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U.S. Department of Homeland Security  
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FILE: WAC 09 134 51026 Office: CALIFORNIA SERVICE CENTER Date: NOV 23 2009

IN RE: Petitioner: [Redacted]  
Beneficiary: [Redacted]

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

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center, denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained and the petition will be approved.

The petitioner filed this petition seeking to classify the beneficiary as an O-1 nonimmigrant pursuant to section 101(a)(15)(O)(i) of the Immigration and Nationality Act (the Act), as an alien with extraordinary ability in business. The petitioner, a coffee and tea manufacturer, wholesaler and retailer, seeks to employ the beneficiary in the position of director of education and training for a period of three years.

The director denied the petition, concluding that the petitioner failed to establish that the beneficiary has achieved the required national or international acclaim in his field. The director found that the submitted evidence did not establish that the beneficiary meets any of the evidentiary criteria set forth at 8 C.F.R. § 214.2(o)(3)(iii)(B).

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review. On appeal, the petitioner asserts that the director did not view the beneficiary's achievements or profession in the proper context and undervalued the significance of the beneficiary's awards. The petitioner contends that the beneficiary's "extraordinary ability and incredible achievements have been demonstrated and documented in his many awards, support letters, and the international acclaim he has received as a top barista."

Section 101(a)(15)(O)(i) of the 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 extraordinary ability provisions of this visa classification are intended to be highly restrictive. *See* 137 Cong. Rec. S18247 (daily ed., Nov. 16, 1991). In order to establish eligibility for O-1 classification, the petitioner must establish that the beneficiary is "at the very top" of his field of endeavor. 8 C.F.R. § 214.2(o)(3)(ii).

The regulation at 8 C.F.R. § 214.2(o)(3)(ii) defines, in pertinent part:

*Extraordinary ability in the fields of science, education, business, or athletics* means a level of expertise indicating that the person is one of the small percentage who have arisen to the very top of the field of endeavor.

The regulation at 8 C.F.R. § 214.2(o)(3)(iii) states, in pertinent part:

*Evidentiary criteria for an O-1 alien of extraordinary ability in the fields of science, education, business or athletics.* An alien of extraordinary ability in the fields of science, education, business, or athletics must demonstrate sustained national or international acclaim and recognition for achievements in the field of expertise by providing evidence of:

(A) Receipt of a major, internationally recognized award, such as the Nobel Prize; or

- (B) At least three of the following forms of documentation:
- (1) Documentation of the alien's receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor;
  - (2) Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized or international experts in their disciplines or fields;
  - (3) Published material in professional or major trade publications or major media about the alien, relating to the alien's work in the field for which classification is sought, which shall include the title, date, and author of such published material, and any necessary translation;
  - (4) Evidence of the alien's participation on a panel, or individually as a judge of the work of others in the same or in an allied field of specialization to that for which classification is sought;
  - (5) Evidence of the alien's original scientific, scholarly, or business-related contributions of major significance in the field;
  - (6) Evidence of the alien's authorship of scholarly articles in the field, in professional journals, or other major media;
  - (7) Evidence that the alien has been employed in a critical or essential capacity for organizations and establishments that have a distinguished reputation;
  - (8) Evidence that alien has either commanded a high salary or will command a high salary or other remuneration for services, evidenced by contracts or other reliable evidence.
- (C) If the criteria in paragraph (o)(3)(iii) of this section do not readily apply to the beneficiary's occupation, the petitioner may submit comparable evidence in order to establish the beneficiary's eligibility.

Additionally, the regulation at 8 C.F.R. § 214.2(o)(2)(iii) provides:

The evidence submitted with an O petition shall conform to the following:

- (A) Affidavits, contracts, awards, and similar documentation must reflect the nature of the alien's achievement and be executed by an officer or responsible person employed by the institution, firm, establishment, or organization where the work was performed.

- (B) Affidavits written by present or former employers or recognized experts certifying to the recognition and extraordinary ability . . . shall specifically describe the alien's recognition and ability or achievement in factual terms and set forth the expertise of the affiant and the manner in which the affiant acquired such information.

The record consists of a petition with supporting documentation, a request for additional evidence (RFE) and the petitioner's reply, the director's decision, an appeal and an appellate brief. The beneficiary in this case is a native and citizen of Ireland and the 2008 winner of the World Barista Championship. The petitioner seeks to employ the beneficiary in the position of Director of Education and Training, a position which will entail further developing the petitioner's training program for baristas and wholesale customers through written training content, web based training tools, as well as one-to-one and group training and education sessions.

