

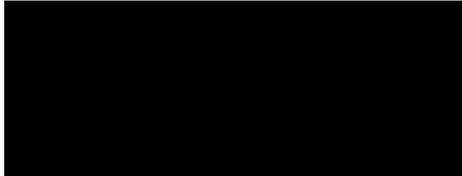
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U.S. Citizenship  
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Services

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FILE: EAC 07 135 52695 Office: VERMONT SERVICE CENTER Date: AUG 15 2008

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center, 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 states it is in the wholesale skincare business. It claims to employ three personnel and to have had \$806,490 in gross annual income when the petition was filed. It seeks to employ the beneficiary as a personal financial adviser. Accordingly, 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).

On July 25, 2007, the director denied the petition determining that the record did not establish that the proffered position is a specialty occupation. On appeal, counsel for the petitioner asserts that the petitioner has established that a "Personal Financial Advisor" is a specialty occupation and requires at least a bachelor's degree. The issue in this matter is whether the petitioner has established that the proffered position is a specialty occupation.

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.

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

An occupation which requires theoretical and practical application of a body of highly specialized knowledge in fields 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.

Citizenship and Immigration Services (CIS) interprets the term "degree" in the above criteria to mean not just any baccalaureate or higher degree, but one in a specific specialty that is directly related to the proffered position.

The petitioner seeks the beneficiary's services as a "personal financial adviser." The record includes: (1) the Form I-129 filed April 2, 2007 and supporting documentation; (2) the director's April 22, 2007 request for further evidence (RFE); (3) the petitioner's July 9, 2007 response to the director's RFE; (4) the director's July 25, 2007 denial decision; and (5) the Form I-290B and counsel's brief submitted in support of the appeal. The AAO reviewed the record in its entirety before issuing its decision.

In an April 1, 2007 letter appended to the Form I-129 petition, the petitioner stated: "[t]he mission of our business has been providing the skin care and nails products to the nail and spa stores in the New York region." The petitioner added: "[a]ccordingly, **Summit USA** also seeks to engage in extensive market research activities to identify the latest sales, fashion and other trends in the US market to identify business development opportunities, and to customize its production activities to meet the individual needs of its buyers." [Emphasis added.] The petitioner also referenced "expansion" and its parent company's distribution network within the United States. The petitioner declared:

The business is very fragmented. Several large multinational companies dominate the industry while many smaller firms occupy their market niches. New investors who want to join us as franchise [sic] are the target market of this firm. [The petitioner] intends to stay on the pulse of new business activity nationally. Additionally, business contacts, referrals from among the group, and **live fish wholesale marketing efforts** will be made in pursuit of new clients. [Emphasis added.] New [i]nvestors are attractive because they lack the broad range of knowledge and expertise required to launch a new business. There is a serious need in the marketplace, and certainly a significant demand for, these types of Skin Care or Nail Wholesale Businesses. For essential and determining factor for success of our business, it is the most important for us to hire a Personal Financial Advisor who majored in the field of Business, Financing, or related fields.

The petitioner indicated its need to hire a financial advisor who has a minimum of a bachelor's degree in economics, business administration, accounting, or financing and its need for a Korean speaking personal financial advisor who could record, prepare, analyze, and verify financial documents. The petitioner stated that the duties of its personal financial advisor would include, but not be limited to:

To interview clients to analyze their abilities to invest to franchise store and determine the size or volume of store. (Approximate percentage of time: 15%)

- To develop and implement financial plans for clients, utilizing knowledge of tax and investment strategies, securities, insurance, pension plans, and real estate. (Approximate percentage of time: 20%)
- To review clients to determine clients' assets, liabilities, cash flow, insurance coverage, tax status, and financial objective. (Approximate percentage of time: 15%)
- To analyze clients' financial status, develop financial plan based on analysis of data, and discuss financial options with clients. (Approximate percentages [sic] of time: 10%)
- To prepare and submit documents to implement plan selected by clients. (Approximate percentages [sic] of time: 15%)
- To maintain contact with clients to revise plan based on modified needs of clients or change in investment market. (Approximate percentages [sic] of time: 10%)
- To explain [to] clients available financial assistance, such as loans and grants. (Approximate percentages [sic] of time: 5%)
- To assist in selection of candidates for specific financial awards or aid. (Approximate percentages [sic] of time: 5%)

The petitioner referenced the Department of Labor's 2000-2001 edition of the *Occupational Outlook Handbook's (Handbook)* discussion of personal financial advisors which noted that a college degree is among the most important qualifications for personal financial advisors and that a bachelor's degree in accounting, finance, economics, business administration, or law provides good preparation for personal financial advisors. The petitioner also referenced the Department of Labor's *Dictionary of Occupational Titles (DOT)* which characterized the position of a financial planner as professional. The petitioner requested that CIS compare the *DOT* description of a financial planner with the description of job duties the beneficiary would perform.

