



U.S. Citizenship
and Immigration
Services

(b)(6)

Date: **NOV 25 2013** Office: CALIFORNIA SERVICE CENTER

FILE: [REDACTED]

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:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center ("the director"), initially approved the nonimmigrant visa petition. Upon review, the director issued a Notice of Intent to Revoke (NOIR) approval of the petition and ultimately revoked approval. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner on the Form I-129, Petition for a Nonimmigrant Worker, describes its business as "Retail of Clothes and Shoes." The petitioner states that it was established in 1982 and currently employs 50 plus personnel in the United States. It seeks to continue the employment of the beneficiary as its "Image Developer" and to classify him 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 revoked approval of the petition pursuant to 8 C.F.R. § 214.2(h)(11)(iii), because: (1) the petitioner no longer employs the beneficiary in the capacity specified in the petition; (2) the statement of facts contained in the petition or on the application for a temporary labor certification was not true and correct, inaccurate, fraudulent, or misrepresented a material fact; and (3) the petitioner violated the terms and conditions of the approved petition. The director also found: "[t]he beneficiary failed to report performing all duties indicated on the I-129 petition."

The record of proceeding before the AAO contains: (1) Form I-129 and supporting documentation; (2) the director's NOIR; (3) the petitioner's response to the NOIR; (4) the notice of decision revoking approval of the petition; and, (5) Form I-290B, Notice of Appeal or Motion, counsel's brief, and additional documentation.

Upon review of the entire record of proceeding, the AAO finds that the petitioner has failed to overcome the director's grounds for revoking approval of this petition.¹ Accordingly, the appeal will be dismissed and approval of the petition will remain revoked.

The regulation at 8 C.F.R. § 214.2(h)(iii) states in pertinent part:

Revocation on notice--

- (A) Grounds for revocation. The director shall send to the petitioner a notice of intent to revoke the petition in relevant part if he or she finds that:
- (1) The beneficiary is no longer employed by the petitioner in the capacity specified in the petition, or if the beneficiary is no longer receiving training as specified in the petition; or
 - (2) The statement of facts contained in the petition or on the application for a temporary labor certification was not true and correct, inaccurate, fraudulent, or misrepresented a material fact; or

¹ The AAO conducts appellate review on a *de novo* basis. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

- (3) The petitioner violated terms and conditions of the approved petition; or
- (4) The petitioner violated requirements of section 101(a)(15)(H) of the Act or paragraph (h) of this section; or
- (5) The approval of the petition violated paragraph (h) of this section or involved gross error.

Facts and Procedural History

The petitioner stated on the Form I-129 that it sought to extend the employment of the beneficiary as its image developer. The petitioner filed the requisite Labor Condition Application (LCA) identifying the proffered position as a "Graphic Designer" – SOC (ONET/OES) Code 27-1024, at a Level 1 (entry-level) wage. In a July 15, 2011 letter appended to the Form I-129, the petitioner stated that it was established in 1982 and that it is "engaged in selling clothes and shoes through twenty (20) retail shops in [redacted] Wisconsin, and Indiana." The petitioner noted that it "recently confronted the demand for an upgrade on [its] image for the public view" and to secure a stable business flow and provide a favorable public image it determined its need to hire an image developer. The petitioner indicated that its image developer will be engaged "in promoting and creating good will for individuals, groups, or organizations by writing and selecting favorable publicity material while releasing it through various communications media." The petitioner identified the essential duties of the proffered position as:

- Plan and direct development of favorable public image for the company by creating the company logo and developing websites;
- Arrange and coordinate public appearances that exhibit, for clients to increase products and service awareness and to promote goodwill;
- Analyze data and information regarding the company itself and its services;
- Establish and maintain cooperative relationships with representatives of community, consumer, and public interest groups; [and]
- Design graphic materials for use as illustration or advertising on sales materials.

