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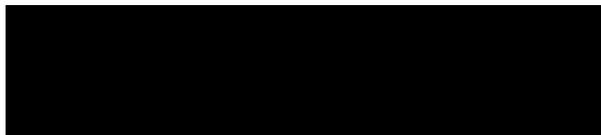
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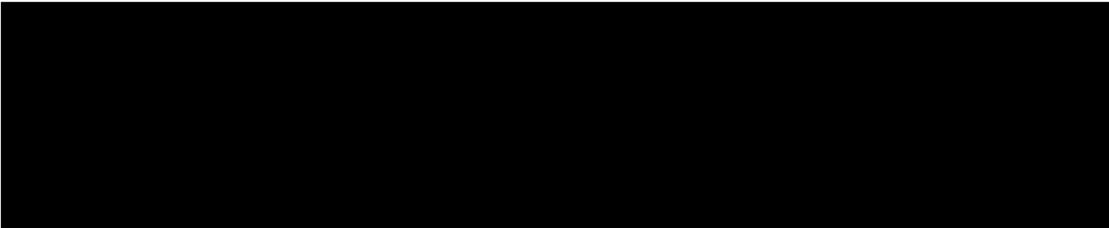
FILE: LIN 05 184 53540 Office: NEBRASKA SERVICE CENTER Date: **JUL 23 2007**

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, Chief  
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 dismissed. The petition will be denied.

The petitioner is a finance and investment business 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 because the proffered position is not a specialty occupation and the beneficiary is not qualified to perform 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 evidence (RFE); (3) counsel and the petitioner's responses to the director's request; (4) the director's denial letter; and (5) the Form I-290B, with counsel's brief. The AAO reviewed the record in its entirety before reaching its decision.

The first issue before the AAO is whether the proffered position qualifies as a specialty occupation. To meet its burden of proof in this regard, the petitioner must establish that the job it is offering to the beneficiary meets the following statutory and regulatory requirements.

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) consistently 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.

To determine whether a particular job qualifies as a specialty occupation, CIS does not simply rely on a position’s title. The specific duties of the proffered position, combined with the nature of the petitioning entity’s business operations, are factors to be considered. CIS must examine the ultimate employment of the alien, and determine whether the position qualifies as a specialty occupation. *Cf. Defensor v. Meissner*, 201 F. 3d 384 (5<sup>th</sup> Cir. 2000). The critical element is not the title of the position nor 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.

The petitioner seeks the beneficiary’s services as a financial analyst. Evidence of the beneficiary’s duties includes: the Form I-129; the petitioner’s May 9, 2005 letter in support of the petition; and counsel and the petitioner’s responses, both dated October 7, 2005, to the director’s request for evidence. As stated by the petitioner’s president in his May 9, 2005 letter, the proposed duties are as follows:

- Overseeing the creation of policy, procedures and safety requirements ensuring compliance in all areas;
- Attending regularly scheduled investment planning meetings;
- Developing a client base, assisting in the formation of a financial plan suitable to their individual needs;
- Assess the economic viability/performance of various real estate investments;
- Provide analysis of financial data and trends within the real estate industry, developing forecasts, measuring the financial risks;

- Make recommendations to potential investors according to their short and long term investing goals; [and]
- Ensure compliance with the Securities and Exchange Commission regulations including all required forms and written materials are prepared for review and submission.

As stated by the petitioner's president in his October 7, 2005 response to the director's RFE, the proposed duties are as follows:

- 40% - risk analysis, financial pro-forma assessment and development, due diligence on prospective investments (primarily real estate). In the case of real estate liens, managing and assessing exit strategies & timing;
- 20% - macro research work with respect to both global economic and regional economic market trends (with emphasis on North America);
- 20% - fulfillment of required obligations with respect to committee and regulatory work – review and discussion of investment activity, submission to ongoing offering memorandum, prospectus filings etc.;
- 10% - planning, attendance and follow up from regular investment planning sessions; and
- 10% - development of company's investment plans appropriate for each investment situation and risk tolerance.

In its response to the director's request for further evidence, the petitioner amended the beneficiary's duties. In sum, the initial description appeared to have the beneficiary doing more of the work of a personal financial planner, such as making recommendations to potential investors/shareholders and assisting them in the formation of a financial plan suitable to their individual needs, while the second iteration of the job has the beneficiary performing more financial analyst duties, such as managing and assessing exit strategies and timing of real estate liens.

