

WRITING ASSIGNMENT (Spring Semester 2004 - Business Immigration Law)

Attached is information about a company that is considering retaining your firm, and a profile of four employees. Initially, you should analyze the U.S. non-immigrant and immigrant visa strategies which will aid the company in its goal of employing these workers.

Also, we will assume that your firm will be retained and that you have been assigned to work on the papers for one of the employees and to provide a brief outline of the options for the remaining three. To that end, you must prepare written materials, to be submitted along with your examination.

Using your EXAMINATION NUMBER ONLY. (NOTE: you will submit your paperwork, in the same envelope you use to return your final examination to me. These materials will be worth 1/3 of your over-all grade, the remaining 2/3 will come from the final examination itself.)

Prepare and submit the following:

1. A brief (1-2 pages maximum) **letter to the company**, outlining your recommended visa options for the 4 employees, along with any other 'sales pitch' you wish to provide.
2. An **H-1B visa application** for Anna CHIN. This application should contain:
 - A. Your G-28;
 - B. Appropriate BCIS & DOL forms (assume your LCA is approved and submit a copy, if required by the law/regulations);
 - C. Cover letter from the employer (1-2 pages maximum) outlining the application, job, etc., requesting that the visa be issued; and,
 - D. An index of the documents you would attach to the 'kit', were this a real case.
3. A **Labor Certification and EB-3 application** for Anna CHIN. This application should contain:
 - A. Your G-28;
 - B. Appropriate BCIS & DOL forms (assume that the labor certification has been, or will be approved and proceed with the appropriate COMPANY FORMS. You need not submit the I-485, nor G-325, etc. for Ms. Chin..)
 - C. Cover letter from the employer (1-2 pages maximum) outlining the application, job, etc., requesting that the visa be issued; and,
 - D. An index of the documents you would attach to the 'kit', were this a real case.

IMPORTANT NOTE: If the salary offered does not meet the prevailing wage requirements for that position, recommend the appropriate **MINIMUM wage the law allows** in your letter to the company. Thereafter, use that figure for all appropriate BCIS & DOL forms.

In addition to the primary materials you have in your text and regulations, you may need to locate some materials yourself. You can use materials on reserve in the library (especially the two immigration practice books) Lexis, Westlaw, or the World-Wide Web (WWW). I have provided you with all the forms you need. If you need more, go here: <http://www.uscis.gov>

NOTE: In addition to asking questions of the HR person in class on April 15th, you may ask questions (for any 'missing' information you may need to complete the forms) via e-mail **one time only**. Send your itemized questions to: **fjc@lclark.edu**

MEMO – Business Immigration Hypothetical Problems

To: Business Immigration Students
From: Professor Capriotti
Subject: D'Argent USA Inc. (WRITING ASSIGNMENT)
Date: March 29, 2004

*These materials are based on problems originally created by Associate Professor Lenni Benson for a workshop she conducted at New York Law School.

We will imagine that our class is a hypothetical law firm being considered as new outside counsel by D'Argent USA Inc. During our class in mid-April we will meet the head of personnel for the company. He will explain how he has handled immigration legal matters for the company in the past and his goals for new outside counsel.

Before this class, imagine yourself in the role of a prospective outside counsel and consider how you will advise him about ethical issues such as dual representation of the corporation and its employees and about compliance with employer sanctions.

Come prepared to interview his person and to ask additional information you believe you will need to make your analysis of the best visa strategy to pursue for each of the employees (several students will be selected at random to ask the questions) and to gather information needed to complete the forms you will be preparing.

Company Description

D'Argent S.A. is a French company specializing in international financial services including investment banking, equity capital markets and institutional investor services.

D'Argent S.A. offers clients a wide range of international equity products as well as offering full investment banking and corporate finance services. The firm is one of the larger equity market makers in France. In addition to its headquarters in Paris, the international organization has offices in New York, London, Zurich, Tokyo, Hong Kong and Portland, Oregon.

The international organization, employs more than 1,000 individuals world-wide including more than 100 each in New York and Portland respectively and more than 300 in Paris. The world-wide organization's 2003 earned profit was in excess of \$50 million. D'Argent S.A. is located at the international organization's worldwide headquarters in Paris.

D'Argent USA, Inc, is a sister company, incorporated in Delaware, with US locations in New York and Portland. D'Argent S.A. and D'Argent USA, Inc. are both subsidiaries of Monnais S.A. the French parent company.

100% of the stock of D'Argent S.A. is owned by Monnais S.A. 50% of the stock of D'Argent USA, Inc. is owned by Monnais S.A. and 50% is held by a U.S. financial services company. D'Argent USA, Inc. had a net loss in 2003 and is making significant efforts to improve staffing of the US locations.

GENERAL INFORMATION FOR H-1B & EB-3 WRITING ASSIGNMENT:

Company: D'Argent USA Inc.:
Address: 15000 S.W. Terwilliger; Portland, OR 97219
Phone: 503-789-6543j - fax: 503-223-3886
Contact: F.J. Capriotti III, Director of Human Resources
E-mail: fjc@lclark.edu

You are an work at: SMALL FIRM, LLC:
For your name: **USE YOUR EXAM NUMBER - NO NAMES PLEASE**
Your office address: 10015 S.W. Terwilliger; Portland. OR 97219
Your phone: 503-768-6600 - fax: 503-768-6671
Member of: Oregon State Bar, practicing in all State and Federal Courts

Name: Ms. Anna Nicole CHIN
Address: 12345 S.W. Terwilliger; Portland, OR 97219
Phone: 503-123-4567
Date of Birth: January 14, 1975
National of: Peoples Republic of China
Current status: H-1B

I. Programmer

Anna Chin is a national of the Peoples Republic of China. She obtained a Masters degree in Computer Engineering at New York University in May 2000.