On April 22, 2007, the director requested, among other things, evidence that the proffered position qualified as a specialty occupation pursuant to one of the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A); documentation highlighting the nature, scope, and activity of the petitioner's enterprise(s); copies of the terms under which the beneficiary would be employed that indicates the services the beneficiary would provide; brief job descriptions for the majority of positions within the petitioner's employ including job titles, duties, and educational requirements; a statement specifying the number of employees currently working or previously working in the position of personal financial advisor with duties similar to the proposed duties of the beneficiary and evidence of those individuals' degrees and employment; and an explanation why the successful candidate must have a bachelor's degree in a specific field.

In a July 9, 2007 response, the petitioner stated: "[t]he beneficiary must possess outstanding analytical skills, including the ability to translate numerical data into understandable information and to analyze researched information into valuable recommendation for business improvement" and "an ability to communicate and work [with] other professionals and president." The petitioner repeated the job description previously provided and the information regarding the nature of its business, deleting the reference to Summit USA and "live fish" and noting that "it is extremely important to have direct representation in markets where buyers are located in order to address their particular needs as well as to understand the evolving dynamics of particular markets."

The petitioner did not respond to the director's request for information regarding past hiring practices, the size of its company, and industry norms asserting that these factors were irrelevant. Although not providing a citation, the petitioner referenced *Young China Daily v. Chappell* and asserted that the court in that matter had emphasized that it is the duties of a position rather than the size of a company that is important. The petitioner attached an excerpt from the 2002-2003 edition of the *Handbook* regarding the occupation of financial analysts and personal financial advisors. The petitioner also attached a copy of a March 1, 2007 letter it had sent to a headhunting service requesting a recommendation for a personal financial advisor to advise the petitioner or its investors on financial plans utilizing knowledge of tax and investment strategies, securities, insurance, pension plans, and real estate.

On July 25, 2007, the director denied the petition, determining that the petitioner had not established that the proffered position satisfied any of the criteria found at 8 C.F.R. § 214.2(h)(4)(iii)(A).

On appeal, the petitioner repeats the description of the beneficiary's duties, again references the 2000-2001 *Handbook* and the *DOT* regarding discussions of personal financial advisors and financial planners, and submits two job advertisements. The job advertisements are for: (1) a financial advisor – private asset management for an undisclosed company that requires a bachelor's degree and desires a master's degree, MBA preferred; and (2) a financial advisor for a large regional bank that requires a bachelor's degree or related experience.

The AAO has reviewed the record of proceeding and finds that the petitioner has not established that the proffered position is a specialty occupation under any of the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A). The AAO first reviews the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1), whether a baccalaureate or higher degree or its equivalent is the normal minimum requirement for entry into the particular position. The AAO routinely consults the *Handbook* for information about the duties and educational requirements of particular occupations. The 2008-2009 edition of the *Handbook* under the title *Financial Analysts and Personal Financial Advisors* provides the following overview of the occupation of a personal financial advisor:

Financial analysts and personal financial advisors provide analysis and guidance to businesses and individuals in making investment decisions. Both types of specialists gather financial information, analyze it, and make recommendations. However, their job duties differ because of the type of investment information they provide and their relationships with investors.

*Personal financial advisors* assess the financial needs of individuals. Advisors use their knowledge of investments, tax laws, and insurance to recommend financial options to individuals. They help them to identify and plan to meet short- and long-term goals. Planners help clients with retirement and estate planning, funding the college education of children, and general investment choices. Many also provide tax advice or sell life insurance. Although most planners offer advice on a wide range of topics, some specialize in areas such as retirement and estate planning or risk management.

Personal financial advisors usually work with many clients, and they often must find their own customers. Many personal financial advisors spend a great deal of their time making

sales calls and marketing their services. Many advisors also meet potential clients by giving seminars or lectures or through business and social contacts. Finding clients and building a customer base is one of the most important aspects of becoming successful as a financial advisor.

