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FILE: LIN 03 277 51804 Office: NEBRASKA SERVICE CENTER Date: AUG 18 2005

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

PETITION: Pétition 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 materials have been returned
to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The service center director denied the nonimmigrant visa petition. The matter is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed. The petition will be denied.

The petitioner is an institutional investment consulting company. It seeks to employ the beneficiary as a financial analyst and to classify her 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 on the ground that the record failed to establish that the beneficiary is qualified to perform services in 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.

Section 214(i)(2) of the Act, 8 U.S.C. § 1184(i)(2), provides that an alien must have the following credentials to be qualified to perform the services of a specialty occupation:

- (A) full state licensure to practice in the occupation, if such licensure is required to practice in the occupation,
- (B) completion of the degree described in paragraph (1)(B) for the occupation, or
- (C) (i) experience in the specialty equivalent to the completion of such degree, and
(ii) recognition of expertise in the specialty through progressively responsible positions relating to the specialty.

As further explained in 8 C.F.R. § 214.2(h)(4)(iii)(C), an alien must meet one of the following criteria to qualify to perform the services of a specialty occupation:

- (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 record of proceeding before the AAO contains: (1) Form I-129 and supporting documentation; (2) the director's request for evidence (RFE); (3) the petitioner's response to the RFE; (4) the director's decision; and (5) Form I-290B, an appeal brief, and photocopies of previously submitted materials. The AAO reviewed the record in its entirety before issuing its decision.

The petitioner asserts that the beneficiary qualifies to perform the services of a specialty occupation under the regulation at 8 C.F.R. § 214.2(h)(4)(iii)(C)(1). As evidence thereof the petitioner submitted with Form I-129 the beneficiary's transcript from Webster University in St. Louis, Missouri, from which she graduated in December 2002 with two degrees: a bachelor of arts in business, with emphasis on business administration, and a bachelor of science in computer science, with emphasis on information management. The record also includes similarly-worded letters from [REDACTED] an assistant professor at Webster University, and [REDACTED] senior performance analyst with the petitioner, who assert that the beneficiary's coursework at the university – which included courses in the fields of accounting, business, economics, management, statistics, and algebra, among others – was a realistic prerequisite to the performance demands of the proffered position and correlates directly to the duties of the position.

In his decision the service center director found that the beneficiary was not qualified to perform the services of a specialty occupation because a bachelor's degree in business administration was too general to qualify an individual for a specialty occupation unless the academic coursework and knowledge gained were realistic prerequisites to a particular position, which the record failed to demonstrate. The director indicated that Citizenship and Immigration Services (CIS) and the former Immigration and Naturalization Service have consistently held that at least 24 semester units in a specific field are required to constitute an academic major in the field, citing *Matter of Katigbak (Katigbak)*, 14 I&N Dec. 45, at 46-47 (Reg. Comm. 1971). The beneficiary's transcript, the director noted, did not show the requisite number of semester units in any particular field. As for the two letters in the record, the director termed them statements of opinion which did not override the applicable standards and did not establish that the beneficiary was qualified for the proffered position.

On appeal counsel asserts that a financial analyst is a specialty occupation requiring a bachelor's degree in business administration, accounting, statistics or finance, as indicated in the Department of Labor (DOL)'s *Occupational Outlook Handbook (Handbook)*, that the beneficiary's bachelor of arts in business, with emphasis on business administration, is one of the degrees specifically mentioned in the *Handbook*, and that the beneficiary is qualified to perform the services of the proffered position by virtue of that degree and the specific academic coursework she completed, which was a realistic prerequisite to the position.

The DOL *Handbook* states the following with respect to the education and training required for financial analyst positions:

A college education is required for financial analysts 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.

Handbook, 2004-05 edition, at 82. For a bachelor's degree in business administration to qualify the beneficiary to perform the services of a specialty occupation, the petitioner must demonstrate that the beneficiary completed a specific course of study that is required by and directly related to the position in question. Since there must be a close correlation between the specialized studies and the proffered position, a general degree such as business administration, without further specification as to a major or an area of academic concentration, does not qualify the beneficiary to perform the services of a specialty occupation. See *Matter of Michael Hertz Associates (Hertz)*, 19 I&N Dec. 558, 560 (Comm. 1988).

The beneficiary's transcript from Webster University states that she received a bachelor of arts in business with emphasis in business administration – a general degree under *Hertz* – as well as a computer science degree. In addition to her computer-related courses, the beneficiary took a variety of business, finance, accounting, management, and other courses for her business degree. She did not amass the requisite semester hours in any specific field directly related to the financial analyst position, however, to qualify under *Katigbak* and *Hertz* to perform the services of a specialty occupation.

As for the letters from the Webster University professor and the petitioner's senior performance analyst, neither establishes that the beneficiary's bachelor of arts degree in business constitutes a degree in a "specific specialty," as required under the statutory definition of a specialty occupation at section 214(i)(1)(B) of the Act, 8 U.S.C. § 1184(i)(1). Both letters assert that the beneficiary has "completed a specific course of education which correlates directly to the duties of the [proffered] position," but they do not demonstrate that the beneficiary's course of education was in a "specific specialty" involving a body of highly specialized knowledge, as required under the Act.

Based on the foregoing discussion, the AAO concludes that the beneficiary does not qualify to perform the services of a specialty occupation under 8 C.F.R. § 214.2(h)(4)(iii)(C)(1). As previously indicated, the petitioner does not assert that the beneficiary qualifies to perform the services of a specialty occupation under the alternative criteria at 8 C.F.R. § 214.2(h)(4)(iii)(C)(2), (3), or (4). Accordingly, the AAO determines that the beneficiary does not qualify to perform the services of a specialty occupation under any of the criteria enumerated in 8 C.F.R. § 214.2(h)(4)(iii)(C).

Beyond the decision of the director, the evidence of record does not establish that the proffered position is a specialty occupation as defined in section 214(i)(1) of the Act, 8 U.S.C. § 1184(i)(1). The director accepted the petitioner's description of the job duties as involving the preparation of portfolio appraisal reports for institutional clients. The DOL *Handbook*, which Citizenship and Immigration Services routinely consults as an authoritative source of information about the duties and educational requirements of particular occupations, describes the occupational category of "financial analysts and personal financial advisors" and draws some distinctions between the two positions:

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

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 A master of business administration is desirable

Employers 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 Programs in financial planning are becoming more widely available in colleges and universities. However, many financial planners enter the field after working in a related occupation, such as accountant, auditor, insurance sales agent, lawyer, or securities, commodities, and financial services sales agent.

Handbook, 2004-05 edition, at 80, 82. As indicated in the *Handbook*, financial analysts require a baccalaureate degree, typically in a specific specialty. Personal financial advisors, however, do not require a degree in a specific specialty and, according to the *Handbook*, could possibly enter the occupation from other walks of life without any college degree. Since a baccalaureate or higher degree in a specific specialty is not the minimum requirement for a personal financial advisor, that occupation may not qualify as a specialty occupation. Without further information about the petitioner's client base it is impossible to determine whether the duties of the proffered position are those of a personal financial advisor or a financial analyst for institutional investors, as asserted by the petitioner. Simply going on record without supporting documentation does not satisfy the petitioner's burden of proof. *See 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)). Thus, the record does not establish that the proffered position is a specialty occupation. For this additional reason, the petition may not be approved.

The petitioner bears the burden of proof in these proceedings. *See* section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden. Accordingly, the AAO will not disturb the director's decision denying the petition.

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