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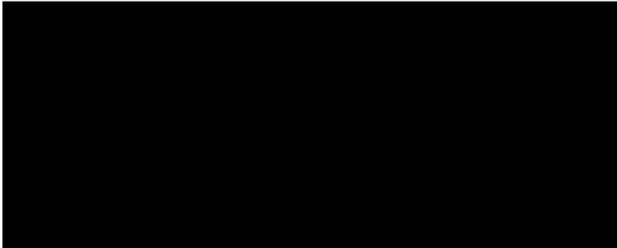
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
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Services

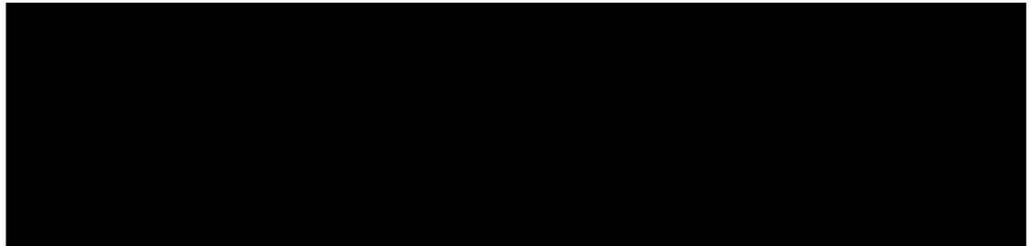
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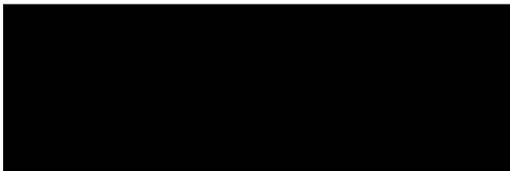
FILE: EAC 04 233 53201 Office: VERMONT SERVICE CENTER Date: **SEP 21 2006**

IN RE: Petitioner:
Beneficiaries:



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

ON BEHALF OF PETITIONER:



INSTRUCTIONS: This is the decision of the Administrative Appeals Office 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.

Maui Johnson

⤵ Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Vermont Service Center Director denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The director's decision will be withdrawn and the petition will be remanded for further action and consideration.

The petitioner seeks classification of the beneficiaries as employment-based immigrants pursuant to section 101(a)(15)(P)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(P)(i), as internationally recognized entertainers, in order to employ the beneficiaries in the United States for a period of one year.

The director denied the petition, finding that the petitioner failed to establish that the beneficiaries were eligible for P-1 classification because the petitioner failed to establish that the beneficiaries comprised a group in their own right.

On appeal, counsel for the petitioner submits a brief.

Section 101(a)(15)(P)(i) of the Act provides classification to a qualified alien having a foreign residence which the alien has no intention of abandoning who performs with or is an integral or essential part of an entertainment group that has been recognized internationally as being outstanding in the discipline for a sustained and substantial period of time and has had a sustained and substantial relationship with the group over a period of at least one year.

The regulation at 8 C.F.R. § 214.2(p)(1) provides for classification of artists, athletes, and entertainers:

(i) *General.* Under section 101(a)(15)(P) of the Act, an alien having a residence in a foreign country which he or she has no intention of abandoning may be authorized to come to the United States temporarily to perform services for an employer or a sponsor. Under this nonimmigrant category, the alien may be classified under section 101(a)(15)(P)(i) of the Act as an alien who is coming to the United States to perform services as ... [a] member of an internationally recognized entertainment group.

P-1 classification is accorded to the entertainment group as a unit, and is not available to individual members of the group to perform separate and apart from the group. 8 C.F.R. § 214.2(p)(4)(iii)(A). Except for the limited circumstances provided for in 8 C.F.R. § 214.2(p)(4)(iii)(C)(2) relating to certain nationally known entertainment groups, it must be established that the group has been internationally recognized as outstanding for a sustained and substantial period of time, and at least 75 percent of the group must have had a minimum of a one-year relationship with the group and must provide functions integral to the group's performance. *Id.* The petitioner bears the burden of proof in establishing that each of these requirements has been satisfied.