Financial advisors begin work with a client by setting up a consultation. This is usually an in-person meeting where the advisor obtains as much information as possible about the client's finances and goals. The advisor then develops a comprehensive financial plan that identifies problem areas, makes recommendations for improvement, and selects appropriate investments compatible with the client's goals, attitude toward risk, and expectation or need for a return on the investment. Sometimes this plan is written, but more often it is in the form of verbal advice. Advisors sometimes meet with accountants or legal professionals for help.

Financial advisors usually meet with established clients at least once a year to update them on potential investments and adjust their financial plan to any life changes—such as marriage, disability, or retirement. Financial advisors also answer clients' questions regarding changes in benefit plans or the consequences of a change in their jobs or careers. Financial planners must educate their clients about risks and various possible scenarios so that the clients don't harbor unrealistic expectations.

Most personal financial advisors buy and sell financial products, such as securities and life insurance. Fees and commissions from the purchase and sale of securities and life insurance plans are one of the major sources of income for most personal financial advisors.

The AAO has reviewed the petitioner's description of the duties of the proffered position and finds that a portion of the described duties correspond generally to the *Handbook's* overview of the occupation of personal financial advisor. For example, the 2008-2009 edition of the *Handbook* reports: "[a]dvisors use their knowledge of investments, tax laws, and insurance to recommend financial options to individuals,"<sup>1</sup> work that corresponds to the petitioner's indication that the beneficiary will "develop and implement financial plans for clients, utilizing knowledge of tax and investment strategies, securities, insurance, pension plans, and real estate." Similarly, the petitioner's indication that the beneficiary will "review clients to determine clients' assets, liabilities, cash flow, insurance coverage, tax status, and financial objective" and "analyze clients' financial status, develop financial plan based on analysis of data, and discuss financial options with clients" corresponds with the *Handbook's* general statements indicating that personal financial advisors assess the financial needs of individuals and develop a comprehensive financial plan that identifies problem areas, makes recommendations for improvement, and selects appropriate investments compatible with the client's goals. Likewise, the petitioner's statement that the beneficiary will "maintain contact with clients to revise plan based on modified needs of clients or change in investment market" corresponds generally to the *Handbook's* recognition that personal financial advisors meet with clients to obtain information about the client's finances and goals and update them on potential investments and adjust their financial plan. However,

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<sup>1</sup> The AAO observes the 2002-2003 edition of the *Handbook*, referenced by the petitioner indicates that personal financial advisors use their knowledge of investments, tax laws, insurance, and real estate to recommend financial options.

when discussing an occupational title such as personal financial advisor, the petitioner cannot repeat portions of the generalized descriptions found in the *Handbook* to establish that the proffered position is a specialty occupation. Such a generalized description is necessary when defining the range of duties that may be performed within an occupation, but cannot be relied upon by a petitioner when discussing the duties attached to specific employment. In establishing a position as a specialty occupation, a petitioner must describe the specific duties and responsibilities to be performed by a beneficiary in relation to its particular business interests.

In this matter, the petitioner has not provided information relating the described duties of the proffered position to its business. The petitioner indicates that it provides skin care and nail products to nail and spa stores. It initially referenced another company that sought to engage in market research and noted that it wanted to expand its parent company's distribution network within the United States.<sup>2</sup> In response to the director's RFE, the petitioner deleted the reference to the other company and added that "it is extremely important to have direct representation in markets where buyers are located in order to address their particular needs as well as to understand the evolving dynamics of particular markets." However, the petitioner does not include marketing duties in its description of the duties of the proffered position, does not include information on how the individual in the proffered position would be involved in direct representation in markets where buyers are located, and does not include evidence that it is expanding its parent company's distribution network. Moreover, the petitioner has not provided a clear understanding of this aspect of its business and has not explained how direct representation in skincare and nail care markets relates to the duties of the beneficiary that include developing and implementing financial plans for clients, utilizing knowledge of tax and investment strategies, securities, insurance, pension plans, and real estate, and reviewing clients' assets, liabilities, cash flow, insurance coverage, tax status, and financial objective, and analyzing clients' financial status and developing financial plans based on an analysis of data and discussing financial options with clients. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

The AAO acknowledges the petitioner's representation that "[n]ew investors who want to join us as franchise [sic] are the target market of this firm" and that "business contacts, referrals from among the group, and wholesale marketing efforts will be made in pursuit of new clients;" however it is unclear whether the petitioner is representing that it is franchising its skin care and nail products, or is representing that it is pursuing clients to use its skin care and nail products. Thus, the petitioner's indication that one of the duties of the proffered position is "[t]o interview clients to analyze their abilities to invest to franchise store and determine the size or volume of store" is also unclear. The AAO declines to speculate on the parameters, scope, or nature of the petitioner's business. Without a clear understanding of the nature of the petitioner's business, CIS cannot ascertain the exact nature of the beneficiary's duties and whether the actual duties include marketing, selling, advising potential investors on the franchise aspect of the petitioner's business, if any, or advising clients on the purchase of insurance or securities, or advising the petitioner on expanding its

