



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF J-S- INC.

DATE: MAY 10, 2016

APPEAL OF VERMONT SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a frozen pasta manufacturer, seeks to temporarily employ the Beneficiary as a “market researcher” under the H-1B nonimmigrant classification for specialty occupations. *See* Immigration and Nationality Act (the Act) § 101(a)(15)(H)(i)(b), 8 U.S.C. § 1101(a)(15)(H)(i)(b). The H-1B program allows a U.S. employer to temporarily employ a qualified foreign worker in a position that requires both (a) the theoretical and practical application of a body of highly specialized knowledge and (b) the attainment of a bachelor’s or higher degree in the specific specialty (or its equivalent) as a minimum prerequisite for entry into the position.

The Director, Vermont Service Center, initially approved the petition. Upon subsequent review, the Director revoked the approval of the petition, concluding that the record did not include credible evidence establishing that the Beneficiary is qualified to serve in a specialty occupation position in accordance with the applicable statutory and regulatory provisions. The Director also entered a finding of fraud.

The matter is now before us on appeal. The Petitioner asserts that the evidence it presented establishes the Beneficiary’s qualifications to perform the duties of the proffered position, and that the Director improperly entered a finding of fraud.

Upon *de novo* review, we will dismiss the appeal.

I. REVOCATION

U.S. Citizenship and Immigration Services (USCIS) may revoke the approval of an H-1B petition, on notice and an opportunity to rebut, pursuant to 8 C.F.R. § 214.2(h)(11)(iii), which states the following:

(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 was not true and correct, inaccurate, fraudulent, or misrepresented a material fact; or
- (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.

(B) Notice and decision. The notice of intent to revoke shall contain a detailed statement of the grounds for the revocation and the time period allowed for the petitioner's rebuttal. The petitioner may submit evidence in rebuttal within 30 days of receipt of the notice. The director shall consider all relevant evidence presented in deciding whether to revoke the petition in whole or in part. If the petition is revoked in part, the remainder of the petition shall remain approved and a revised approval notice shall be sent to the petitioner with the revocation notice.

We find that the basis specified for the revocation action in the instant matter is a proper ground for such action. The Director's statements in the notice of intent to revoke (NOIR) regarding the evidence submitted to show that the Beneficiary is qualified to perform the duties of a specialty occupation were adequate to notify the Petitioner of the intent to revoke the approval of the petition in accordance with the provision at 8 C.F.R. § 214.2(h)(11)(iii)(A)(2).

As will be evident in the discussion below, we find that, fully considered in the context of the entire record of proceedings, the Petitioner has not credibly established the Beneficiary's academic education. The documents submitted in response to the NOIR and on appeal do not effectively rebut and overcome the basis for revocation specified at 8 C.F.R. § 214.2(h)(11)(iii)(A)(2). Accordingly, the appeal will be dismissed, and the approval of the petition will remain revoked.

II. BENEFICIARY'S QUALIFICATIONS

A. Beneficiary's Education

The Petitioner submitted photocopies of the Beneficiary's diplomas, as summarized below:¹

- Two different translated documents regarding the Beneficiary's high school diploma. One document, which appears to be a translated version of the

¹ The Petitioner submitted documentation to support the H-1B petition. While we may not discuss every document submitted, we have reviewed and considered each one.

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Beneficiary's high school diploma, indicates that the Beneficiary participated in the 1995 session of the State Examination and that the diploma was issued in November 1999.² The second document is a Certificate of Authenticity of High School diploma which also shows that the Beneficiary was awarded his high school diploma in November 1999.