In denying the petition, the director found that while the beneficiary has been shown to be a talented barista, the petitioner did not establish that the beneficiary possesses extraordinary ability as a director of education and training, or that he has achieved the requisite national or international acclaim and recognition in his field. The director determined that the petitioner's evidence failed to establish that the beneficiary meets any of the criteria for O-1 classification as outlined at 8 C.F.R. § 214.2(o)(3)(iii)(B).

Upon review of the record of proceeding in its entirety, the AAO disagrees with the director's conclusion. The AAO finds that the petitioner has submitted probative evidence to establish that the beneficiary meets three of the eight criteria set forth at 8 C.F.R. § 214.2(o)(3)(iii)(B). Accordingly, the director's decision will be withdrawn and the petition will be approved.

If the petitioner establishes through the submission of documentary evidence that the beneficiary has received a major, internationally recognized award, such as the Nobel Prize, pursuant to 8 C.F.R. § 214.2(o)(3)(iii)(A), then it will meet its burden of proof with respect to the beneficiary's eligibility for O-1 classification. Here, it is not apparent that the beneficiary's field has an award that would be considered comparable to the Nobel Prize.

As there is no evidence that the beneficiary has received a major, internationally recognized award, the petitioner must establish the beneficiary's eligibility under at least three of the eight criteria set forth at 8 C.F.R. § 214.2(o)(3)(iii)(B).

In order to meet criterion number one, the petitioner must submit documentation of the alien's receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor. 8 C.F.R. § 214.2(o)(3)(iii)(I).

The beneficiary in this matter is the winner of the World Barista Championship held in Copenhagen, Denmark in June 2008. The director determined that there was insufficient evidence in the record to establish that this award is an internationally recognized prize or award for excellence in the beneficiary's field. The AAO disagrees. The record contains multiple published articles regarding the competition, as well as a statement from [REDACTED] Executive Director of the World Barista Championship. [REDACTED] indicates that the World Barista Championship was created jointly by the Specialty Coffee Association of America (SCAA) and the Specialty

Coffee Association of Europe (SCAE) and "serves as the premier global competition format for professional baristas." [REDACTED] further explains that "the championship represents over 50 nations with a tiered competition that involves thousands of coffee professionals worldwide. There is only one national champion that emerges to represent their country in the world finals." [REDACTED] further states, and the evidence of record confirms, that, subsequent to winning his title, the beneficiary was invited by the national specialty coffee associations of several other countries to serve as an honored guest and special instructor in various educational events, and to serve as a judge at regional and national level competitions. [REDACTED]'s statement, considered in light of the significant publicity and recognition the beneficiary received as a result of winning the World Barista Championship, are sufficient to establish that the beneficiary's title of World Barista Champion is an internationally recognized prize or award for excellence in the beneficiary's field.

The record further shows that the beneficiary has won nationally recognized titles, including the Irish Barista Championship (as a prerequisite for competing at the world championship level), the Irish Cup Tasters Championship, the Irish Latte Art Championship, and placed third in other world championship contests including the World Latte Art Championship and the World Coffee in Good Spirits Championships.

The AAO finds that the petitioner has met the first criterion at 8 C.F.R. § 214.2(o)(3)(iii)(I).

To meet the third criterion, the petitioner must submit published material in professional or major trade publications or major media about the alien, relating to the alien's work in the field for which classification is sought, which shall include the title, date, and author of such published material, and any necessary translation. 8 C.F.R. § 214.2(o)(3)(iii)(B)(3). The AAO finds that the beneficiary has met this criterion.

The petitioner submitted copies of the following publications featuring the beneficiary:

- [REDACTED] published in *Fresh Cup Magazine*;
- [REDACTED], published in the July 2008 issue of *Hospitality Ireland*;
- [REDACTED], published in the September 10, 2008 issue of *Theme* magazine;
- [REDACTED] published in the June 1, 2008 issue of the *Sunday Tribune Magazine* (Ireland);
- "[REDACTED]a," and [REDACTED] published in the July 15, 2008 issue of the *Irish Independent*.
- "[REDACTED] Champion [REDACTED]" published in the November 28, 2008 issue of "Winter Mornings," a Media Planet supplement to *The Evening Herald* (Ireland).
- [REDACTED] published in the December 2008 issue of *Café Europa* (cover story);
- Cover feature, August/September 2008 issue of [REDACTED]
- Print advertisements for [REDACTED] which include the beneficiary's endorsement of the brand, published in *Food & Wine* and other publications.