The purpose of the request for evidence is to elicit further information that clarifies whether eligibility for the benefit sought has been established. 8 C.F.R. § 103.2(b)(8). When responding to a request for evidence, a petitioner cannot offer a new position to the beneficiary, or materially change a position's title, its level of authority within the organizational hierarchy, or its associated job responsibilities. The petitioner must establish that the position offered to the beneficiary when the petition was filed merits classification as a specialty occupation. *See Matter of Michelin Tire Corp.*, 17 I&N Dec. 248, 249 (Reg. Comm. 1978). If significant changes are made to the initial request for approval, the petitioner must file a new petition rather than seek approval of a petition that is not supported by the facts in the record. The information provided by the petitioner in its response to the director's request for further evidence did not clarify or provide more

specificity to the original duties of the position, but rather added new generic duties to the job description. Therefore, the analysis of this criterion will be based on the job description submitted with the initial petition.

The director found that the proffered position was not a specialty occupation because the job is not a financial analyst; it is more closely related to a personal financial advisor. Citing the Department of Labor's *Occupational Outlook Handbook (Handbook)*, 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 director erred in his finding that the proffered position was that of a personal financial planner rather than that of a financial analyst. He states further that the record contains an expert opinion as evidence that the proposed duties are consistent with the position of a financial analyst. Counsel also states that the petitioner "is an institutional investor, not an individual investor, nor in the business of advising individual investors."

Upon review of the record, the petitioner has established none of the four criteria outlined in 8 C.F.R. § 214.2(h)(4)(iii)(A). Therefore, the proffered position is not a specialty occupation.

The AAO turns first to the criteria at 8 C.F.R. §§ 214.2(h)(4)(iii)(A)(1) and (2): a baccalaureate or higher degree or its equivalent is the normal minimum requirement for entry into the particular position; a degree requirement is common to the industry in parallel positions among similar organizations; or a particular position is so complex or unique that it can be performed only by an individual with a degree. Factors often considered by CIS when determining these criteria include: whether the *Handbook* reports that 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 routinely consults the *Handbook* for its information about the duties and educational requirements of particular occupations. The AAO does not find that the proffered position, which is primarily that of a personal financial advisor, is a specialty occupation. No evidence in the *Handbook*, 2006-07 edition, under the category of Financial Analysts and Personal Financial Advisors, indicates that a baccalaureate or higher degree in a specific field of study, or its equivalent, is required for a personal financial advisor job. Counsel for the petitioner also acknowledges that a personal financial advisor is not a specialty occupation. The AAO acknowledges counsel's assertion on appeal: "The proffered job does not reflect a position where the Beneficiary would advise individuals and accumulate individual clients as would be characteristic of a Personal Financial Planner." Counsel's assertion, however, conflicts with the petitioner's initial description of the proposed duties that include, in part, "Developing a client base, assisting in the formation of a financial plan suitable to their individual needs" and "Mak[ing] recommendations to potential investors according to their short and long term investing goals." The record contains no explanation for this inconsistency. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits

competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).

The record contains two expert opinions, one of which is from an associate dean for international programs at a U.S. university, who asserts, in part, that the proffered position, as described in the petitioner's job description, "is similar to other positions of Financial Analyst that I have seen." He asserts further: "In my opinion, the position of Financial Analyst, as described, would be a specialty occupation requiring an in-depth theoretical and practical knowledge and require the attainment of a bachelor's degree or higher and that degree should be in business administration with a specialization in finance." The associate dean, however, does not discuss the differences between a financial analyst and a financial planner. The *Handbook*, which offers an overview of national hiring practices, draws on personal interviews with individuals employed in the occupation or from websites, published training materials and interviews with the organizations granting degrees, certification, or licenses in the field, to reach its conclusions regarding the nation's employment practices. The *Handbook* recognizes the differences between these two occupations, while the associate dean simply concludes that job description is that of a financial analyst even though it generally describes the duties of a financial planner. The associate dean's opinion is insufficient to overcome the *Handbook's* analysis of the two disparate positions and the educational requirements associated with the different positions.

The second opinion letter is from a professor of finance at a U.S. university, who asserts, in part, that the principal duties and responsibilities of the proffered position are those of a financial analyst, a position that requires the minimum of a bachelor's degree in the occupational field. The professor acknowledges that some of the described duties are related to the position of a personal financial advisor, but opines: "the majority of the duties are consistent with the typical financial analyst position in that the position requires skills in the development of company policies and procedures, managing government compliance issues and data analysis and forecasting abilities, all of which are more complex than what would be expected of a personal financial advisor." However, the professor does not base his opinion on a factual foundation.