- A diploma, number [REDACTED] awarding the Beneficiary an associate's degree in commercial sciences, major in marketing, dated November 10, 2002, issued by the [REDACTED]
- A diploma, number [REDACTED], awarding the Beneficiary a bachelor's degree in commercial sciences, major in marketing, dated February 2, 2005, issued by the [REDACTED]
- A diploma, number [REDACTED] awarding the Beneficiary the title "Technician in Management," dated October 15, 2009, issued by [REDACTED]

The record also includes three evaluations of the Beneficiary's foreign education prepared by [REDACTED] and issued by [REDACTED]

- The May 16, 2012, evaluation referenced only the Beneficiary's two years of study ending in 2005, and concluded that the Beneficiary's two years of academic coursework and examinations at the University and resulting degree of "*Licencie*" is equivalent to a bachelor's of business administration degree from an accredited institution of higher education in the United States.
- The September 10, 2013 evaluation explained that the Beneficiary's three years of academic coursework and examinations (ending in 2002) is the first cycle of postsecondary education and results in a "*Diplome de Gradue*," and that the Beneficiary's subsequent two years of academic coursework and examinations (ending in 2005) is the second cycle of postsecondary education and results in a "*Licencie*."⁵ The evaluator stated that the Beneficiary's first three years of study is equal to "three years of undergraduate coursework from an accredited institution of higher education in the United States," and that the first year of the two years of additional study (undertaken upon the completion of the "*Diplome de Gradue*") is equal to the final year of an undergraduate program in the United States. The evaluator concluded that based on these documents the Beneficiary has attained the equivalent of a bachelor's of business administration degree from an accredited institution of higher education in the United States.

² A copy of the original document was not provided for the record.

³ The record also includes a laminated version of this document printed in color.

⁴ The record further contains an evaluation from [REDACTED] Chair of the Department of Marketing at [REDACTED] [REDACTED] This evaluation will be discussed in Section III, *infra*.

⁵ The evaluator also referred to the "*Diplome de Gradue*" as "*Grade de Gradue*," and to the "*Licencie*" as "*Licence*" and "*Grade de Licencie*."

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- The December 30, 2014 evaluation, submitted in response to the Director's NOIR, reiterated the information included in the September 10, 2013, evaluation.

The record further includes a letter, signed by the chief executive officer of [REDACTED] stating that "[a] review of the education system in the Democratic Republic of Congo shows a clear progression for higher education . . . [which] is completed in two cycles," as described in the evaluations submitted.

In addition, the record includes the following evidence of the Beneficiary's academic history:

- Excerpts from the Official Academic Records at the [REDACTED] listing attendees and graduates, which included the Beneficiary's name, for the 1998-1999, 2000-2001, 2002-2003, and 2003-2004 academic years.
- Partial translations of "Attestation of Success" letters issued to the Beneficiary for the 1998-1999, 1999-2000, 2000-2001, and 2003-2004 academic years;
- Partial translations of "Attestation of Attendance" letters issued to the Beneficiary for the 1998-1999, 1999-2000, and 2000-2001 academic years under the "Graduat" program, and for the 2002-2003, 2003-2004, and 2004-2005 academic years under the "Licencie" program.
- Transcripts for the Beneficiary for the 2000-2001, 2001-2002, 2002-2003, 2003-2004, and 2004-2005 academic years at the [REDACTED], and a transcript for the 2008-2009 academic year at the [REDACTED]

The record also contains a summary of an investigative report conducted by the U.S. Embassy in [REDACTED] Democratic Republic of the Congo, a copy of which was provided to the Petitioner in conjunction with the issuance of the NOIR. In the NOIR, the Director informed the Petitioner that, based on the investigative report, it appeared the Beneficiary's degree presented by the Petitioner was fraudulent as it was never registered with the college and was never issued by [REDACTED]

On appeal, the Petitioner asserts that the Director and the U.S. Embassy both mistakenly believed that the Beneficiary had completed only two years of postsecondary education and that this error led to finding that the Beneficiary had not completed sufficient coursework to attain the equivalent of a U.S. bachelor's degree. The Petitioner also asserts that where discrepancies are found in the documents, the U.S. Embassy should submit those documents for forensic analysis.

⁶ The summary report provided to the Petitioner indicates that an investigator visited the [REDACTED] registrar's office to inquire about the Beneficiary's degree on December 19, 2013. We note that the full account of the investigative report refers to a copy of the degree attached. The attachment includes a photocopy of the Beneficiary's degree issued in 2002 ("*Diplome de Gradue*") and a photocopy of the Beneficiary's degree issued in 2005 ("*Grade de Licencie*"). Both degrees have the word "FAUX" and the college's representative's signature handwritten on the photocopy. In addition, the college representative indicates on the "*Licencie*" diploma that the college does not use the numbers identified as the diploma number on the diploma.

