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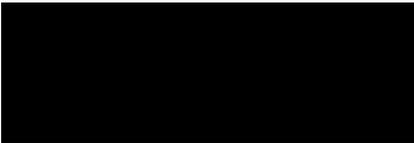


FILE: WAC 03 088 53644 Office: CALIFORNIA SERVICE CENTER Date: FEB 23 2005

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.

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 sustained.

The petitioner is engaged in the design, manufacture, and wholesale of wheels and auto accessories. It seeks to employ the beneficiary as a credit analyst. 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 credit analyst. Evidence of the beneficiary's duties includes: the I-129 petition; the petitioner's January 16, 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: analyzing credit information to determine risk involved in extending credit to customers and preparing reports of findings; selecting information, including company financial statements and balance sheets, and recording data on spreadsheet; entering codes for computer programs to generate ratios for use in evaluating customers' financial status; comparing liquidity, profitability, credit history, and cash of other companies in the same industry, size, and geographic location; analyzing income growth, quality of management, market share, and potential risks of industry; and suggesting credit limitations and payment terms to management. The petitioner indicated that a qualified candidate for the job would possess a bachelor's degree in accounting or its equivalent.

The director found that the proffered position was not a specialty occupation because the job is not a credit analyst; it combines the duties of a credit authorizer, checker, and clerk. Citing to the Department of Labor's *Occupational Outlook Handbook (Handbook)*, 2001-2002 edition, the director noted that the minimum requirement for entry into the position 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 is that of a credit analyst, and is not a credit authorizer, checker, or clerk. Counsel states further that the proposed duties, which entail determining the risk involved in extending credit to both new and existing corporate customers, are so specialized and complex that a bachelor's degree in a related area is required. Counsel submits job advertisements and evidence of previous CIS approvals as supporting evidence.

Upon review of the record, the proffered position appears to be primarily that of a credit analyst. A review of the *Handbook*, 2004-2005 edition, at page 648, finds that the minimum educational requirement for the credit analyst position is a bachelor's degree. It is noted here that not all credit analyst positions may be considered specialty occupations. Each position must be evaluated based upon the nature and complexity of the actual duties. In this instance, the duties are of such complexity as to require a baccalaureate degree in a specialized and related area. The beneficiary holds a Bachelor of Science degree in economics and business administration conferred by a U.S. institution. In view of the foregoing, it is concluded that the petitioner has demonstrated that the proffered 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 sustained that burden. Accordingly, the appeal will be sustained and the petition will be approved.

ORDER: The appeal is sustained. The director's order is withdrawn and the petition is approved.