D'Argent USA Inc. wants to hire Ms. Chin immediately as a Programmer in the equity derivatives area. She has had more than 3 years of computer programming experience in the U.S. since obtaining her Masters degree. She is currently employed by a small computer firm and holds H-1B status. Her current I-94 card states that her status will expire in six (6) months.

D'Argent has provided the following position description:

For equity derivative products area, provide technical and programming support to traders and front office: meet with users to define business and technical requirements for applications. Perform technical design, programming, testing, implementation & quality management of global pricing and risk management applications for equity derivative products, using object-oriented technologies (analysis & design, databases, C++) in a Unix, Sun Workstation and X Windows environment.

Her salary is set at \$28,000. She will also receive an annual bonus based on company profitability. The amount is undetermined.

II. Manager, International Sales

Mr. Jean D'Or is the Manager, International Sales at D'Argent S.A., Paris. D'Argent USA wants him to work in the United States so he can develop and direct U.S. sales activities.

He now executes the following responsibilities with D'Argent: Directs and manages sales of French and European equity and equity research to institutional investors using knowledge of European, U. S. and global economics to interpret complex economic factors and trends in industries and financial markets; develops and implements business strategies including identification of investors, analysis of their financial needs, use of European equity products to meet objectives; makes presentations to investors and investment bankers on market, research products, trading techniques; works with investment bankers and equity capital markets group to formulate financing strategies and structure deals based market conditions; develops and maintains client relationships; liaises with the research department and trading desks to improve product quality and increase sales volume; cost control, p & 1 performance; and supervises sales and sales support staff.

Mr. D'Or is a French citizen. He has a Bachelors degree in History which he earned at the Sorbonne. He has been employed by D'Argent S.A. since January 1994. Prior to that time, he was employed in equity sales by a French competitor of D'Argent for four and one-half years. His proposed U.S. base salary will be \$100,000 plus a bonus based on a percentage of all sales within his department.

Mr. D'Or is married to a U.K. national who is an interior designer. He has sent a memo to D'Argent USA Inc. asking when his wife can begin accepting clients in the United States.

III. Executive Assistant

Marie Jolie is a French citizen. She is the Executive Assistant to a Senior Vice President, John Stock III. Both of them are currently employed by D'Argent S.A. in Paris.

Mr. Stock, a U.S. citizen, has agreed to move to the New York office of D'Argent USA in June 2004. He insists that Marie accompany him to New York. She has been working for Mr. Stock since May 2001 when she received a Certificate of Commerce for studies in Paris. Her work for Mr. Stock has involved setting up visits of institutional investors and portfolio managers to the Paris office; arranging for analysts and sales specialists to meet with institutional visitors; speaking to the heads of institutional business in the branch offices to insure meetings are arranged for visiting institutional investors based on specific industry interests of the investors and/or portfolio managers, and finding out national and regional customs and practices of countries in which branch offices and institutional investors are located to insure the success of visit; putting together written material for distribution during the visit; arranging itineraries for institutional investors' visits to insure efficient use of time; setting up appointments as scheduling permits; arranging annual institutional sales meetings in Europe; handling flow of information between European offices regarding activities in branches; and generally assisting Mr. Stock in his business and personal matters.

Her salary has not yet been determined. Please recommend her visa options, and salary range (if you are able to identify a visa.)

IV. Corporate Finance Associate

Pierre Le Banque is a Swiss national employed by D'Argent S.A. in Zurich. He has been employed as a Corporate Finance Associate since joining D'Argent in June 1997 after obtaining an MBA degree at INSEAD in France. He specializes in the area of corporate finance with responsibility for the corporate finance transactions, including U.S. client transactions in the European market and French client transactions in the U. S.

U.S. client activity in the European market includes takeover bids for French companies, buyouts of French private companies, raising money in debt markets in Paris and raising venture capital money in Paris. U.S. activity for French clients includes analysis of the U.S. markets for French companies quoted in the U.S., providing advice on capital raising in France and United States in the public and private markets, merger and acquisition targets in the United States and venture capital opportunities in the United States.

During the last year, he has participated in corporate finance transactions including initial public offerings, rights issues and placements relating to raising new capital, takeovers including structuring, analyzing and identifying targets, working with institutional shareholders and advising on regulatory aspects, as well as the strategy, pricing and timing of potential takeovers, reconstructions for companies in weak financial positions (involving recapitalization, introducing new boards of directors/new management, structuring debt finance at all levels). He has coordinated and managed professional teams made up individuals from various departments assigned to meet individualized requirements of transactions. Team members include professionals and specialists in the areas of research and analysis, sales, and corporate finance. He has coordinated and liaised with legal counsel and accounting advisers and coordinated roles of these professional advisers on specific transactions.

His annual compensation is a base rate of \$45,000 (U.S.) He will also receive a bonus based on performance. The bonus may be as high as an additional \$45,000.