U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF T-I-, INC.

DATE: APR. 27, 2017

APPEAL OF NEBRASKA SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITIONER FOR ALIEN WORKER

The Petitioner, a promotional product wholesaler, seeks to employ the Beneficiary as an MIS manager. It requests classification of the Beneficiary as a member of the professions holding an advanced degree under the second preference immigrant classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). This employment-based immigrant classification allows a U.S. employer to sponsor a professional with an advanced degree for lawful permanent resident status.[1]

The Director of the Nebraska Service Center denied the petition, concluding that the record did not establish, as required, that the Beneficiary met the educational requirements of the labor certification because his master's degree was from an unaccredited university.

On appeal, the Petitioner submits additional evidence and asserts that the Beneficiary's unaccredited degree satisfies the educational requirements of the labor certification.

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

I. LAW

Employment-based immigration generally follows a three-step process. First, an employer must obtain an approved labor certification from the U.S. Department of Labor (DOL). *See* section 212(a)(5)(A)(i) of the Act, 8 U.S.C. § 1182(a)(5)(A)(i). By approving the labor certification, DOL certifies that there are insufficient U.S. workers who are able, willing, qualified, and available for the offered position and that employing a foreign national in the position will not adversely affect the wages and working conditions of domestic workers similarly employed. Section 212(a)(5)(A)(i)(I)-

[1] The Petitioner subsequently filed a second immigrant petition on behalf of the Beneficiary for the same occupation The labor certification accompanying the new petition requires a bachelor's degree and 60 months of experience. As is discussed below, the labor certification accompanying the instant petition requires a master's degree and 60 months of experience. The new petition also requests classification of the Beneficiary as a professional under the third preference immigrant classification. *See* Immigration and Nationality Act (the Act), section 203(b)(3)(A)(ii), 8 U.S.C. § 1153(b)(3)(A)(ii). This employment-based immigrant classification allows a U.S. employer to sponsor a professional with a baccalaureate degree for lawful permanent resident status.

(II) of the Act. Second, the employer may file an immigrant visa petition with U.S. Citizenship and Immigration Services (USCIS). *See* section 204 of the Act, 8 U.S.C. § 1154. Third, if USCIS approves the petition, the foreign national may apply for an immigrant visa abroad or, if eligible, adjustment of status in the United States. *See* section 245 of the Act, 8 U.S.C. § 1255.

II. ANALYSIS

The issue on appeal is whether the Beneficiary's master's degree from an unaccredited educational institution satisfies the educational requirements for the offered position.

The Petitioner must establish that the Beneficiary satisfied all of the educational, training, experience and any other requirements of the offered position by the priority date.[2] In this case, the priority date is December 10, 2013, the date that the DOL accepted the labor certification for processing. *See* 8 C.F.R. § 204.5(d).

Here, the labor certification states that the offered position has the following minimum requirements:

H.4 Education: Master's degree in business administration.
H.5 Training: None required.
H.6 Experience in the job offered: 60 months required.
H.7 Alternate field of study: Management information systems or computer science.
H.8 Alternate combination of education and experience: None accepted.
H.9 Foreign educational equivalent: Not accepted.
H.10 Experience in an alternate occupation: 60 months experience as an MIS specialist or system analyst accepted.
H.14 Specific skills or other requirements: "MS Office, SQL, C, JD Edwards, Access, Front Page. A plus with Adobe Illustrator/Photoshop & CRM."

Part J of the labor certification states that the Beneficiary possesses a master's degree in business administration from the [redacted] completed in 2012. The record contains a copy of the Beneficiary's diploma and transcripts from that school. The record also contains a copy of the Beneficiary's diploma and transcripts for his bachelor of science in business administration (majoring in management information systems and operations management) from the [redacted] issued in 2002.

Part K of the labor certification details the Beneficiary's work experience. It states that Beneficiary has worked for the Petitioner in the offered position of MIS Manager since October 2010. Prior to that, the labor certification states that the Beneficiary worked as a MIS Manager for [redacted] in Taiwan from September 2005 until September 2010. No other experience is listed.

[2] *See Matter of Wing's Tea House*, 16 I&N Dec. 158, 159 (Act. Reg'l Comm'r 1977); *see also Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971).

The [redacted], the educational institution that issued the Beneficiary's master's degree, is not accredited by a recognized accrediting agency. According to the U.S. Department of Education (DOE), "[t]he goal of accreditation is to ensure that education provided by institutions of higher education meets acceptable levels of quality."[3] Accreditation ensures the nationwide recognition of a school's degrees by employers and other institutions. Accreditation is also one of the requirements for educational institutions to participate in federal student aid programs. *Id.*

In the United States, accrediting agencies are private educational associations that develop evaluation criteria reflecting the qualities of a sound educational program, and conduct evaluations to assess whether institutions meet those criteria. *Id.* Institutions that meet an accrediting agency's criteria are then accredited by that agency.

