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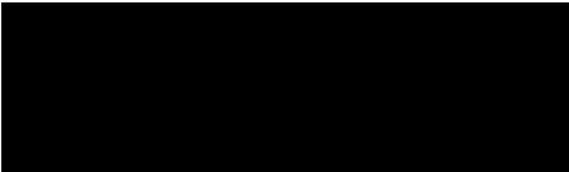


FILE: EAC 05 220 50683 Office: VERMONT SERVICE CENTER Date: AUG 31 2007

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

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

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

The petitioner is a capital management firm and seeks to employ the beneficiary as a senior analyst. 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).

The director denied the petition because the position did not qualify as a specialty occupation. On appeal, counsel submits a brief and additional information asserting that the proffered position is a specialty occupation.

The first issue to be discussed in this proceeding is whether the proffered position qualifies as a specialty occupation.

Section 101(a)(15)(H)(i)(b) of 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.

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:

[A]n 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 are 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 criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A) to mean not just any baccalaureate or higher degree, but one in a specific specialty that is directly related to the proffered position.

The record of proceeding before the AAO contains: (1) the Form I-129 and supporting documentation; (2) the director's request for additional evidence; (3) the petitioner's response 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 issuing its decision.

The petitioner is seeking the beneficiary's services as a strategic planner. Evidence of the beneficiary's duties was set forth in the petitioner's support letter dated July 18, 2005, and in response to the director's request for evidence. According to this evidence the beneficiary would:

- Identify and evaluate investment/hedge-fund managers, including managers based in the U.S., Europe and Asia, who meet the company's requirements (consistent returns and low volatility and low correlation with the S&P);
- Conduct due diligence on these managers including comprehensive review of the strategies, understanding investment philosophy and monitoring and evaluating past performance;
- Running fund optimization models in order to assist senior management in portfolio construction;
- Researching and analyzing the best performing industries, strategies and managers;
- Developing and improving quantitative techniques for evaluating hedge fund managers with varying degrees of transparency in fund programs;
- Carrying out analysis using models;
- Applying advanced statistical methods to build strategy forecasting models and enhancing optimization/asset allocation models used in portfolio construction;
- Participating in client and manager due diligence meetings; and
- Compiling and drafting reports to assist management in setting up accounts with prime brokers and distributions to institutional investors in international financial markets.

The petitioner requires a minimum of a master's degree in business administration or a related field for entry into the proffered position.

The AAO routinely consults the Department of Labor's *Occupational Outlook Handbook (Handbook)* for information about the duties and educational requirements of particular occupations. The duties of the proffered position are varied and include duties normally performed by financial analysts. The *Handbook* states that a college education is required for financial analysts and that most companies require financial analysts to have at least a bachelor's degree in business administration, accounting, statistics or finance. A master's degree in business administration is desirable. The proffered position does, therefore, qualify as a specialty occupation as it satisfies the regulatory criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(I).

The final issue to be considered is whether the beneficiary is qualified to perform the duties of the offered position. The director did not comment on this issue as the petition was denied on another ground. The record is sufficient, however, for the AAO to make that determination. The petitioner presented an evaluation of the beneficiary's foreign education from a credentials evaluation service which states that the petitioner's foreign education is equivalent to a bachelor's degree in civil engineering and a master's degree in business administration from an accredited college or university in the United States. The beneficiary is thus qualified to perform the services of the occupation.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has sustained that burden.

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