Based on this limited description, the director approved the extension petition. On December 15, 2011, United States Citizenship and Immigration Services (USCIS) conducted an administrative site visit to the beneficiary's work location. The director subsequently issued an NOIR to the petitioner. The director advised the petitioner in the NOIR that the site inspector had interviewed the petitioner's representative and the beneficiary. In his interview, the beneficiary stated that he makes graphics using Illustrator and Photoshop and that he creates sales posters, prices tags, and little signs. The beneficiary also noted that he installs the posters in the stores and sometimes helps customers in the store (although this is not a regular duty). The director informed the petitioner in the NOIR that the duties described by the beneficiary do not appear to be specialty occupation work. The director further advised the petitioner that USCIS intended to revoke approval of the petition pursuant to 8 C.F.R. § 214.2(h)(11)(iii)(1), (2), and (3) because: (1) the

petitioner no longer employs the beneficiary in the capacity specified in the petition; (2) the statement of facts contained in the petition or on the application for a temporary labor certification was not true and correct, inaccurate, fraudulent, or misrepresented a material fact; and (3) the petitioner violated the terms and conditions of the approved petition. The director then stated that the only issue to be discussed is whether the position offered to the beneficiary qualifies as a specialty occupation. In that regard, the director repeated the description of duties provided by the petitioner and found: "[t]he beneficiary failed to report performing all duties indicated on the I-129 petition."

In rebuttal to the NOIR, the petitioner noted that the beneficiary had designed a layout for its website and its company logo and managed to create brand product awareness in order to promote and enhance the company's image. The petitioner also indicated that the beneficiary had created and maintained the company's website marketing through Pinterest and Facebook, as well as designing graphic materials for advertising product sales. The petitioner provided sketches of the company logo and the final work, as well as graphic materials designs for use as illustration or advertising on sale materials. The petitioner also included photographs of its stores with product posters installed and provided printouts of screen shots from the company's Facebook and Pinterest accounts.

Upon review of the petitioner's rebuttal to the NOIR, the director noted that the petitioner had submitted a portfolio of the beneficiary's work and found that the beneficiary had performed some of the specified duties of the specialty occupation work. The director determined, however, that the petitioner had not established that the beneficiary performed the following duties listed on the petition:

- Arrange and coordinate public appearances that exhibit, for clients to increase products and service awareness and to promote goodwill;
- Analyze data and information regarding the company itself and its services; [and]
- Establish and maintain cooperative relationships with representatives of community, consumer, and public interest groups.

On March 28, 2013, the director revoked the approval of the petition pursuant to 8 C.F.R. § 214.2(h)(11)(iii)(1), (2), and (3).

On appeal, counsel for the petitioner claims that the beneficiary performs the first duty the director claims is omitted from the beneficiary's work noted above "by creating and organizing displays of brand products," "creating brand awareness," and updating product and brand logos that will influence public opinion. Counsel claims that the beneficiary also exhibits and promotes goodwill by coordinating the petitioner's store with a non-profit organization to promote the community and art. Counsel contends that the beneficiary also gathered and analyzed data from the petitioner's Facebook account to determine the stores' demographic customer and then used the data to target the appropriate demographic. Counsel again provides copies of screen shots from the petitioner's Facebook and Pinterest accounts. Counsel avers that

the beneficiary uses popular visual social media trends such as Facebook and Pinterest to update new releases and to keep an eye on what other people and sites are saying about the company and the brands online. Counsel also notes that the beneficiary coordinated with [REDACTED] to bring their [REDACTED] campaign to [REDACTED]. The record also includes a graph of the petitioner's sale status for the 2011 and 2012 years and part of the 2013 year. Counsel asserts that the petitioner has employed the beneficiary in the capacity specified in the petition since the approval of the initial petition as well as the extension petition.

