



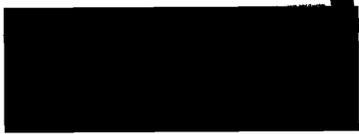
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U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
SULLB, 3rd Floor
Washington, D.C. 20536



File: WAC-00-033-50190 Office: California Service Center Date: **SEP 25 2001**

IN RE: Petitioner:
Beneficiary:

Petition: Petition for a Nonimmigrant Worker Pursuant to § 101(a)(15)(O)(i) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(O)(i)

IN BEHALF OF PETITIONER:

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

for Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, California Service Center, and is now before the Associate Commissioner for Examinations on appeal. The matter will be remanded.

The petitioner is described as a "modeling and makeup" agency. The beneficiary is described as a manager and fashion professional. The petitioner seeks classification of the beneficiary under section 101(a)(15)(O)(i) of the Immigration and Nationality Act (the "Act") in order to employ her as its president at a salary of \$5,000 per week.

The center director denied the petition finding that the petitioner failed to establish that the beneficiary satisfied the regulatory criteria for an alien with extraordinary ability in business as defined at 8 C.F.R. 214.2(o)(3)(ii).

On appeal, counsel for the petitioner argues that the petitioner requested classification as an alien with extraordinary ability in the arts, rather than business, which has different standards set forth at 8 C.F.R. 214.2(o)(3)(iv).

On review, none of the documentation submitted by the petitioner indicates the specific nature of the O-1 classification sought. Neither does the Service's petition, Form I-360, contain any space requiring a petitioner to declare the nature of the classification sought. Clearly, the director acted reasonably in reviewing the petition under 8 C.F.R. 214.2(o)(3)(ii) based on the job title of the proposed position. However, in the absence of any requirement on the petition form for the petitioner to declare the classification sought, the record will be remanded for consideration under the specified regulatory criteria for the arts, 8 C.F.R. 214.2(o)(3)(iv).

ORDER: The matter is remanded for issuance of a new decision.