



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

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

MATTER OF I- LLC

DATE: APR. 17, 2017

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a car dealership, seeks to employ the Beneficiary as a marketing specialist. 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.

The Director of the Nebraska Service Center denied the petition, concluding that the Beneficiary did not have the education required by the terms of the ETA Form 9089, Application for Permanent Employment Certification (labor certification).

On appeal, the Petitioner submits additional evidence and asserts that the Beneficiary has the education required by the labor certification.

Upon *de novo* review, we will withdraw the decision of the Director and remand the matter for further proceedings consistent with the foregoing opinion and for the entry of a new decision.

I. LAW AND ANALYSIS

A. Employment-Based Immigration

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).¹ *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)-(II) of the

¹ The date the labor certification is filed, in cases such as this one, is called the “priority date.” *See* 8 C.F.R. § 204.5(d). In this case, the priority date is August 27, 2015. Therefore, the Petitioner must establish that all eligibility requirements for the petition have been satisfied from August 27, 2015, and continuing through the present.

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.

B. Beneficiary's Education

A petitioner must establish a beneficiary's possession of all the education, training, and experience specified on an accompanying labor certification by a petition's priority date. In this case, the labor certification requires a U.S. master's degree in marketing or management or a foreign equivalent degree. The record contains the following degrees and transcripts for the Beneficiary:

- Dyplom tytuł licencjata in physics, with a computer technology specialty, from the [REDACTED] Poland, issued in July 2001; and
- Dyplom tytuł magister in management and marketing, with a specialty in computer application for economy, from [REDACTED] Poland, issued in June 2004.

Relying on the Electronic Database for Global Education (EDGE) created by the American Association of Collegiate Registrars and Admissions Officers (AACRAO),² the Director determined that the Beneficiary has the foreign equivalent of a U.S. bachelor's degree, not a U.S. master's degree. On appeal, the Petitioner submits a letter from [REDACTED] and asserts that the Beneficiary's magister in management and marketing from [REDACTED] is the foreign equivalent of a U.S. master's degree. We agree.

The Director reviewed the EDGE entry for the Polish dyplom tytuł magister, which indicates that the degree represents attainment of a level of education comparable to a bachelor's degree in the United States. EDGE further indicates that the dyplom tytuł magister represents four to five years of full-time post-secondary study and that the entry requirement is a Świadectwo dojrzałości liceum ogólnokształcącego (which is comparable to completion of high school in the United States).³

A separate entry for a Polish magister in EDGE relates to the "second-cycle" magister lasting one and one-half or two years, with an entry requirement of a licencjat (which is the first-cycle degree lasting three, three and one-half, or four years). EDGE states that this second-cycle magister "represents attainment of a level of education comparable to a master's degree in the United States."⁴ In this case, we find that the Beneficiary's two and one-half year magister in management and

² According to its website, AACRAO is "a nonprofit, voluntary, professional association of more than 11,000 higher education professionals who represent approximately 2,600 institutions in more than 40 countries." *About AACRAO*, <http://www.aacrao.org/home/about> (last visited Mar. 31, 2017). According to the registration page for EDGE, EDGE is "a web-based resource for the evaluation of foreign educational credentials." *AACRAO EDGE*, <http://edge.aacrao.org/info.php> (last visited Mar. 31, 2017).

³ *AACRAO EDGE*, <http://edge.aacrao.org/country/credential/dyplom-tytu-magister?cid=single> (last visited Mar. 31, 2017).

⁴ *AACRAO EDGE*, <http://edge.aacrao.org/country/credential/magister-10?cid=single> (last visited Mar. 31, 2017).

marketing from [REDACTED] which followed her three year licencjata, is equivalent to a U.S. master's degree. The Petitioner has established that the Beneficiary has the education required by the labor certification.

We will therefore withdraw the decision of the Director and remand the matter for further proceedings consistent with the foregoing opinion and for the entry of a new decision.

C. Beneficiary's Experience

Although not addressed by the Director, the record does not establish that the Beneficiary possesses the required experience for the position. As noted, the beneficiary must meet all of the requirements of the offered position set forth on the labor certification by the priority date of the petition. In this case, the labor certification states the minimum requirements for the offered position are 12 months of experience in the job offered (marketing specialist).

The regulation at 8 C.F.R. § 204.5(l)(3) provides:

(ii) *Other documentation—*

(A) *General.* Any requirements of training or experience for skilled workers, professionals, or other workers must be supported by letters from trainers or employers giving the name, address, and title of the trainer or employer, and a description of the training received or the experience of the alien.

The record contains a letter from [REDACTED] in [REDACTED] Poland, together with English translation, stating that the Beneficiary worked full-time as a marketing specialist from November 15, 2004, to December 31, 2005. However, the letter does not describe her duties as marketing specialist as required by 8 C.F.R. § 204.5(l)(3). Accordingly, the submitted evidence does not establish that the Beneficiary possessed the 12 months of experience required by the labor certification. On remand, the Director should determine whether the Beneficiary has the required experience for the proffered position.

II. CONCLUSION

The decision of the Director regarding the Beneficiary's education will be withdrawn. The matter is remanded to the Director for consideration of the Beneficiary's experience. The Director may request any additional evidence considered pertinent. Similarly, the Petitioner may provide additional evidence within a reasonable period of time to be determined by the Director. Upon receipt of all the evidence, the Director will review the entire record and enter a new decision.

Matter of I- LLC

ORDER: The decision of the Director is withdrawn. The matter is remanded for further proceedings consistent with the foregoing opinion and for the entry of a new decision.

Cite as *Matter of I- LLC*, ID# 123037 (AAO Apr. 17, 2017)