U.S. Department of Homeland Security

Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 MASS. 3/F
425 Eye Street N.W.
Washington, D.C. 20536

[redacted]

File: EAC 02 023 50158 Office: VERMONT SERVICE CENTER Date: JAN 6 2004

IN RE: Petitioner: [redacted]
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:

[redacted]

INSTRUCTIONS:
This is the decision 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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i). .

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of Citizenship and Immigration Services (CIS) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of $110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Vermont Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained. The petition will be approved.

The petitioner operates a foreign exchange and money remittance office. It has three employees, a gross annual income of $367,194, and seeks to employ the beneficiary as a branch operations officer for a period of three years. The director denied the petition on the ground that the proffered position failed to qualify as a specialty occupation.

On appeal, counsel submits a brief and additional information. Counsel asserts that the offered position qualifies as a specialty occupation in that the duties of the position are so specialized and complex that knowledge required to perform them is usually associated with the attainment of a baccalaureate or higher degree.

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), provides, in part, for the classification of qualified nonimmigrant aliens who are coming temporarily to the United States to perform services in a specialty occupation.

The issue to be discussed in this proceeding is whether the position offered to the beneficiary qualifies as 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.

The term "specialty occupation" is further defined at 8 C.F.R. § 214.2(h)(4)(ii) as:

> [A]n occupation which requires theoretical and practical application of a body of highly specialized knowledge in field of human endeavor including, but not limited to, architecture, engineering, mathematics, physical sciences, social sciences, medicine and health, education, business specialties, accounting, law, theology, and the arts, and which requires the attainment of a bachelor's degree or higher in a 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.

The duties of the proffered position were detailed with the filing of the I-129 petition:

Duties & Responsibilities of a **Branch Operations Officer (Financial):**

1. Directs and coordinates internal operations in the branch office to ensure efficient operation on international money remittance;

2. Audits accounts, records of proof, and certifications to ensure compliance with banking and remittance international procedures;

3. Compiles required and special reports on operating functions of the branch;

4. Implements programs to improve efficiency and insure conformance with standard procedures and practices in banking, finance and international remittance;

5. Verifies count of incoming cash remittances/shipments;

6. Controls supply of money on hand to meet branch's daily needs and legal requirements;

7. Reviews collection reports to ascertain status of collections-and-balances outstanding and to evaluate effectiveness of current collection procedures.

Subsequent to the filing of the initiating petition, the director requested additional evidence. Specifically, the director asked that the petitioner provide: evidence that in the petitioner's industry, a baccalaureate degree in a specific field of study is a standard minimum requirement for the job offered; a list of the petitioner's employees in similar positions and their educational backgrounds; and documentation describing the petitioner's company and the nature of its business.

In response to the director's request for evidence, the petitioner restated the duties previously detailed with the filing of the I-129 petition. The petitioner compared the duties of the proffered position with those of a financial manager as outlined in the U.S. Department of Labor's *Occupational Outlook Handbook (Handbook)*. The petitioner asserted that the duties of the offered position requires the beneficiary to have an understanding of banking laws, both international and domestic, in the areas of international money remittances, auditing, and accounting. The beneficiary is required to oversee the flow of cash and financial instruments, monitor the extension of credit, assess the risks of financial transactions, and manage the petitioner's financial operations.

In denying the I-129 petition, the director stated that based on the duties and responsibilities of the proffered position, as well as the nature and size of the petitioning company, the offered position was not so complex as to require a four-year baccalaureate degree, or its equivalent, in a related field of study. The director noted that the position's duties were not as complex or varied as the duties of a financial manager set forth in the *Handbook*, and that the petitioner's sole function is that of "money remittance."

On appeal, counsel asserts that the duties of the offered position are far more complex that the director conceptualizes. For example, the beneficiary must: operate her branch under strict compliance with banking laws, both international and domestic; apply and observe proper accounting and auditing practices; constantly monitor cash flow/financial instruments; and assess risks of transactions. The beneficiary must insure that her branch maintains its license and complies with the requirements of the New Jersey Department of Banking and the New Jersey Money Transmitters Act. It will be the beneficiary's responsibility to maximize profit by evaluating and taking advantage of foreign conversion rates when accepting transfers of foreign currency to be exchanged for United States currency. Counsel asserts that the position qualifies as a specialty

occupation due to the complexity of the duties involved.

The duties of the offered position are similar to those of financial managers as set forth in the *Handbook*.

> Branch managers of financial institutions administer and manage all the functions of a branch office, which may include hiring personnel, approving loans and lines of credit, establishing a rapport with the community or attract business, and assisting customers with account problems. Financial managers who work for financial institutions must keep abreast of the rapidly growing array of financial services and products.
>
> In addition to the general duties described above, all financial managers perform tasks unique to their organization or industry. For example, government financial managers must be experts on the government appropriations and budgeting processes, whereas healthcare financial managers must be knowledgeable about issues surrounding healthcare financing. Moreover, financial managers must be aware of special tax laws and regulations that affect their industry.

A bachelor's degree in finance, accounting, economics, or business administration is the minimum academic preparation for financial managers. *Id.* at 53.

The petitioner has qualified the proffered position as a specialty occupation in that it has established that the nature of the specific duties is so specialized and complex that knowledge required to perform them is usually associated with the attainment of a baccalaureate or higher degree. 8 C.F.R. § 214.2(h)(4)(iii)(A)(4). The beneficiary must have specialized knowledge in: United States banking laws/regulations; accounting and audit procedures for government regulatory agencies; knowledge of foreign currency rates/transactions; cash management for general operations and to satisfy government reserve requirements; and risk assessment for operation transactions and investments. These duties are complex and so specialized in nature that the knowledge necessary to perform them is usually attained through baccalaureate level education. They are not the type of duties that would normally be mastered through on-the-job training or some lesser degree of education. The beneficiary possesses the equivalent of a bachelor's degree in business administration from an accredited college or university in the United States based upon her foreign degree, and the director conceded in his decision that the beneficiary was qualified to perform the duties of a specialty occupation.

The burden of proof in these proceedings rests solely with the petitioner, and the petitioner has sustained that burden. Section

291 of the Act, 8 U.S.C. § 1361. The appeal shall accordingly be sustained, and the petition will be approved.

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