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<sup>2</sup> It appears that the petitioner may have used a template for another company to establish its proffered position as a specialty occupation; however, it is the lack of information regarding the nature and scope of the petitioner's business that impacts whether the petitioner will be using the beneficiary to perform the services it is describing for the proffered position.

wholesale distribution of skincare and nail care products. The AAO is also unable to determine how preparing and submitting documents to implement plans selected by clients, explaining financial assistance to clients and selecting candidates for financial awards and aid fits within the scope of a company whose "mission . . . has been providing the skin care and nails products to the nail and spa stores in the New York region."

Although the petitioner has provided a description of duties that includes elements of the *Handbook's* overview of a personal financial advisor occupation, the petitioner has failed to provide information regarding the daily tasks that the petitioner requires from the proffered position. To recite generalities including language from the *Handbook* rather than specifics substantiated by the requirements of the particular petitioner, leads to the absurd result of petitioners indiscriminately labeling and summarizing positions in an effort to obtain specialty occupation classification. Instead of relying on a title of a position and the *Handbook's* overview of an occupation, each petitioner must detail its expectation of the proffered position and must provide evidence of what the duties of the proffered position entail on a daily basis. Such description must correspond to the needs of the petitioner and be substantiated by documentary evidence. To allow otherwise, essentially requires acceptance of any petitioner's broadly stated description, rather than a detailed, comprehensive description demonstrating what the petitioner expects from the beneficiary and what the proffered position actually requires.

In addition, the AAO finds that even if the petitioner had provided the necessary detail regarding the proffered position as the particular duties relate specifically to its business interests, the *Handbook's* discussion of the educational requirements for a personal financial advisor does not identify a baccalaureate or higher degree or its equivalent as the normal, minimum requirement for entry into the particular position. The 2008-2009 edition of the *Handbook* reports: "[a] bachelor's or graduate degree is required for financial analysts and is *strongly preferred for personal financial advisors*. [Emphasis added.] However, the AAO has long found that employer preference is not synonymous with the "normally required language of the first criterion. The *Handbook* continues its discussion of the educational requirements for personal financial advisors by noting: "[e]mployers usually do not require a specific field of study for personal financial advisors, but a bachelor's degree in accounting, finance, economics, business, mathematics, or law provides good preparation for the occupation," a further indication that the occupation of a personal financial advisor is not a specialty occupation. To prove that a job requires the theoretical and practical application of a body of specialized knowledge as required by Section 214(i)(1) of the Act, a petitioner must establish that the position requires the attainment of a bachelor's or higher degree in a specialized field of study. As already noted, CIS interprets the degree requirement at 8 C.F.R. § 214.2(h)(4)(A) to require a degree in a specific specialty that is directly related to the proffered position. As the *Handbook* indicates that employers usually do not require a specific field of study to enter this occupation, this occupation is not a specialty occupation under the first criterion.<sup>3</sup>

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<sup>3</sup> The 2008-2009 *Handbook* also reports that almost all personal financial advisors need specific licenses to perform their work and that the license is dependent upon the type of the employment. The record does not include evidence that the beneficiary has been licensed to perform the duties of a personal financial advisor. As the record does not reflect the exact nature of the beneficiary's duties in relation to the petitioner's business, and thus the proffered position has not been established as a personal financial advisor, this element will not be discussed further.

The AAO acknowledges the petitioner's reference to the *DOT* discussion of financial planners; however, the AAO does not consider the *DOT* to be a persuasive source of information as to whether a job requires the attainment of a baccalaureate or higher degree (or its equivalent) in a specific specialty. The *DOT* provides only general information regarding the tasks and work activities associated with a particular occupation, as well as the education, training, and experience required to perform the duties of that occupation. Again, the record does not demonstrate that the occupation of a personal financial advisor would require the beneficiary to have attained a bachelor's degree or its equivalent in a specific specialty.

The AAO concludes that in this matter, the petitioner has not provided a description of duties sufficient to demonstrate that the proffered position is a specialty occupation under the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(I). The description of the proffered position's duties does not establish that the proffered position is that of a personal financial advisor.

