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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.  
ULLB, 3rd Floor  
Washington, D.C. 20536



File: WAC-01-020-50911

Office: California Service Center

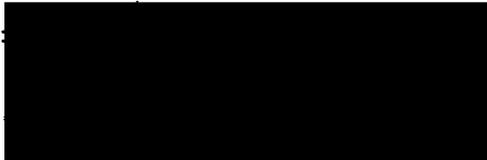
Date: JUL 15 2002

IN RE: Petitioner:  
Beneficiary:



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

IN BEHALF OF PETITIONER:



Public Copy

**INSTRUCTIONS:**

This is the decision in your case. All documents have been returned to the office that 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 that 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 that originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Robert P. Wiemann, 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 record will be remanded.

The petitioner in this matter is a music production company. The beneficiary is a music producer. The petitioner seeks O-1 classification of the beneficiary, under section 101(a)(15)(O)(i) of the Immigration and Nationality Act (the "Act"), as an alien with extraordinary ability in business. The petitioner seeks to employ the beneficiary in the United States for a period of three years at a salary of \$96,000 per year.

The director denied the petition finding that the petitioner failed to submit an itinerary of events as defined at 8 C.F.R. 214.2(o)(3)(ii).

On appeal, counsel for the petitioner argued that documentation was submitted showing the temporary nature of the beneficiary's employment and stating that the nature of the business of music production involves projects of a temporary nature.

Section 101(a)(15)(O)(i) of the Immigration and Nationality Act provides classification to a qualified alien who has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim, whose achievements have been recognized in the field through extensive documentation, and who seeks to enter the United States to continue work in the area of extraordinary ability.

The director denied the petition finding that the beneficiary's presence was not related to a specific event. The director appears to have considered the petition under the standard of a performing artist with extraordinary ability in the arts, rather than a music producer with extraordinary ability in business. The petitioner submitted a copy of a contract with the beneficiary which is sufficient to satisfy the requirements of 8 C.F.R. 214.2(o)(3)(ii).

The petition, however, may not be approved. The record does not reflect that the petitioner has adequately established that the beneficiary is an alien with extraordinary ability in business under the evidentiary standards set forth at 8 C.F.R. 214.2(o)(3)(iii).

The record will be remanded for further review and entry of a new decision.

**ORDER:** The director's decision dated June 7, 2001 is withdrawn; the record is remanded.