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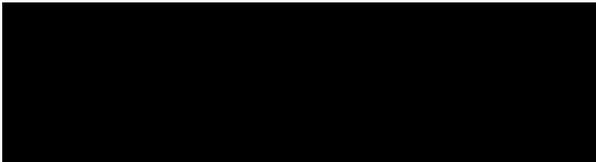
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FILE: WAC 03 188 52625 Office: CALIFORNIA SERVICE CENTER Date: JUN 10 2005

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 director of the service center denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained. The petition will be approved.

The petitioner is a full-range financing company that seeks to employ the beneficiary as a financial analyst. The petitioner, therefore, 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, holding that there was not an actual “bona fide position which can be considered a specialty occupation.”

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

The petitioner is seeking the beneficiary’s services as a financial analyst. Evidence of the beneficiary’s duties includes: the Form I-129; the attachments accompanying the Form I-129; the petitioner’s letter of support; the petitioner’s RFE response; the Form I-290B; and the appellate brief accompanying the Form I-290B. The petitioner’s response to the director’s request for evidence set forth the following description of the duties of the proposed position:

Job Summary –

Conducts financial due diligence and analysis on deals and transactions the company evaluates. Also continues to monitor the performance of the deals and transactions to plan, and makes recommendations to management for any required actions if needed.

This position reports [to] the President but consults closely with the controller and outside consultants. A lot of independent initiative is required, especially to determine and analyze the customer reporting and due diligence. Position is full time, 40 hours/week, 52 weeks per years [sic].

Job Responsibilities

1. Analyzing and monitoring new transactions – 30% of time
  - Review of all domestic and international business proposals and their financial impact on the corporation[.]
  - Conduct background credit check on parties to the transaction through Dun and Bradstreet and other credit reporting services.
  - Conduct an environmental scan to determine customer’s industry trends, industry practices, government regulations, etc.
  - Conduct a comparative analysis with industry ratios and the customer’s financial ratios.
  - Ascertain all banking and funds flow mechanism[s] to ensure [that] procedures are in compliance.
  - Conducting risk analysis and assessment.

2. Monitoring of current activities – 40% of time
  - Review and analyze customer monthly financial reports (profit and loss statements, balance sheets, cash flow statements).
  - Conduct periodic audits at customers' premises.
  - Conduct cash flow reviews, accounts payable reviews and account receivable reviews and aging [sic].
  - Resolve all financial and accounting matters while liaising with our Certified Public Accountants.
  - Check to ensure all activities comply with government regulations.
  - Review any changes in the risk exposure.
3. Traveling to customer or supplier sites to conduct due diligence – 10% [of time]
4. Preparation and presentation of reports to the President and the financing institutions of the company – 20% [of time]

The director denied the petition on the basis that the position did not qualify as a specialty occupation. The director stated the following:

It is not sufficient for a petitioner to merely state that he will employ an individual to perform duties that are characteristic of those found in a particular specialty occupation. Instead, there must be a reasonable and credible offer of employment that is consistent with the needs of the petitioning organization . . . it cannot be concluded [here] that there is a bona fide position which can be considered a specialty occupation.

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.

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.

In determining whether a position qualifies as a specialty occupation, Citizenship and Immigration Services (CIS) looks beyond the title of the position and determines, from a review of the duties of the position and any supporting evidence, whether the position actually requires the theoretical and practical application of a body of highly specialized knowledge, and the attainment of a baccalaureate degree in a specific specialty as the minimum for entry into the occupation as required by the Act. The AAO routinely consults the *Occupational Outlook Handbook* (the *Handbook*) for its information about the duties and educational requirements of particular occupations.

The *Handbook* provides the following information regarding the job duties of a financial analyst:

Financial analysts and personal financial advisors provide analysis and guidance to businesses and individuals to help them with their investment decisions. Both types of specialist gather financial information, analyze it, and make recommendations to their clients. However, their job duties differ because of the type of investment information they provide and the clients they work for. *Financial analysts* assess the economic performance of companies and industries for firms and institutions with money to invest. *Personal financial advisors* generally assess the financial needs of individuals, providing them a wide range of options.

Financial analysts, also called *securities analysts* and *investment analysts*, work for banks, insurance companies, mutual and pension funds, securities firms, and other businesses, helping these companies or their clients make investment decisions. Financial analysts read company financial statements and analyze commodity prices, sales, costs, expenses, and tax rates in order to determine a company's value and project future earnings. They often meet with company officials to gain a better insight into a company's prospects and to determine the company's managerial effectiveness. Usually, financial analysts study an entire industry, assessing current trends in business practices, products, and industry competition. They must keep abreast of new regulations or policies that may affect the industry, as well as monitor the economy to determine its effect on earnings.

The petitioner is a full-range financing firm offering loans and financing services, corporate debt and equity underwriting, mergers and acquisitions review and analysis, and fixed income and institutional equities sales and trading. The AAO has reviewed the duties of the proposed position as set forth in the petition and compared them with the duties of a financial analyst as set forth in the *Handbook*, and finds them to be closely aligned. The AAO next turns to the *Handbook's* discussion of the qualifications necessary for entrance into the field.

The *Handbook* reports the following educational requirement for the position of financial analyst:

A college education is required for financial analysts and is strongly preferred for personal financial advisors. Most companies require financial analysts to have at least a bachelor's degree in business administration, accounting, statistics, or finance. Coursework in statistics, economics, and business is required, and knowledge of

accounting policies and procedures, corporate budgeting, and financial analysis methods is recommended. A master of business administration is desirable . . .

As such, the position satisfies the first criterion set forth at 8 C.F.R. § 214.2(h)(4)(iii)(A), that a baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the field. The AAO therefore agrees with the petitioner's contention that the proposed position qualifies for classification as a specialty occupation.

The AAO next turns to the issue of whether the beneficiary is qualified to perform services in a specialty occupation. Pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(C), in order 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 beneficiary earned a master's degree in business administration from the Claremont Graduate University, located in Claremont, California, in 2002. She therefore satisfies 8 C.F.R. § 214.2(h)(4)(iii)(C)(1), and qualifies to perform the duties of the specialty occupation.

The petitioner has established both that the position qualifies for classification as a specialty occupation and that the beneficiary is qualified to perform the duties of a specialty occupation. As such, the petition will be approved.

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.

**ORDER:** The appeal is sustained. The petition is approved.