the beneficiary as a corporate communications officer. The petitioner endeavors to classify the beneficiary as a nonimmigrant worker in a specialty occupation pursuant to § 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The director denied the petition because the proffered position is not a specialty occupation. On appeal, counsel submits a brief.

Section 214(i)(1) of 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.

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.

Citizenship and Immigration Services (CIS) interprets the term "degree" in the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A) to mean not just any baccalaureate or higher degree, but one in a specific specialty that is directly related to the proffered position.

The record of proceeding before the AAO contains: (1) Form I-129 and supporting documentation; (2) the director's request for additional evidence; (3) the petitioner's response to the director's request; (4) the director's denial letter; and (5) Form I-290B and supporting documentation. The AAO reviewed the record in its entirety before issuing its decision.

The petitioner is seeking the beneficiary's services as a corporate communications officer. Evidence of the beneficiary's duties includes: the I-129 petition; the petitioner's August 4, 2003 letter in support of the

petition; and the petitioner's response to the director's request for evidence. According to this evidence, the beneficiary would perform duties that entail: writing, editing, and disseminating business correspondence and promotion materials; researching demographic data to identify target audiences; and developing communication plans and personnel manuals for clients. The petitioner indicated that a qualified candidate for the job would possess a bachelor's degree in communications or a related field.

The director found that the proffered position was not a specialty occupation because the job is not a corporate communications officer; it combines the duties of a public relations specialist with an administrative assistant and an interpreter/translator. Citing to the Department of Labor's *Occupational Outlook Handbook (Handbook)*, 2002-2003 edition, the director noted that the minimum requirement for entry into these positions was not a baccalaureate degree or its equivalent in a specific specialty. The director found further that the petitioner failed to establish any of the criteria found at 8 C.F.R. § 214.2(h)(4)(iii)(A).

On appeal, counsel states, in part, that the proffered position combines the duties of a writer and an editor, and is not a public relations specialist, an administrative assistant, or an interpreter/translator. Citing to the *Handbook*, counsel notes that a college degree is required for a writer/editor position, and that most employers prefer to hire people with degrees in communications, journalism, or English. Counsel submits expert opinions as supporting documentation.

Upon review of the record, the petitioner has established none of the four criteria outlined in 8 C.F.R. § 214.2(h)(4)(iii)(A). Therefore, the proffered position is not a specialty occupation.

The AAO turns first to the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1) and (2): a baccalaureate or higher degree or its equivalent is the normal minimum requirement for entry into the particular position; a degree requirement is common to the industry in parallel positions among similar organizations; or a particular position is so complex or unique that it can be performed only by an individual with a degree.

Factors often considered by CIS when determining these criteria include: whether the *Handbook* reports that the industry requires a degree; whether the industry's professional association has made a degree a minimum entry requirement; and whether letters or affidavits from firms or individuals in the industry attest that such firms "routinely employ and recruit only degreed individuals." See *Shanti, Inc. v. Reno*, 36 F. Supp. 2d 1151, 1165 (D.Min. 1999)(quoting *Hird/Blaker Corp. v. Slattery*, 764 F. Supp. 872, 1102 (S.D.N.Y. 1991)).

The AAO routinely consults the *Handbook* for its information about the duties and educational requirements of particular occupations. The AAO does not concur with counsel that the proffered position is primarily that of an editor or a writer. A review of the petitioner's website at <http://www.renaissance21st.com> finds that the petitioner, Renaissance Resources, Inc., now Top Chicago, incorporated with Top New York in February 2004, and is primarily an employment agency. It is further noted that at this website, the beneficiary's job title is reflected as that of a "Sales Assistant." It is additionally noted that another "Sales Assistant/Recruiter/HR Consultant" vacancy announcement is advertised at the petitioner's website with the following duties listed: "making sales calls to customers and maintain/develop the existing accounts; [s]eeking potential customers by extensive research in the Japanese related market; [a]ssisting all the hiring matters by working with our clients and potential candidates, and [c]onducting the administrative work and updating the corporate website." The job requirements are as follows: "Must be able to read, write and speak fluently in Japanese and English" and "[m]ust be able to come to Chicago office for three weeks training." In view of the foregoing, the proffered position is

primarily that of a sales assistant. No evidence in the *Handbook*, 2004-2005 edition, indicates that a baccalaureate or higher degree, or its equivalent, is required for a sales assistant job.

Regarding parallel positions in the petitioner's industry, the record contains opinions from the following: Professor ██████████ of Emerson College; Professor Sidney Offit of New School University; and Ms. ██████████ president of APA International Placement Consultants. All of these writers state, in part, that a corporate communications officer is a professional position that requires a baccalaureate degree in a related specialty. In this case, however, the issue is not that the job of a corporate communications officer is not a specialty occupation. Rather, the petitioner has not demonstrated that the proffered position is a corporate communications officer and, therefore, it does not require a baccalaureate degree, or its equivalent, in a specific specialty.

The record also does not include any evidence from professional associations regarding an industry standard, or documentation to support the complexity or uniqueness of the proffered position. The petitioner, therefore, has not established the criteria set forth at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1) or (2).

The AAO now turns to the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(3) – the employer normally requires a degree or its equivalent for the position. As counsel does not address this issue on appeal, it will not be discussed further.

Finally, the AAO turns to the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(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.

To the extent that they are depicted in the record, the duties do not appear so specialized and complex as to require the highly specialized knowledge associated with a baccalaureate or higher degree, or its equivalent, in a specific specialty. Therefore, the evidence does not establish that the proffered position is a specialty occupation under 8 C.F.R. § 214.2(h)(4)(iii)(A)(4).

As related in the discussion above, the petitioner has failed to establish that the proffered position is a specialty occupation. Accordingly, the AAO shall not disturb the director's denial of the petition.

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.