In this matter, both opinions presented fail to include a discussion of the actual work the beneficiary would perform within the context of this particular petitioner's business, but rely on the general overview of described duties initially submitted. The authors do not indicate that they interviewed the beneficiary or the petitioner, or otherwise reviewed the petitioner's business operations. They do not relate any personal observations of the petitioner's operations or of the work that the beneficiary would perform, nor do they state that they have reviewed any projects or work products related to the proffered position. Their opinions do not relate their conclusions to specific, concrete aspects of this petitioner's business operation demonstrating a factual basis for their conclusions about the nature of the proffered position. CIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. However, where an opinion is not in accord with other information or is in any way questionable, CIS is not required to accept or may give less weight to that evidence. *Matter of Caron International*, 19 I&N Dec. 791 (Comm. 1988).

Regarding parallel positions in the petitioner's industry, counsel submits Internet job postings for financial analysts. The listings provided either fail to offer meaningful descriptions of the positions advertised or rely on duties unlike the duties listed by the petitioner. Also, the petitioner has not shown that the advertisers, which include recruiting businesses and Fortune 500 companies, are similar to the petitioner's business. The listings do not indicate that the businesses publishing the advertisements are similar to the petitioner in size, number of employees, or level of revenue. Moreover, as the record offers only a generalized description of the proffered position, the duties listed in the advertisements may not be established as parallel to those outlined by the petitioner. The record also does not include evidence from individuals, firms, or professional associations regarding an industry standard. Accordingly the petitioner has not established that the degree requirement is common to the industry in parallel positions among similar organizations.

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 documentation to distinguish the proffered position from similar but non-degreed employment. The AAO acknowledges the professor of finance's opinion that the "duties and responsibilities [of the proffered position] require a level of specialized knowledge, technical understanding and competence that could only be attained with a bachelor's degree," and that the duties "require a thorough understanding and knowledge of the theoretical and practical applications of financial analysts principles." Again, however, the professor does not substantiate his conclusions with an explanation of each duty and how the generally described duty corresponds to particular courses in a four-year university. Moreover, as observed above, the failure to substantiate the opinion with a factual foundation based on an analysis of the beneficiary's actual work in conjunction with an analysis of the petitioner's operations undermines the conclusions reached. 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).

For the reasons discussed above, the petitioner has not satisfied any of the criteria set forth at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1) and (2).

The AAO now turns to the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(3) – the employer normally requires a degree or its equivalent for the position. As counsel does not address this issue on appeal, it will not be discussed further. The evidence of record does not establish this criterion.

Finally, the AAO turns to the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(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.

Counsel states, on appeal, that the beneficiary has been assigned the portfolio of U.S. tax lien investments, a job that requires a qualified financial analyst. However, as observed above, the job title and description of duties submitted with the initial petition will be considered. The initial description appeared to have the beneficiary doing more of the work of a personal financial planner, such as making recommendations to potential investors/shareholders and assisting them in the formation of a financial plan suitable to their individual needs. The petitioner has not provided sufficient documentary evidence to establish that such

duties exceed in scope, specialization, or complexity those usually performed by personal financial planners, an occupational category that does not require a baccalaureate or higher degree in a specific specialty. 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)). To the extent that they are depicted in the record, the duties do not appear so specialized and complex as to require the highly specialized knowledge associated with a baccalaureate or higher degree in a specific specialty.

Accordingly, the petitioner has failed to classify the proffered position as a specialty occupation pursuant to the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4).

As related in the discussion above, the petitioner has failed to establish that the proffered position is a specialty occupation.

The second issue before the AAO is whether the beneficiary is qualified to perform a specialty occupation.

The director found that the evidence failed to establish that the beneficiary has attained the equivalent of a bachelor's degree in a field related to the proffered position.

On appeal, counsel states, in part, that the evidence of record contains two expert opinions to demonstrate that the beneficiary's 2.5 years of university credit and more than 10 years of business experience equate to a bachelor's degree in business administration with an emphasis in finance.

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 petitioner has not provided evidence that the beneficiary meets any of the criteria at 8 C.F.R. §§ 214.2(h)(4)(iii)(C)(1), (2), or (3). Thus the AAO turns to the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(C)(4).