Analysis

Upon review of the record, the petitioner has not submitted sufficient evidence to demonstrate that it employs the beneficiary in the capacity it specified on the petition. Counsel's assertion that the beneficiary "arranges and coordinates appearances that exhibit, for clients to increase products and service awareness and to promote good will" is not supported in the record. Counsel asserts that the beneficiary performs this duty by creating and organizing displays of brand products and creating brand awareness through store displays, Facebook, and Pinterest. The photographs of displays in the petitioner's stores do not provide probative evidence of who created and organized the displays. It is not apparent from the photographs that organizing displays and installing posters increases product and service awareness or promotes good will. Moreover, the beneficiary in his interview with the USCIS site inspector noted only that he installed posters in the petitioner's stores. His response and the lack of descriptive information by the petitioner on the beneficiary's actual daily tasks are insufficient to establish that the beneficiary performed this duty as outlined in the petition. Likewise, the screen shots from the petitioner's Facebook and Pinterest accounts do not provide evidence of who updated the accounts or how any updates the updates arranged and coordinated appearances that exhibit, for clients to increase products and services awareness and promote good will. Counsel also asserted that the beneficiary worked with a non-profit organization to promote the community and art by installing shutters at a specific location. However, the record does not include sufficient supporting documentation to evidence that the petitioner or the beneficiary was involved in this promotion. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

The petitioner has also failed to provide evidence of the beneficiary's analysis of data and information. The beneficiary did not reference the claimed analytical tasks in his interview with the USCIS site inspector. Other than a graph and screen shots of the petitioner's Facebook and Pinterest accounts, the record does not include any evidence that the beneficiary actually provided analysis of data of the petitioner or its services to the petitioner. The record does not include evidence such as reports or evidence showing how the screen shots or the graph impacted the petitioner's conduct of business. 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'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm'r 1972)).

Similarly, the record does not include probative evidence of the beneficiary's involvement in establishing and maintaining cooperative relationships with representatives of the community, consumer, and public interest groups. The record is void of specific information identifying the beneficiary as actually performing any tasks related to this duty. The beneficiary also failed to reference his involvement in any tasks associated with the community, consumers, or public interest groups in his interview with the USCIS site inspector. The record does not include supporting documentation establishing the daily duties of the beneficiary or how the beneficiary's regular tasks correspond to all of the duties set out in the petition.

Finally, a review of the beneficiary's portfolio consisting primarily of screen shots and photographs of posters is insufficient to establish that the beneficiary is actually performing the duties of a graphic designer. The record is not sufficiently detailed to establish that the beneficiary is creating visual concepts rather than copying brand logos and transferring them to posters. That is, the record does not sufficiently demonstrate that the beneficiary is designing new graphics. Although the beneficiary may have previously created the petitioner's logo and website, the petitioner has not established that this is an ongoing process. The beneficiary stated in his interview with the USCIS site inspector that he uses two computer programs to create sales posters, prices tags, and little signs. It is not possible to conclude from this statement that the beneficiary is the creative force combining art and technology used to communicate ideas through images and the layout of web screens and printed pages. The record is simply deficient in this regard.

The director properly determined that the beneficiary is no longer employed by the petitioner in the capacity specified in the petition. As the beneficiary is no longer employed by the petitioner in the capacity specified in the petition, the petitioner also violated the terms and conditions of the approved petition.

Even assuming, for the sake of argument that the beneficiary is performing the duties as described in the petition, the record in this matter does not establish that the duties of the proffered position of "image developer" correspond primarily to the duties of a graphic designer, the occupation certified on the LCA. Specifically, although the generally described duties of the proffered position include some elements of graphic design, the petitioner also stated that its image developer will be engaged "in promoting and creating good will for individuals, groups, or organizations by writing and selecting favorable publicity material while releasing it through various communications media." The petitioner also identified the essential duties the beneficiary would perform as including: arranging and coordinating public appearances to increase product and service awareness and to promote goodwill; analyzing data and information regarding the company and its services; and establishing and maintaining cooperative relationships with the community, consumers, and public interest groups. These are not the duties of a graphic designer. Rather, these duties as generally described correspond more closely to the duties of an advertising, promotions, or marketing manager and a public relations

specialist. During the beneficiary's interview with the USCIS site inspector, the beneficiary noted that he installs posters in the petitioner's stores and sometimes helps customers. Again, these duties are not the duties of a graphic designer. In order for the petition and the LCA to correspond, the job as titled and described by the petitioner could not have been classified solely as that of a graphic designer. As will be discussed in more detail below, when a petitioner seeks to employ a beneficiary in two or more distinct occupations, the petitioner should file separate petitions, requesting concurrent, part-time employment for each occupation. Additionally, the petitioner must submit LCAs for each occupation.