The first issue raised by the director is whether the petitioner established that the beneficiaries are eligible for P-1 classification. The director determined that the beneficiaries were ineligible for P-1 classification because the beneficiaries do not comprise a group in their own right. There are no statutory or regulatory requirements that beneficiaries comprise a group in their own right. The beneficiaries are members of an entertainment group called [REDACTED]. The fact that two members of [REDACTED] are United States citizens does not preclude the remaining alien members from receiving P-1 classification. However, the petition may not be approved.

The regulation at 8 C.F.R. § 214.2(p)(1)(ii)(A) provides P-1 classification to an alien who is coming temporarily to the United States:

(2) To perform with, or as an integral part of the performance of, an entertainment group that has been recognized internationally as being outstanding in the discipline for a sustained and substantial period of time, and who has a sustained and substantial relationship with the group (ordinarily for at least 1 year) and provides functions integral to the performance of the group.

The regulation at 8 C.F.R. § 214.2(p)(3) defines international recognition as follows:

Internationally recognized means having a high level of achievement in a field evidenced by a degree of skill and recognition substantially above that ordinarily encountered, to the extent that such achievement is renowned, leading, or well known in more than one country.

The regulation at 8 C.F.R. § 214.2(p)(4)(iii)(B) requires that a petition for members of internationally recognized entertainment groups must be accompanied by:

- (1) Evidence that the group has been established and performing regularly for a period of at least 1 year;
- (2) A statement from the petitioner listing each member of the group and the exact dates for which each member has been employed on a regular basis by the group; and
- (3) Evidence that the group has been internationally recognized in the discipline for a sustained and substantial amount of time. This may be demonstrated by the submission of evidence of the group's nomination or receipt of significant international awards or prizes for outstanding achievements in its field or by three of the following types of documentation:
 - (i) Evidence that the group has performed, and will perform, as a starring or leading entertainment group in productions or events which have a distinguished reputation as evidenced by critical reviews, advertisements, publicity releases, publications, contracts, or endorsements;
 - (ii) Evidence that the group has achieved international recognition and acclaim for outstanding achievement in its field as evidenced by reviews in major newspapers, trade journals, magazines, or other published material;
 - (iii) Evidence that the group has performed, and will perform, services as a leading or starring group for organizations and establishments that have a distinguished reputation evidenced by articles in newspapers, trade journals, publications, or testimonials;
 - (iv) Evidence that the group has a record of major commercial or critical successes, as evidenced by such indicators as ratings; standing in the field; box office receipts; record, cassette, or video sales; and other achievements in the field as reported in trade journals, major newspapers, or other publications;
 - (v) Evidence that the group has achieved significant recognition for achievements from organizations, critics, government agencies, or other recognized experts in the field. Such testimonials must be in a form that clearly indicates the author's authority, expertise, and knowledge of the alien's achievements; or

(vi) Evidence that the group has either commanded a high salary or will command a high salary or other substantial remuneration for services comparable to other similarly situated in the field as evidenced by contracts or other reliable evidence.

The petitioner furnished the following documentation to Citizenship and Immigration Services (CIS):

- A photograph of two women, captioned ' [REDACTED] ' and ' [REDACTED] ',
- A translated article printed in *El Informador* dated June 14, 2003 which states that [REDACTED] signed a record contract last year.
- Five press releases from the petitioner about the two principal members of [REDACTED]
- Translations of two undated articles from unnamed publications.
- A translation of a review dated February 14, 2004 about the two principal members of [REDACTED] that was published in *El Universal*.

In review, the evidence of record is insufficient to establish that the beneficiary group has been internationally recognized in the discipline for a sustained and substantial period of time.

According to the regulation at 8 C.F.R. § 103.2(b)(8), in instances where there is no evidence of ineligibility and initial evidence or eligibility information is missing or the CIS finds that the evidence submitted either does not fully establish eligibility for the requested benefit or raises underlying questions regarding eligibility, CIS shall request the missing initial evidence, and may request additional evidence.

Therefore, this matter will be remanded for the director to consider whether the group has been internationally recognized for a substantial period of time. The director may request additional evidence deemed warranted and should allow the petitioner to submit additional evidence in support of its position within a reasonable period of time. As always, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The director's decision is withdrawn. The petition is remanded to the director for further action in accordance with the foregoing and entry of a new decision which, if adverse to the petitioner, is to be certified to the Administrative Appeals Office for review.