When determining a beneficiary's qualifications under 8 C.F.R. § 214.2(h)(4)(iii)(C)(4), the AAO relies upon the five criteria specified at 8 C.F.R. § 214.2(h)(4)(iii)(D). A beneficiary who does not have a degree in the specific specialty may still qualify for H-1B nonimmigrant visa based on:

- (1) An evaluation from an official who has authority to grant college-level credit for training and/or experience in the specialty at an accredited college or university which has a program for granting such credit based on an individual's training and/or work experience;
- (2) The results of recognized college-level equivalency examinations or special credit programs, such as the College Level Examination Program (CLEP), or Program on Noncollegiate Sponsored Instruction (PONSI);
- (3) An evaluation of education by a reliable credentials evaluation service which specializes in evaluating foreign educational credentials;
- (4) Evidence of certification or registration from a nationally-recognized professional association or society for the specialty that is known to grant certification or registration to persons in the occupational specialty who have achieved a certain level of competence in the specialty;
- (5) A determination by the Service that the equivalent of the degree required by the specialty occupation has been acquired through a combination of education, specialized training, and/or work experience in areas related to the specialty and that the alien has achieved recognition of expertise in the specialty occupation as a result of such training and experience.

The record contains the following documentation related to the beneficiary's qualifications:

- Academic evaluation, dated September 28, 2005, from an associate dean for international programs at a U.S. university, who asserts, in part, that the beneficiary's work experience and

education credentials are the equivalent of a bachelor's degree in business administration with a specialization in finance from an accredited U.S. college or university;

- Academic opinion, dated September 23, 2005, from a university professor of finance, who asserts, in part, that the beneficiary's 10 years of executive-level work experience in various areas of management and finance, along with the completion of numerous business courses at the University of Calgary are the U.S. equivalent of a bachelor's degree in business administration with an emphasis in finance;
- Beneficiary's university transcripts reflecting the completion of various undergraduate courses;
- Credentials evaluation, dated April 13, 2005, from the Foundation For International Services, Inc., whose evaluator concluded that the beneficiary "has the equivalent of 2½ years of university-level credit from a regionally accredited college or university in the United States and has, as a result of his educational background and employment experiences (3 years of experience = 1 year of university-level credit), an educational background the equivalent of an individual with a bachelor's degree in business administration with an emphasis in finance from a regionally accredited college or university in the United States;"
- Second credentials evaluation, dated September 30, 2005, from the Foundation for Educational Services, Inc., whose evaluator concluded that the beneficiary "has the equivalent of 2½ years of university-level credit from a regionally accredited college or university in the United States and has through the expert opinion letters by [REDACTED]s of Seattle Pacific University and [REDACTED] of Portland State University, as a result of his education and professional work experience, an educational background the equivalent of an individual with a bachelor's degree in business administration with an emphasis in finance from a regionally accredited college or university in the United States;"
- Letter, dated September 12, 2005, from the former branch manager of Laurentian Bank of Canada (Calgary) who asserts, in part, that he worked with the beneficiary from October 1995 through February 1998 in financing the business Intellitech Communications Inc. (ICI), of which the beneficiary was president and CFO;
- Letter, dated September 12, 2005, from the vice president of Canada Mortgage Direct, who asserts, in part, that, in his capacity as a mortgage agent from March 2004 through August 2005, he dealt with the beneficiary on dozens of real estate loans and transactions and found his insight and deal analysis to be diligent and professional, and that the beneficiary sits on the audit committee of a mortgage investment corporation where he is involved in analyzing potential investments and assessing risk;

- Letter, dated September 11, 2005, from the senior manager of [REDACTED] a chartered accountants business, who asserts, in part, that from May 2002 through 2005, he worked with the beneficiary on the financial analysis of a variety of real estate projects;
- Internet printout of the beneficiary's background for the "Real Estate Investing Expo 2005" describing the beneficiary, in part, as "an award winning investor, speaker, author and licensed real estate agent;"
- Internet printout of the company "On Air Digital Audio" of which the beneficiary was listed as the "President, CEO, or Owner;" and
- Beneficiary's resume.

All four of the credentials evaluations are based on the beneficiary's employment experience and his foreign college courses. All of the evaluators note that the beneficiary completed the equivalent of 2½ years of university-level credits from a regionally accredited college or university in the United States, though none of the evaluators provides sufficient detail, such as the total number of credit hours completed by the beneficiary, or otherwise substantiate how their conclusions were reached. It is noted that such information is not clear from the transcript on record, which reflects several courses withdrawn or failed. Further, although the associate dean for international programs asserts that the beneficiary completed coursework in managerial accounting, the transcript reflects that the beneficiary withdrew from that course. In view of the foregoing, the evaluators' conclusions about the equivalency of the beneficiary's foreign education carry no weight in these proceedings. CIS uses an evaluation by a credentials evaluation organization of a person's foreign education as an advisory opinion only. Where an evaluation is not in accord with previous equivalencies or is in any way questionable, it may be discounted or given less weight. *Matter of Sea, Inc.*, 19 I&N Dec. 817 (Comm. 1988).