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The Petitioner avers that the documents submitted, including the Beneficiary's diplomas and transcripts, "are at least as persuasive as an unnamed individual at the registrar's office." The Petitioner also notes the Beneficiary's concern "that the Registrar's office may not have acknowledged his degree due to a conflict over a tuition payment that may remain outstanding." The Petitioner submits copies of the Beneficiary's student identification cards for the 2002-2003 and 2003-2004 academic years, and three signed statements from the Beneficiary's former classmates.

B. Analysis of Beneficiary's Education

Upon review of the totality of the record, we find that the Petitioner has not submitted consistent, credible, probative evidence of the Beneficiary's foreign education.

For example, the record does not include a consistent timeline of the dates the Beneficiary attended the [REDACTED]. The Petitioner submitted documents titled "Official Academic Record" which include the Beneficiary's name for the years 1998-1999, 2000-2001, 2002-2003, and 2003-2004. The Petitioner has not, however, submitted "Official Academic Records" for the Beneficiary for the 1999-2000 and 2001-2002 academic years. Additionally, the Petitioner has not submitted a corresponding transcript for the years 1998-1999 and 1999-2000. The Petitioner also submitted copies of the Beneficiary's student ID cards for only two years of his academic history.

Moreover, the record includes translated copies of the Beneficiary's high school diploma indicating he was awarded the high school diploma in November 1999. However, the Petitioner has not explained nor documented why or how the Beneficiary's name is included in the official records of the [REDACTED] for the 1998-1999 or 1999-2000 school years, prior to the date he received his high school diploma. In other words, the Petitioner has not explained how the Beneficiary would even have been eligible to enroll in and attend the [REDACTED] prior to receiving his high school diploma.⁷ We observe that, according to the evaluations by [REDACTED] "[g]raduation from high school and competitive entrance examination scores are requirements for admission and enrollment in the [REDACTED]

In addition, the "Attestation of Attendance" letters show the Beneficiary attending the [REDACTED] in 1998-1999, 1999-2000, and 2000-2001 (three academic years) for the

⁷ The Beneficiary's diploma states that he participated in the "1995 session of the State Examination," but did not receive his actual diploma until November 1999. The Petitioner has not explained the reason for this four-year gap between the date of the Beneficiary's exam and the date he received his diploma. Nevertheless, the diploma and other evidence of record reflect that the Beneficiary was awarded his high school diploma in November 1999. Thus, it is not apparent how the Beneficiary could have enrolled in and attended University prior to receiving his high school diploma.

Furthermore, both of the Beneficiary's claimed high school documents refer to him by another name that has not been identified on the Form I-129 (on question 1.3, Part 3, which asks for "All Other Names Used" by the Beneficiary). The Petitioner has not submitted reliable, objective documentation, such as a birth certificate, to establish that these high school documents pertain to the Beneficiary.

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“*Graduat*” program, and 2002-2003, 2003-2004, and 2004-2005 (three additional academic years) for the “*Licence*” program. However, these dates do not correspond to the dates found on the Beneficiary’s transcripts for these programs. More specifically, his transcripts show that he attended the “*Graduat*” program in 2000-2001, 2001-2002, and 2002-2003, and the “*Licence*” program in 2003-2004 and 2004-2005. The Petitioner does not offer an explanation for the inconsistencies between the years attended and the years of study shown by the transcripts. Furthermore, the Petitioner does not explain why the attendance letters show that the Beneficiary attended the “*Licencie*” program for three academic years, when elsewhere in the record, the Petitioner claims that the “*Licencie*” program is a two-year program.