The DOE and the Council for Higher Education Accreditation (CHEA) are the two entities responsible for the recognition of accrediting bodies in the United States. While the DOE does not accredit institutions, it publishes a list of recognized accrediting agencies that are deemed reliable authorities as to the quality of education provided by the institutions they accredit. *Id.*

The CHEA, an association of 3,000 degree-granting colleges and universities, plays a similar oversight role. The presidents of American universities and colleges established CHEA in 1996 "to strengthen higher education through strengthened accreditation of higher education institutions."[4] CHEA also recognizes accrediting organizations. "Recognition by CHEA affirms that standards and processes of accrediting organizations are consistent with quality, improvement, and accountability expectations that CHEA has established." *Id.* According to CHEA, accrediting institutions of higher education "involves hundreds of self-evaluations and site visits each year, attracts thousands of higher education volunteer professionals, and calls for substantial investment of institutional, accrediting organization, and volunteer time and effort." *Id.*

The DOE and CHEA recognize WASC Senior College and University Commission (WSCUC) as the accrediting association with jurisdiction over baccalaureate and higher degrees issued by California schools.[5]

WSCUC's website lists all accredited institutions within its jurisdiction, and the [redacted] is not named as one of the accredited institutions. *See* https://www.wscuc.org/institutions (last accessed Apr. 24, 2017). Therefore, [redacted] has not been accredited by a recognized accrediting agency.

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[3] *Accreditation in the United States*, http://www2.ed.gov/print/admins/finaid/accred/accreditation.html (last visited Apr. 24, 2017).

[4] *Recognition of Accrediting Organizations Policy and Procedures*, 1 (rev. June 28, 2010) http://www.chea.org/userfiles/uploads/CHEA_Recognition_Policy_and_Procedures.pdf.

[5] *Directory of CHEA-Recognized Organizations*, 5 (rev. Mar. 2017), http://www.chea.org/userfiles/Recognition/directory-CHEA-recognized-orgs.pdf.

While [redacted] is approved to operate in California by the Bureau for Private Postsecondary Education (BPPE), the fact remains that it is an unaccredited institution. California's Education Code states that approval to operate in California is granted after the BPPE has verified that the institution "has the capacity to satisfy the minimum operating standards." Cal. Educ. Code § 94887 (West).

In summary, accreditation provides assurance of a basic level of quality of the education provided by an institution, nationwide acceptance of its degrees, and eligibility for federal funds. A degree from an unaccredited educational institution does not provide a sufficient assurance of quality. Therefore, since the Beneficiary's master's degree from [redacted] is from an unaccredited institution of higher education, it will not satisfy the requirement of a master's degree on the labor certification.

We do not agree with counsel's claim that the Beneficiary's degree should be accepted as an advanced degree because U.S. Immigration and Customs Enforcement approved the school to enroll foreign students under the Student and Exchange Visitor Program. The approval of an institution to enroll nonimmigrant foreign students pursuant to 8 C.F.R. § 214.3 is unrelated to the requirements for immigrant classification as an advanced degree professional. A broad range of educational institutions may be approved to enroll foreign students, including community colleges, junior colleges, seminaries, conservatories, high schools, elementary schools, and institutions which provide language training, instruction in the liberal arts or fine arts, and/or instruction in the professions. *Id.* The fact that an unaccredited educational institution is authorized to enroll nonimmigrant students does not mean that its degrees satisfy the minimum educational requirements for an offered position set forth on a labor certification.

Finally, we will enter an additional basis for denial. The evidence of record does not establish that the Beneficiary satisfied each of the required specific skills for the offered position. Part H.14 of the labor certification states that the offered position requires an individual with MS Office, SQL, C, JD Edwards, Access, and Front Page. Adobe Illustrator/Photoshop and CRM are also listed as "a plus." The Beneficiary's prior employment with the Petitioner cannot be used to satisfy these requirements since he has worked for the Petitioner in the offered position. *See* 20 C.F.R. § 656.17(h). The Petitioner has not submitted evidence establishing that the Beneficiary possessed each of these required specific skills prior to his employment with the company. For this additional reason, the petition cannot be approved.

III. CONCLUSION

The appeal must be dismissed because the Beneficiary's master's degree from an unaccredited educational institution does not meet the minimum educational requirements for the offered position as set forth on the labor certification.

ORDER: The appeal is dismissed.

Cite as *Matter of T-I-, Inc.*, ID# 296349 (AAO Apr. 27, 2017)