The AAO now turns to a consideration of whether the petitioner, although unable to establish its proffered position as a specialty occupation under the requirement at 8 C.F.R. § 214.2(h)(4)(iii)(A)(I), may qualify it under one of the three remaining criteria.

To establish the proffered position as a specialty occupation under the second criterion, the petitioner must establish that 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. Factors considered by the AAO when determining these criteria include: whether the *Handbook*, on which the AAO routinely relies for the educational requirements of particular occupations, reports 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. Minn. 1999) (quoting *Hird/Blaker Corp. v. Sava*, 712 F. Supp. 1095, 1102 (S.D.N.Y. 1989)).

The AAO has considered the two job announcements submitted on appeal and determines that the job announcements do not provide sufficient information to enable the AAO to conclude that the businesses advertising the positions are similar to the petitioner in size, number of employees, or level of business. Again, going on the record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165. Neither of the organizations advertising appear similar to the petitioner, a company providing skin care and nail products to spas and salons in the New York region. Instead, the advertisements are published by a large regional bank and a company that does not disclose the nature of its business. Neither do the advertisers provide descriptions of positions that may be considered parallel to the proffered position, nor establish that a baccalaureate degree is an industry standard for financial advisor positions. Although both of the announcements indicate they require a bachelor's degree, neither requires that the degree is in a specific discipline, as required for classification as a specialty occupation. Moreover, as the record in this matter offers only a generalized and unclear description of the proffered position, the duties listed in the advertisements may not be established as parallel to those outlined by the petitioner. In the alternative, the petitioner may show that the proffered position is so complex or unique that only an individual with a degree can perform the work associated with the position. In the instant petition, the petitioner has

submitted insufficient information regarding the position and how it relates to the petitioner's particular interests to enable CIS to distinguish the proffered position from similar but non-degreed employment.

A review of the evidence of record finds it insufficient to establish the proposed duties as a position that is identifiable with an industry-wide educational standard, or distinguishable, by its unique nature or complexity, from a similar but non-degree-requiring position. The petitioner has failed to establish the proffered position as a specialty occupation under either prong of the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

The record also fails to demonstrate that the petitioner has a history of recruiting and hiring degreed candidates for the proffered position. To determine whether the petitioner has fulfilled the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(3), the AAO normally reviews the petitioner's past employment practices, as well as the histories, including names and dates of employment, of those employees with degrees who previously held the position, and copies of those employees' diplomas. The petitioner notes that this is the first time it has offered employment in this particular position, thus the petitioner has not established this criterion. In addition, the AAO observes that the petitioner's desire to employ an individual with a bachelor's degree does not establish that the position is a specialty occupation. The critical element is not the title of the position or an employer's self-imposed standards, but whether the position actually requires the theoretical and practical application of a body of highly specialized knowledge, and the attainment of a baccalaureate or higher degree in the specific specialty as the minimum for entry into the occupation as required by the Act. If CIS were limited to reviewing a petitioner's self-imposed employment requirements, then any alien with a bachelor's degree could be brought into the United States to perform a non-professional or non-specialty occupation, so long as the employer required all such employees to have baccalaureate or higher degrees. The AAO finds that the petitioner has not established the proffered position as a specialty occupation under the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(3).

The AAO now turns to the fourth criterion - whether 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. When assessing whether the petitioner has met its burden with regard to this criterion, the AAO considers the duties of the position, not the occupation, or the industry-wide standard associated with the occupation. In this matter, the petitioner's vague and general description of the duties of the position and its failure to relate those duties to the petitioner's particular business interests does not include sufficient evidence to substantiate that the duties of the proffered position contain complex and specialized elements. The record does not include sufficient evidence to establish that the position, as described, represents a combination of jobs that would require the beneficiary to have a unique set of skills that would incorporate the theoretical and practical application of a body of highly specialized knowledge, and would require the 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. As observed above, the petitioner's description of duties is indefinite and confusing and does not include specific references to the actual duties the beneficiary would perform for the petitioner's skin care and nail products company. The petitioner has not described the exact nature of its business and has not provided evidence of its more complex activities, or the requirements of particular clients, or the peculiarities of the geographic region, if any, sufficient to establish the proffered position as a specialty occupation under this criterion. Without a meaningful list of duties related to its specific business operations, the petitioner has not established that the generally described duties are either specialized or complex. The petitioner has not established the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4).

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 met that burden.

**ORDER:** The appeal is dismissed. The petition is denied.