The Petitioner also submitted three letters from the Beneficiary’s former classmates, one of whom attests to have attended classes with the Beneficiary “in the first graduate during the academic year 2002-2003 and also in 2003-2004 in the second graduate [year].”⁸ However, as stated above, the Beneficiary’s transcripts indicate that the Beneficiary’s first graduate year, i.e., the first year of the “*Licence*” program, was 2003-2004 (not 2002-2003, as claimed). The Beneficiary’s transcripts further indicate that the Beneficiary’s second graduate year, i.e., the second year of the “*Licence*” program, was 2004-2005 (not 2003-2004, as claimed). The Petitioner has not reconciled these discrepancies and deficiencies. “[I]t is incumbent upon the petitioner to resolve the inconsistencies by independent objective evidence.” *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988). Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Id.* at 591-92. “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.” *Id.* at 591.

We also share the Director’s concern that the documents purportedly issued by the [REDACTED] contain formatting, grammatical, and other technical issues that further cast doubt upon their authenticity. For example, the seals of the [REDACTED] differ significantly between various documents. In addition, the “Attestation of Attendance” letter for the academic year of 2003-2004 misspells the University’s name on its own letterhead. Furthermore, the Beneficiary’s name is misspelled on the extract from the Official Academic Record for the 2000-2001 academic year.

On appeal, the Petitioner dismisses any discrepancies in the formatting and seals of the documents submitted as endemic issues in the Congo and not evidence of fraud. We find, however, that it is not only the formatting and seals that suggest the documents may be fabricated, but rather, the underlying inconsistent information submitted to demonstrate the Beneficiary’s attendance at and diplomas from the [REDACTED]. Thus, the Petitioner’s explanations on this point are not persuasive.

The Petitioner further dismisses the significance of the discrepancies by asserting that USCIS should conduct forensic analysis on these documents to determine their authenticity. However, we

⁸ The writer of this letter does not appear on the “Official Academic Record” documents submitted for the record.

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emphasize that it is the Petitioner's burden to establish eligibility. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). The Petitioner has submitted poor quality photocopies of the pertinent documents and one laminated color version of the Beneficiary's 2005 degree. The Petitioner has not submitted any original documents for the record, nor has the Petitioner submitted any original documents it may have in its possession for forensic analysis on its own volition. More importantly, the Petitioner has not explained how forensic analysis would explain and overcome the discrepancies in the record, such as regarding the Beneficiary's eligibility to enroll in University prior to receiving his high school diploma, or regarding the dates the Beneficiary attended the "*Licencie*" program.

The Petitioner also expresses the Beneficiary's concern "that the Registrar's office may not have acknowledged his degree due to a conflict over a tuition payment that may remain outstanding." The Petitioner further states on appeal that it is "confident that [it] will be able to provide compelling evidence that The Institute had demanded that the Beneficiary make an unnecessary and exorbitant payment to the school in order for them to confirm his attendance and graduation," and that the Beneficiary "refused to succumb to that quasi-blackmail." However, the Petitioner's statement that the Beneficiary owes an "outstanding" "tuition payment" on one hand, and that the school "demanded" "an unnecessary and exorbitant payment" on the other hand, are two different claims. The Petitioner has not explained and submitted objective evidence pointing to where the truth lies. *Id.* at 591-92. Moreover, the Petitioner has not further explained what "compelling evidence" of the University's claimed "quasi-blackmail" it possesses, nor has the Petitioner provided copies of such evidence, despite the Petitioner's "confiden[ce]" that it will be able to provide such evidence. "[G]oing 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 Cal.*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

The Petitioner has not submitted sufficient explanations to overcome these inconsistencies and deficiencies in the documents, as explained above. These inconsistencies and deficiencies undermine the reliability and authenticity of the submitted documents, and therefore, preclude a finding that the Beneficiary is qualified to perform the duties of a specialty occupation by virtue of possessing at least a U.S. bachelor's degree in a specific specialty directly related to the proffered position, or its equivalent. Again, "it is incumbent upon the petitioner to resolve the inconsistencies by independent objective evidence," and attempts to explain or reconcile such inconsistencies with competent objective evidence will not suffice. *Matter of Ho*, 19 I&N Dec. 591-92. "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." *Id.* at 591.

