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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**

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DATE: MAY 03 2012 Office: CALIFORNIA SERVICE CENTER 

IN RE: 

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

ON BEHALF OF PETITIONER: 

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the nonimmigrant visa petition and dismissed the petitioner's subsequent motion to reopen or reconsider the decision. The petitioner subsequently appealed the director's decision to the Administrative Appeals Office (AAO) and the AAO dismissed the petitioner's appeal. The matter is now before the AAO on a motion to reopen and reconsider. The AAO will grant the petitioner's motion, withdraw the prior adverse decisions, and approve the petition.

The petitioner states that it is a theatrical agency, producer and artist manager. It seeks to classify the beneficiary under section 101(a)(15)(P)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(P)(i). Specifically, the petitioner seeks to continue to employ the beneficiary temporarily in the United States as a P-1 circus performer as a member of the duo known as [REDACTED]

The director denied the petition on March 2, 2009, citing two independent and alternative grounds for the decision. The director determined that the petitioner: (1) failed to establish that the beneficiary is a member of an internationally recognized entertainment group that has performed together for more than one year, or that the beneficiary will be performing in a circus that has been recognized nationally as outstanding for a sustained and substantial period of time; and (2) failed to submit a written consultation from an appropriate labor organization. The petitioner subsequently filed an appeal.

In a decision dated June 18, 2010, the AAO withdrew the director's decision in part and dismissed the petitioner's appeal concluding that the petitioner failed to submit a written consultation from an appropriate labor organization. The AAO acknowledged that the petitioner submitted a consultation from the [REDACTED] in support of the appeal, but determined that the [REDACTED] is not the appropriate labor organization in the beneficiary's field of circus arts. Rather, the AAO determined that the appropriate labor organization is the [REDACTED]

On motion, counsel for the petitioner submits a "no objection" consultation letter dated August 1, 2010 from the [REDACTED]. In an accompanying letter, the petitioner asserts that USCIS and legacy Immigration and Naturalization Service (INS) have previously accepted consultation letters from [REDACTED] and other entertainment industry labor organizations in support of circus industry P-1 petitions. As such, the petitioner asserts that it was not aware that USCIS considered [REDACTED] to be the only appropriate labor organization for P-1 petitions filed on behalf of circus personnel.

Upon review, the AAO will accept the [REDACTED] consultation letter in support of the petition. The AAO notes that neither of the director's adverse decisions specified the appropriate labor organization for circus personnel. As the petitioner complied with the requirement immediately upon receiving the AAO's adverse decision, the AAO will allow the submission of the [REDACTED] consultation on motion.

The AAO's previous decision dated June 18, 2010, and the director's decisions dated June 22, 2009 and March 2, 2009 are withdrawn. The petition is approved.

ORDER: The motion is granted, the prior adverse decisions of the AAO and the director are withdrawn, and the petition is approved.