

Final Examination
BUSINESS IMMIGRATION
Professors Joel Marsh and Penelope Chronis
Spring 2005

1. You have **two (2) hours** to complete this exam.
2. This is an **open** book exam.
3. This exam is worth 100% (100 points) of your final grade. The exam consists of one fact pattern with three (3) essay questions:
 4. Question 1 (50%): 50 points
 - Question 2 (25%): 25 points
 - Question 3 (25%): 25 points
5. Please write your response in the blue books provided. Please write clearly. Write on every other line and every other page to permit instructor comments.
6. Write your exam number on your exam envelope. Put your correct class section and student exam # at the top of this page, each page of questions, and each blue book. **Do not** use your name, student ID number or Social Security Number on any exam materials.
7. At the conclusion of the exam, return all test materials, including blue books, scratch paper, and this exam packet to the envelope and submit it to the proctor. **DO NOT** seal the envelope. Students who do not return all exam materials at the end of the exam may not be graded.

GOOD LUCK!!!

ESSAY QUESTIONS

FACT SITUATION

You are the head of the immigration department of the San Francisco law firm of Greene & Cardoni. The date is May 5, 2005, you arrive at your office at 8:30 am, and receive yet another e-mail from Ms. Dono, Human Resources Manager of Blugenes Corp. As you know, Blugenes is a well known multinational biotechnology firm with 1500 employees in the U.S. and gross annual receipts of \$3 billion in 2004. Ms. Dono is still relatively new and though she now has a basic knowledge of nonimmigrant visas, she does not have a clear grasp of the requirements for permanent residence, particularly the recent changes in the law. Earlier this year, Fadedgenes Ltd., their wholly-owned subsidiary in the

United Kingdom which has developed products similar to those of Blugenes Corp, successfully transferred two employees to the United States facility to support the launch of Blugenes major new product. Blugenes is currently in the process of transferring a third employee to the US. You ably assisted the company with their nonimmigrant needs and now Ms. Dono informs you that Blugenes would like to keep all transferees in the United States permanently.

CANDIDATE #1: DIRECTOR OF R&D:

Dr. Longfellow, one of the employees you recently helped transfer to the US from Fadedgenes, Ltd. in L-1A status, is a citizen of South Africa. As you know, he has a Ph.D. in Molecular Biology from Oxford University and is one of the leading genetic researchers in the world. He worked for Fadedgenes in the UK for 18 months leading the development of several new and promising drugs treatments for Alzheimers disease. He is now successfully leading the US company in its pursuit of their new Alzheimers treatment.

Your task: Please provide Ms. Dono with an overview of the prospects for meeting the company's needs, indicating what strategy or strategies you recommend. Your response may be in narrative or outline format, or a combination thereof. Please also indicate what further information and documents you will require in order to proceed with the strategy. Please be sure to identify any problems or issues that might arise. In this regard, please state any assumptions that you are making in order to develop your strategy and/or to identify problems or issues.

CANDIDATE #2: TECHNICAL SUPPORT SPECIALIST

Ms. Susan Sharma is an Indian national who currently holds the position of Technical Support Specialist with Fadedgenes in the U.K. Blugenes will file an L-1B petition (Premium Processing) on her behalf in the next month by which time she will have accrued one year of employment with the U.K. facility. Ms. Sharma has extensive technical experience in applying bioinformatics to drug development. Because of her extensive and detailed knowledge of the technology used by both Blugenes and Fadedgenes, which she will utilize in the US project, Blugenes now desires that Ms. Sharma come to the United States permanently to assist in technology integration for their new product. As you know, Blugenes may not file an L-1B petition for Ms. Sharma until she has been employed abroad by Fadedgenes for the requisite one year. No new H-1B visas are currently available because the FY 2005 "cap" has been reached. Ms. Sharma has therefore been setting up the new technology for Blugenes remotely from the U.K. As you know Ms. Sharma has a BS degree in Chemistry. Assuming her L-1B is approved and sent to the consulate in London, Ms. Dono wants to start the process for keeping Ms. Sharma in the U.S. permanently.

Your task: Same as Candidate #1 above, but for Ms. Sharma.

CANDIDATE #3: BIOCHEMIST / RESEARCH ASSOCIATE:

Blugenes Corp. hired Ms. Mary Grads, a citizen of Canada, as a Biochemist to work in their Genomics lab. Ms. Grads completed her Masters degree in Biochemistry in December 2004 at U.C. Berkeley. She is currently working in F-1 status on optional practical training after receiving her Employment Authorization Document (EAD). Blugenes filed an H-1B petition on Ms. Grads' behalf (Premium Processing), which was approved last week with a start date of October 1, 2005. Ms. Grads would now like to immediately pursue permanent residence on Ms. Grads' behalf because Ms. Grads is planning on traveling home for a family wedding in June.

Your task: Same as Candidate #1 above but for Ms. Grads. Please note: You do not need to repeat any discussion of the necessary steps that may have been outlined in a previous answer, but do reference your previous discussion where appropriate.

END OF EXAM