While DOL is the agency that certifies LCA applications before they are submitted to USCIS, DOL regulations note that the Department of Homeland Security (DHS) (i.e., its immigration benefits branch, USCIS) is the department responsible for determining whether the content of an LCA filed for a particular Form I-129 actually supports that petition. See 20 C.F.R. § 655.705(b), which states, in pertinent part (emphasis added):

For H-1B visas . . . DHS accepts the employer's petition (DHS Form I-129) with the DOL certified LCA attached. *In doing so, the DHS determines whether the petition is supported by an LCA which corresponds with the petition*, whether the occupation named in the [LCA] is a specialty occupation or whether the individual is a fashion model of distinguished merit and ability, and whether the qualifications of the nonimmigrant meet the statutory requirements of H-1B visa classification.

The regulation at 20 C.F.R. § 655.705(b) requires that USCIS ensure that an LCA actually supports the H-1B petition filed on behalf of the beneficiary. Here, the petitioner has failed to submit valid LCAs certified for each occupational classification.

Beyond the decision of the director, even if the petitioner overcame the director's stated grounds for revocation, the petition would have to be remanded to the director for issuance of a new notice of intent to revoke relative to whether approval of the petition violated 8 C.F.R. § 214.2(h) or involved gross error. See 8 C.F.R. § 214.2(h)(11)(iii)(A)(5). It is clear that the petitioner failed to submit an LCA that corresponds to the petition. It also appears that the proffered position is not a specialty occupation. As noted above, the petitioner provided a description of duties that included several different occupations and provided only one LCA identifying the proffered position as a graphic designer. The petitioner's description of duties referenced some duties that correspond generally to some duties of a graphic designer but the petitioner did not identify these duties as the beneficiary's only essential duties. In response to the director's NOIR, while the petitioner provided the beneficiary's portfolio and claimed that he had performed graphic designer duties, the petitioner did not explain the beneficiary's statements at the site interview and also did not explain the initial description which indicated that the beneficiary's essential duties included non-graphic designer tasks. On appeal, the petitioner, through counsel, noted the beneficiary writes or selects favorable publicity material and releases it through various communications media, may prepare and arrange displays, creates and organizes displays and interacts with non-profit organizations. All of these duties contribute to the development of the

petitioner's image but are not sufficiently detailed to establish that the duties are solely the duties of a graphic designer. Similarly, counsel indicated that the beneficiary gathered and analyzed data from the petitioner's Facebook account to determine the demographic of its over 550 followers and noted that the beneficiary had collaborated and coordinated with [REDACTED] for a particular advertising campaign to promote both the petitioner and [REDACTED]. As noted above, the record does not support counsel's claim that the beneficiary performed these duties. But even if it did, it is not possible to discern from the brief information provided that these duties incorporate the duties of a graphic designer rather than the duties of advertising, promotional, and marketing personnel. Thus, even if the petitioner established that the beneficiary performed these duties, which it has not, the petition would have been approved in gross error.

As referenced above, when a petitioner seeks to employ a beneficiary in two or more distinct occupations, the petitioner should file separate petitions, requesting concurrent, part-time employment for each occupation. If a petitioner does not file separate petitions for each proposed occupation and if only one aspect of a combined position qualifies as a specialty occupation, USCIS is required to deny the entire petition as the pertinent regulations do not permit the partial approval of only a portion of a proffered position and/or the limiting of the approval of a petition to perform only certain duties. *See generally* 8 C.F.R. § 214.2(h). Thus, the director's approval of the petition for a full-time graphic designer was in gross error based on the record submitted. Furthermore, the petitioner would need to ensure that it separately meets all requirements relevant to each occupation and the payment of wages commensurate with the higher paying occupation. *See generally* 8 C.F.R. § 214.2(h); U.S. Dep't of Labor, Emp't & Training Admin., *Prevailing Wage Determination Policy Guidance*, Nonagric. Immigration Programs (rev. Nov. 2009), available at http://www.foreignlaborcert.doleta.gov/pdf/NPWHC_Guidance_Revised_11_2009.pdf. Thus, filing separate petitions would help ensure that the petitioner submits the requisite evidence pertinent to each occupation and would help eliminate confusion with regard to the proper classification of the position being offered.