We will now briefly address the evaluations from [REDACTED] and [REDACTED]. The evaluations include language that the "evaluation relies upon copies of the original documents provided by [the Beneficiary] and represented by [the Beneficiary] to be authentic and true copies of those documents," and that "[t]here are no apparent grounds for us to disbelieve the authenticity and accuracy of the documentation presented to [REDACTED] on behalf of [the Beneficiary]." However, as detailed above and in the Director's decision, the evidence of record contains many inconsistencies that cast doubt on the authenticity of

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the documents and the Beneficiary's claimed qualifications. For instance, [REDACTED] does not indicate whether he considered, or was even aware of, the formatting inconsistencies and misspellings in the documents issued by the [REDACTED]. [REDACTED] also does not indicate whether he considered, or was aware of, the Beneficiary's claimed attendance at the [REDACTED] prior to receiving his high school diploma in November 1999. We consider these to be significant omissions, in that it suggests an incomplete or inaccurate review of the Beneficiary's qualifications and a faulty factual basis for his conclusions. None of these omissions were addressed in the letter from [REDACTED] CEO of [REDACTED] either.

We thus accord the evaluations from [REDACTED] little probative weight. We may, in our discretion, use an evaluation of a person's foreign education as an advisory opinion. *Matter of Sea, Inc.*, 19 I&N Dec. 817, 820 (Comm'r 1988). However, where an opinion is not in accord with other information or is in any way questionable, we may discount or give less weight to that evaluation. *Id.*

The record does not include probative, consistent evidence that the Beneficiary obtained the degrees identified in the petition and as evaluated by [REDACTED]. Accordingly, the record does not include sufficient evidence to establish that the Beneficiary obtained a foreign degree or degrees equivalent to at least a U.S. baccalaureate degree in a specific specialty. The record therefore supports the revocation of the approval of the petition pursuant to 8 C.F.R. § 214.2(h)(11)(iii)(2), in that the statement of facts contained in the petition was not true and correct, inaccurate, fraudulent, or misrepresented a material fact. For this reason, the appeal will be dismissed and the approval of the petition will remain revoked.

C. Finding of Fraud

A finding of fraud requires a determination that the Petitioner made a false representation of a material fact with knowledge of its falsity and with the intent to deceive an immigration officer. Furthermore, the officer must have believed and acted upon the false representation. *Matter of G-G*, 7 I&N Dec. 161, 164 (BIA 1956); *Ortiz-Bouchet v. U.S. Atty. Gen.*, 714 F.3d 1353, 1356-57 (11th Cir. 2013) (deferring to the Board of Immigration Appeal's definition of the term "fraud").

As discussed in detail above, the documents submitted appear to have been falsified and/or contain false representations in terms of the dates the Beneficiary claimed to have attended the [REDACTED] and received the resulting diplomas. The Beneficiary's academic qualification is a material element in the H-1B petition, as the Petitioner must establish that the Beneficiary possesses at least a U.S. baccalaureate degree in a specific specialty directly related to the duties of the proffered position, or its equivalent, to be qualified for the proffered position.⁹ In

⁹ A false statement is material if it "has a natural tendency to influence or was capable of influencing, the decision of the decisionmaking body to which it was addressed." *Kungys v. United States*, 485 U.S. 759, 770 (1988) (citations omitted); see also *Monter v. Gonzales*, 430 F.3d 546, 553-57 (2d Cir. 2005).

addition, the Director initially believed and acted upon the false representations (i.e., approving the petition based upon the false documents and representations).

The Director in this matter properly gave notice of derogatory information found regarding the Beneficiary's academic qualifications. In response to the NOIR and again on appeal, the Petitioner claims that the submitted documents are authentic and that they accurately represent the Beneficiary's academic history, despite probative evidence to the contrary.

The signature portion of the Form I-129, at part 7, requires the Petitioner to make the following affirmation: "I certify, under penalty of perjury that this petition and the evidence submitted with it are true and correct to the best of my knowledge." On the basis of this affirmation made under penalty of perjury, and the continuing fabrication of evidence, we find that the Petitioner knowingly made false representations regarding the Beneficiary's academic history which are material to the Beneficiary's eligibility. Upon review, we find that the record supports a finding that the Petitioner made false representations regarding the Beneficiary's academic history and qualification. Accordingly, we affirm the Director's finding of fraud.¹⁰

III. SPECIALTY OCCUPATION

Finally, we will briefly address another independent ground that could have warranted initiation of revocation proceedings at the discretion of the Director, i.e., that the approval of the petition involved gross error pursuant to 8 C.F.R. § 214.2(h)(11)(iii)(A)(5).

