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U.S. Citizenship
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Services

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FILE: LIN 03 178 50282 OFFICE: NEBRASKA SERVICE CENTER Date: JUN 17 2005

IN RE: Petitioner:
Beneficiary:

PETITION: Petition for 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)

Dear Ms. Park:

On May 12, 2003, you filed a petition for nonimmigrant classification of the beneficiary as an alien of extraordinary ability, pursuant to section 101(a)(15)(O) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(O). Subsequently, on November 13, 2003, the Director, Nebraska Service Center, denied your petition. You have appealed that decision, and your appeal is now before the Administrative Appeals Office (AAO).

During the adjudication of your appeal, information has come to light that seriously compromises the credibility of your claims. Based upon this information, the AAO intends to dismiss your appeal. Pursuant to CIS regulations at 8 C.F.R. § 103.2(b)(16)(i), we hereby notify you of this derogatory information and provide you with an opportunity to respond before we render our final decision.

You claim the beneficiary meets the statutory and regulatory requirements regarding extraordinary ability in the arts, as described at 8 C.F.R. § 214.2(o)(3)(iv). To support this claim, you have submitted a letter purportedly signed by "Thomas Jameson," [sic] American Guild of Musical Artists (AGMA), in which he asserts:

The American Guild of Musical Artists has reviewed the Draft I-129 Petition and supporting documentation regarding [the beneficiary].

Based upon the applicable statutory and regulatory requirements regarding extraordinary ability in the arts, [the beneficiary] appears to be an artist who meets the standard set for at 8 CFR S 214.2[(o)].

Accordingly, AGMA has no objection that this petition be granted.

Noting discrepancies in the AGMA no-objection letter, Citizenship and Immigration Services (CIS) contacted AGMA. [REDACTED] stated that he has never written a no-objection letter for Times Entertainment, Inc.

Based upon the above information, provided to the AAO by the Fraud Detection Unit of CIS, we conclude that the [REDACTED] letter is fraudulent. The no-objection letter you submitted contains an out-dated address. The signatory's name is incorrectly spelled. Your submission of this letter constitutes a willful misrepresentation of two material facts, i.e., the claim that the beneficiary is an alien of extraordinary ability, as demonstrated by an evaluation from AGMA to this effect, and that petitioner has obtained a valid consultation as required by the regulation at 8 C.F.R. § 214.2(o)(2)(ii)(D).

Doubt cast on any aspect of the petitioner's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). The above derogatory information indicates you have submitted altered documentation and a forged letter. We cannot accord any of your other claims any weight, without original evidence that indisputably proves those claims.

By signing the Form I-129 petition, you certified under penalty of perjury that all of the information submitted with your petition was, to the best of your knowledge, true and correct. It is axiomatic, therefore, that your submission of any material claim, information, or document that you knew to be incorrect constitutes perjury.

8 C.F.R. § 103.2(b)(16)(i) does not specify the amount of time afforded to an applicant or petitioner to respond to derogatory evidence. We consider thirty (30) days to be ample time for this purpose. Therefore, you are hereby afforded 30 days from the date of this letter in which to respond to this notice. If you choose to respond, please reference your receipt number, **LIN 03 178 50282**, in your response.

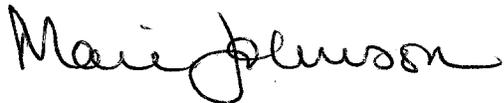
We reiterate that, pursuant to *Matter of Ho, supra*, you cannot overcome the above findings simply by offering a written explanation. If you choose to contest the AAO's findings, you must offer substantial evidence from credible sources. Such evidence must address, explain, and rebut *all* of the discrepancies described above. If you do not submit such evidence within the allotted 30-day period, the AAO will dismiss your appeal.

Finally, section 212(a)(6)(C) of the Act provides:

Misrepresentation. – (i) In general. – Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

Unless you are able to provide substantial evidence to overcome, fully and persuasively, all of our above findings, we will dismiss the appeal with a finding of fraud. It appears that, by filing the instant petition, and including false documentation, you have already sought to procure a visa on behalf of the beneficiary and other benefits

provided under the Act. While you may choose to withdraw your appeal, we advise that, because you have already violated the above section of law, a withdrawal of the petition at this stage will not negate or prevent a finding of fraud.



 Robert P. Wiemann, Director
Administrative Appeals Office