We observe as well that while there is no provision in the law for specialty occupations to include non-qualifying duties, the AAO views the performance of duties that are incidental to the primary duties of the proffered position as acceptable when they are unpredictable, intermittent, and of a minor nature. Anything beyond such incidental duties, however, e.g., predictable, recurring, and substantive job responsibilities must be specialty occupation duties or the proffered position as a whole cannot be approved as a specialty occupation.

In this matter, the initial description failed to provide sufficient evidence that the beneficiary would perform only the duties of a graphic designer, and that any other duties performed would be incidental to the primary graphic designer duties. The petitioner's rebuttal to the director's NOIR failed to provide evidence that the beneficiary would only perform the duties of a graphic designer, the occupation certified on the LCA. Accordingly, the petitioner failed to provide certified LCAs that correspond to the petition. Specifically, the job title on the LCA submitted is for an "Image Developer" certified for SOC (O*NET/OES) Code 27-1024, Graphic Designers. As determined above, however, the job title and the duties as described by the petitioner include duties that are best

classified as an advertising, promotions or marketing manager, a public relations specialist, as well as a graphic designer. Therefore, even if it were determined that the petitioner overcame the director's grounds for revoking the approval of the petition (which it has not), the approval of the petition would have to be revoked on notice due to the petitioner's failure to submit LCAs that correspond to the position.

Furthermore as discussed above, the petitioner's title of the position and the duties generally described incorporate the duties of an advertising, promotions or marketing manager and a public relations specialist. Upon review of the DOL's *Occupational Outlook Handbook (Handbook)*,² and the petitioner's general description of duties, it appears that the petitioner has not established that these occupations are specialty occupations. The *Handbook* reports that most advertising, promotions, or marketing managers require a bachelor's degree. The *Handbook* states:

A bachelor's degree is required for most advertising, promotions, and marketing management positions. For advertising management positions, some employers prefer a bachelor's degree in advertising or journalism. A relevant course of study might include classes in marketing, consumer behavior, market research, sales, communication methods and technology, visual arts, art history, and photography.

Most marketing managers have a bachelor's degree. Courses in business law, management, economics, accounting, finance, mathematics, and statistics are advantageous. In addition, completing an internship while in school is highly recommended.

See U.S. Dep't of Labor, Bureau of Labor Statistics, *Occupational Outlook Handbook*, 2012-13 ed., "Advertising, Promotions, and Marketing Managers," <http://www.bls.gov/ooh/management/advertising-promotions-and-marketing-managers.htm/#tab-4> (last visited Nov. 1, 2013).

Although the *Handbook* reports that a bachelor's degree is required for most of these positions, the *Handbook* does not specify that the bachelor's degree must be in a specific discipline. To prove that a job requires the theoretical and practical application of a body of highly 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 or its equivalent. USCIS interprets the degree requirement at 8 C.F.R. § 214.2(h)(4)(iii)(A) to require a degree in a specific specialty that is directly related to the proposed position. A review of the *Handbook* does not indicate that, simply by virtue of its occupational classification, an advertising/promotions/marketing manager qualifies as a specialty occupation. More specifically, the information on the educational requirements in the "Advertising, Promotions, and Marketing Managers" chapter of the 2012-2013 edition of the *Handbook* indicates, at most,

² The AAO references to the *Handbook*, are references to the 2012-2013 edition of the *Handbook*, which may be accessed at the Internet site <http://www.bls.gov/OCO/>.

that a degree in advertising or journalism may be a common preference for employers hiring advertising managers, but not a standard occupational, entry requirement. Likewise, the *Handbook's* suggestion that a relevant course of study for an advertising manager *might* include classes in marketing, consumer behavior, market research, sales, communication methods and technology, visual arts, art history, and photography fails to establish that a specific concentration or major is *required* as a standard occupational, entry requirement. [Emphasis added.] Although some of the classes referenced may contribute to a degree in a specific discipline, the *Handbook* does not report that a precise course of study resulting in a bachelor's degree in a specific discipline is required as a normal entry requirement for an advertising/promotions manager. Likewise, the *Handbook's* list of a variety of courses that may be advantageous to a marketing manager's position fails to establish that a precise course of study resulting in a bachelor's degree in a specific discipline is a normal entry requirement for a marketing manager.