The AAO must now consider whether the beneficiary's work experience coupled with his education is sufficient to establish that he is qualified to perform the duties of the specialty occupation. In this matter it is not. When evaluating a beneficiary's qualifications under the fifth criterion, CIS considers three years of specialized training and/or work experience to be the equivalent of one year of college-level training. In addition to documenting that the length of the beneficiary's training and/or work experience is the equivalent of four years of college-level training, the petitioner must also establish that the beneficiary's training and/or work experience has included the theoretical and practical application of the specialized knowledge required by the specialty occupation, and that the experience was gained while working with peers, supervisors, or subordinates who have degrees or the equivalent in the specialty occupation. The petitioner must also document recognition of the beneficiary's expertise in the specialty, as evidenced by one of the following: recognition of expertise in the specialty occupation by at least two recognized authorities<sup>1</sup> in the same specialty occupation; membership in a recognized

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<sup>1</sup> *Recognized authority* means a person or organization with expertise in a particular field, special skills or knowledge in that field, and the expertise to render the type of opinion requested. A recognized authority's opinion must state: (1) the writer's qualifications as an expert; (2) the writer's experience giving such opinion,

foreign or U.S. association or society in the specialty occupation; published material by or about the alien in professional publications, trade journals, books or major newspapers; licensure or registration to practice the specialty in a foreign country; or achievements which a recognized authority has determined to be significant contributions to the field of the specialty occupation.

The evidence of record contains reference letters from three individuals who assert that they worked with the beneficiary. The first writer, who is now the president of a Canadian mortgage business, asserts that from October 1995 through February 1998, while he was employed as a branch manager at a Canadian bank, he and the beneficiary, who was then the president and CFO of ICI, structured and implemented business banking and loan facilities for ICI. The second writer, who is the vice president of another Canadian mortgage business, asserts that, as a mortgage agent, he dealt with the beneficiary from March 2004 through August 2005 on dozens of real estate loans and transactions, and that in March 2005, the beneficiary "was also invited to be on the Board of Directors of a Mortgage Investment Corporation." The third writer, who is a CPA and senior manager of a Canadian chartered accountants firm, asserts that he worked with the beneficiary from May 2002 through July 2005 on a variety of real estate projects for which the beneficiary provided trained financial analysis. These letters, however, do not provide the requisite information regarding the beneficiary's daily duties and the progressively responsible experience gained while working in the said capacity; neither do the letters describe the beneficiary's peers, supervisors, or subordinates' credentials. The letters, which provide only vague descriptions of the beneficiary's duties, also do not account for the more than 10 years of relevant employment the evaluators discussed in their evaluations. It appears therefore that the evaluators relied largely upon the beneficiary's own resume in making their conclusions. Further, although the record contains references to the beneficiary's role as an author, as the recipient of citations and awards, and as the featured individual in several publications, the record contains no evidence in support of these claims. The record does not include samples of his writings, copies of the citations and awards, or any of the published articles in which he was featured. As such, the record contains no evidence to indicate that the beneficiary's expertise has been recognized in one of the ways discussed above. Thus, the record is insufficient to establish that the beneficiary's training and/or work experience includes the theoretical and practical application of specialized knowledge required by a specialty occupation; that the beneficiary's experience was gained while working with peers, supervisors, or subordinates who have a degree or degree equivalent in a specialty occupation; or that the beneficiary's "expertise" in a specialty occupation has been recognized.

The petitioner has not submitted argument or documentation on appeal sufficient to overcome the director's decision on this issue. The petitioner has not established that the beneficiary has the requisite qualifications to perform the duties of a specialty occupation. For this additional reason, the petition will not be approved.

Accordingly, the AAO shall not disturb the director's denial of the petition.

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citing specific instances where past opinions have been accepted as authoritative and by whom; (3) how the conclusions were reached; and (4) the basis for the conclusions supported by copies or citations of any research material used. 8 C.F.R. § 214.2(h)(4)(i)(C)(ii).

The petition will be denied and the appeal dismissed for the above stated reasons, with each considered as an independent and alternative basis for the decision.

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 sustained that burden.

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