The Petitioner in this matter described the proffered position as a market researcher position. The Petitioner stated that the "position of Market Researcher requires the application of theoretical and practical knowledge which is typically and best acquired through studies leading to a Bachelor's degree or its equivalent in Marketing or Business Administration." The Petitioner stated that the Beneficiary is qualified for the market researcher position because his foreign degree had been evaluated as equivalent to a bachelor's of business administration degree awarded by an institution of higher education in the United States. Thus, it appears that the Petitioner accepts a bachelor's degree in the general field of business administration as sufficient to perform the duties of the proffered position.

The acceptance of a bachelor's degree in business administration to perform the duties of the proffered position suggests that the position qualifies is not a specialty occupation. A petitioner must demonstrate that the proffered position requires a precise and specific course of study that

¹⁰ In the context of this visa petition, our determination is a "finding of fact" and not an admissibility determination. The visa petition is not the appropriate forum for finding a beneficiary inadmissible. See *Matter of O-*, 8 I&N Dec. 295, 296-97 (BIA 1959). However, the Administrative Procedure Act requires that our decision include a statement of findings and conclusions on all material issues of law or fact, which would necessarily include findings of fraud. 5 U.S.C. § 557(c). After we enter a finding of fact in this decision, the Beneficiary may be found inadmissible at a later date in separate proceedings.

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relates directly to the position in question. 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 administration, without further specification, does not establish the position as a specialty occupation. *Cf. Matter of Michael Hertz Assocs.*, 19 I&N Dec. 558, 560 (Comm'r 1988).

To demonstrate 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. USCIS has consistently stated that, although a general-purpose bachelor's degree, such as a degree in business administration, 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. *Royal Siam Corp. v. Chertoff*, 484 F.3d 139, 147 (1st Cir. 2007). Here, the Petitioner's acceptance of a bachelor's degree in business administration indicates that the position is not a specialty occupation.

While the record includes an evaluation from ██████████ concluding that "the inclusion of Business Administration as a field of study relevant to the position of Market Research Analyst does not by any means imply that it is no longer a specialty occupation," this evaluation is insufficient to establish the proffered position as a specialty occupation. We may, in our discretion, use opinion statements submitted by the Petitioner as advisory. *Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, where an opinion is not in accord with other information or is in any way questionable, we are not required to accept or may give less weight to that evidence. *Id.*

In particular, ██████████ does not specify whether his analysis includes business administration degrees in all concentrations, or whether it pertains only to business administration degrees in specific concentrations (e.g., a business administration degree with a concentration in marketing, such as ██████████ possesses). It is not readily apparent how business administration degrees with concentrations in human resources management, for example, would be closely related to the market research analyst position and its associated marketing duties. As stated above, a general degree in business administration, without further specification, is insufficient to establish a position as a specialty occupation. *See Royal Siam Corp. v. Chertoff*, 484 F.3d at 147; *cf. Matter of Michael Hertz Assocs.*, 19 I&N Dec. at 560. *See also Matter of Ling*, 13 I&N Dec. 35 (Reg'l Comm'r 1968) (finding that "'business administration' is a broad field, a field which contains various occupations and/or professions, all of which are related to the world of business but each requiring a different academic preparation and experience peculiar to its needs").

Overall, the evidence of record is insufficient to demonstrate that the proffered position qualifies as a specialty occupation. It thus would have been within the scope of the Director's authority to initiate revocation-on-notice proceedings regarding this issue upon proper notice to the Petitioner of her intent to do so.

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IV. CONCLUSION

The burden is on the Petitioner to show eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. at 128. Here, that burden has not been met.

ORDER: The appeal is dismissed.

Cite as *Matter of J-S- Inc.*, ID# 16382 (AAO May 10, 2016)