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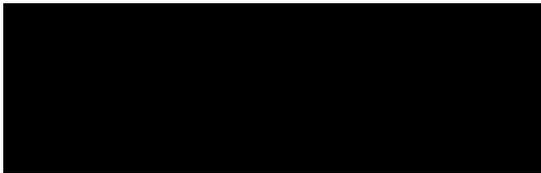
FILE: SRC 03 056 50200 Office: TEXAS SERVICE CENTER Date: DEC 13 2005

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.

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 The director's decision will be withdrawn and the matter remanded for entry of a new decision.

The petitioner is a bakeshop and restaurant that seeks to employ the beneficiary as a public relations coordinator. The petitioner endeavors to classify the beneficiary as a nonimmigrant worker in a specialty occupation pursuant to 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).

The director denied the petition because the beneficiary was not qualified to perform the duties of the proffered position. On appeal, counsel submits a brief.

Section 214(i)(2) of the Act, 8 U.S.C. § 1184(i)(2), states that an alien applying for classification as an H-1B nonimmigrant worker must possess full state licensure to practice in the occupation, if such licensure is required to practice in the occupation, and completion of the degree in the specialty that the occupation requires. If the alien does not possess the required degree, the petitioner must demonstrate that the alien has experience in the specialty equivalent to the completion of such degree, and recognition of expertise in the specialty through progressively responsible positions relating to the specialty.

Pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(C), to qualify to perform services in a specialty occupation, an alien must meet one of the following criteria:

- (1) Hold a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;
- (2) Hold a foreign degree determined to be equivalent to a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;
- (3) Hold an unrestricted state license, registration or certification which authorizes him or her to fully practice the specialty occupation and be immediately engaged in that specialty in the state of intended employment; or
- (4) Have education, specialized training, and/or progressively responsible experience that is equivalent to completion of a United States baccalaureate or higher degree in the specialty occupation, and have recognition of expertise in the specialty through progressively responsible positions directly related to the specialty.

The record of proceeding before the AAO contains, in part: (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 public relations coordinator. The petitioner indicated in its November 20, 2002 letter of support that it wished to hire the beneficiary because he has a bachelor's degree in hotel and restaurant management and several years of experience as a public relations coordinator and as a marketing assistant.

The director found that the beneficiary was not qualified for the proffered position because the beneficiary's education is unrelated to the occupation. In particular, the director found that the occupation required a degree in marketing or public relations. On appeal, counsel states that the beneficiary's education and experience are all related to the proffered position.

The director did not discuss the educational requirements for a public relations manager, the occupation in the Department of Labor's *Occupational Outlook Handbook (Handbook)* that most closely resembles the proffered position. The *Handbook* reflects that those entering the field of public relations management may have a degree in a wide range of educational backgrounds, or may enter the field based on work experience.

Upon review of the record, the petitioner has established that the beneficiary is qualified to perform an occupation that does not require a baccalaureate degree in any specific field. The petitioner submitted two evaluations from Spantran, which states that the beneficiary's foreign degree is equivalent to bachelor's degrees in hotel and restaurant management and business studies.

The petition may not be approved, however, as the director did not address the issue of whether the proffered position is a specialty occupation. The *Handbook* describes educational requirements for entry into the public relations manager field:

A wide range of educational backgrounds is suitable for entry into advertising, marketing, promotions, public relations, and sales managerial jobs, but many employers prefer those with experience in related occupations plus a broad liberal arts background. A bachelor's degree in sociology, psychology, literature, journalism, or philosophy, among other subjects, is acceptable. However, requirements vary, depending upon the particular job.

...

For public relations management positions, some employers prefer a bachelor's or master's degree in public relations or journalism.

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 *Handbook* clearly states that there is no requirement for a degree *in a specific specialty* for entry into this field. A wide range of areas of study would be appropriate preparation for a position as a public relations manager. As the director did not rule on this issue, the petition will be remanded in order for the director to make a determination on whether or not the position is a specialty occupation.

The director may afford the petitioner reasonable time to provide evidence pertinent to the issue of whether the proffered position is a specialty occupation. The director shall then render a new decision based on the

evidence of record as it relates to the regulatory requirements for eligibility. As always, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The director's March 31, 2004 decision is withdrawn. The petition is remanded to the director for entry of a new decision, which if adverse to the petitioner, is to be certified to the AAO for review.