Moreover, not only does the *Handbook* fail to designate a specific field of study for an advertising/promotions/marketing manager, but the use of the term "most" further diminishes any impression that a bachelor's degree in *any* field of study is *normally* required. [Emphasis added.] The first definition of "most" in *Webster's New College Dictionary 731* (Third Edition, Hough Mifflin Harcourt 2008) is "[g]reatest in number, quantity, size, or degree." As such, if merely 51% of these managerial occupations requires at least a bachelor's degree, it could be said that "most" of these positions require such a degree. It cannot be found, therefore, that a particular degree requirement for "most" positions in a given occupation equates to a normal minimum entry requirement for that occupation. Instead, a normal minimum entry requirement is one that denotes a standard entry requirement but recognizes that certain, limited exceptions to that standard may exist. To interpret this provision otherwise would run directly contrary to the plain language of the Act, which requires in part "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)(1) of the Act.

Similarly, the *Handbook's* report on the occupation of public relations specialist does not identify a bachelor's degree in a specific discipline as an entry-level requirement. The *Handbook* reports:

Public relations specialists typically need a bachelor's degree. Employers usually want candidates who have studied public relations, journalism, communications, English, or business.

For public relations management positions, a bachelor's degree in public relations, communication, or journalism is generally required. Courses in advertising, business administration, public affairs, public speaking, political science, and creative and technical writing are helpful. In addition, some employers prefer a master's degree in public relations or journalism. In 2010, one-fourth of public relations managers held a master's degree.

See U.S. Dep't of Labor, Bureau of Labor Statistics, *Occupational Outlook Handbook*, 2012-13

ed., "Public Relations Managers and Specialists," <http://www.bls.gov/ooh/management/public-relations-managers-and-specialists.htm/#tab-4> (last visited Nov. 1, 2013).

For the occupation of a public relations specialist, the *Handbook* reports that only the study of a variety of disciplines, including the study of business is typical. Even if a degree in business is required, which it is not, a business degree, without further specialization, is inadequate to establish that an occupation is a specialty occupation. Since there must be a close correlation between the required specialized studies and the position, the requirement of a degree with a generalized title, such as business, without further specification, does not establish the position as a specialty occupation. Cf. *Matter of Michael Hertz Associates*, 19 I&N Dec. 558 (Comm'r 1988). Although a general-purpose bachelor's degree, such as a degree in business, may be a legitimate prerequisite for a particular position, requiring such a degree, without more, will not justify a finding that a particular position qualifies for classification as a specialty occupation. See *Royal Siam Corp. v. Chertoff*, 484 F.3d 139, 147 (1st Cir. 2007). An indication that the duties of an occupation may be performed by an individual with only a general-purpose bachelor's degree, i.e., a bachelor's degree in business is tantamount to an admission that such a position is not, in fact, a specialty occupation.

The *Handbook* does not report that bachelor's degrees held by those entering the occupations of advertising/promotions/marketing manager or public relations specialist are limited to and must be in a specific specialty directly related to the occupation. Accordingly, the *Handbook* does not support the assertion that at least a bachelor's degree in a specific specialty is normally the minimum requirement for entry into these occupational categories.

The petitioner in this matter has provided a broad overview of the beneficiary's essential duties which encompass the duties of several different occupations. The record lacks specific evidence regarding the occupations of advertising/promotions/marketing manager or public relations specialist to determine that the duties as generally described by the petitioner constitute duties of specialty occupations. Accordingly, it also appears that the petitioner has not only failed to provide LCAs that correspond to all occupations generally described, the petitioner has failed to establish that these additional occupations are specialty occupations.

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed. The approval of the petition is revoked.