The AAO notes that the majority of the articles appeared in professional publications dedicated to the specialty coffee or general restaurant/hospitality industries. Given the beneficiary's area of claimed

extraordinary ability, being featured in substantial articles in such publications as the "world's best barista" is indicative of his standing at the top of his field. Furthermore, the beneficiary has been featured in the *Irish Independent*, which is a major national daily newspaper in Ireland. While the director dismissed the significance of this publication because the petitioner indicated a circulation of approximately 160,000, the AAO finds this figure qualifies as "major media" in Ireland, given that country's relatively small population.

Finally, the AAO finds that the petitioner has established that the beneficiary has participated on a panel as a judge of the work of others in the same field of specialization in which classification is sought. 8 C.F.R. § 214.2(o)(3)(iii)(iv).

The petitioner submitted evidence that the beneficiary was certified in December 2008 by the World Barista Championship as a 2009 WBC Certified Sensory Judge, and certified by the Specialty Coffee Association of America as a 2009 Judge for the Northwest Regional Barista Competition. The petitioner also submitted evidence that the beneficiary served as a judge for the Salvadoran Contest of Coffee Preparers held in San Salvador, El Salvador in October 2008.

In addition, the petitioner provided a letter from [REDACTED] of the Brazilian Coffee and Barista Association, an organization devoted to specialty coffee in Brazil which offers a national certification educational program for Baristas. [REDACTED] indicates that the beneficiary was invited to attend the association's 2009 Coffee Conference, where he "was a key element for judging competitors and selecting the competitor that represented Brazil at the World Barista Championship."

The AAO finds this evidence sufficient to establish that the beneficiary has served on judging panels for major competitions within his field of specialization, and therefore the petitioner has established that the beneficiary meets a third criterion for this visa classification.

The AAO has also taken into account the extensive testimonial evidence in the record from experts in the field familiar with the beneficiary's achievements, abilities and recognition. The testimonial evidence in the record demonstrates that the beneficiary's expertise in the specialty coffee field extends from training and educating other baristas who have competed in national and world-level competitions, to traveling throughout North America, South America and Europe as an international ambassador for the industry during his reign as world champion, to serving as a consultant to a leading Italian espresso machine manufacture to assist in the development of new brewing technologies. [REDACTED] of the Specialty Coffee Association of Europe, states that "there are few people in the world that have the experience and insight that [the beneficiary] has gained through his career and achievements, and no one of this caliber and rank in the United States." [REDACTED] indicates that the beneficiary's "talents are extremely rare," and that he "is certainly among the best coffee specialists in the world." [REDACTED] of the Specialty Coffee Association of America also counts the beneficiary as "one of the best [professional baristas] in the world."

Finally, the petitioner emphasizes that the USCIS must distinguish between a "professional barista" and a barista who works at a coffee or restaurant chain, noting that "the professional barista is equivalent to a skilled, acclaimed chef, or a talented baker/pastry chef except that s/he practices his or her craft with coffee." Counsel asserts that to win the World Barista Competition, one must be "the best in the world at this

particular coffee discipline," and possess deep knowledge of every aspect of coffee. The petitioner further states:

Upon winning the World Barista Championship, the champion is expected to become a leading ambassador of the global Specialty Coffee industry and travel the world making public appearances and leading training seminars and workshops. Since winning the World Barista Championship, [the beneficiary] commands a daily rate of \$2,000 for his services and has given intensive seminars and workshops in the following countries around the world: Brazil, Argentina, Columbia, German, Denmark, Italy, Greece, United Kingdom, Taiwan, El Salvador, Guatemala, Nicaragua, Columbia, Ireland, Canada and all over the United States.

While the director found that the beneficiary is a "talented" barista, he was not persuaded that the beneficiary's proposed position as director of education and training was in the area of the beneficiary's claimed extraordinary ability. The AAO finds that the beneficiary has in fact been recognized as one of the small percentage who has risen to the very top of his field as a professional barista, and that his proposed role as a director of education and training for the petitioner's barista training program is within his area of extraordinary ability. In reaching this conclusion, the AAO notes the petitioner's statements that the beneficiary has trained and coached U.S., Brazilian and United Kingdom national champions, and served on the coaching team of the 2007 World Barista Champion. The beneficiary's experience in training professional baristas competing at the highest levels is also referenced in several of the published articles and testimonial letters submitted. Therefore, the petitioner has established that training and educating other baristas is within the beneficiary's area of expertise, and that the beneficiary seeks to enter the United States to continue work in his area of extraordinary ability.

The extraordinary ability provisions of this visa classification are intended to be highly restrictive. *See* 137 Cong. Rec. S18247 (daily ed., Nov. 16, 1991). In order to establish eligibility for extraordinary ability, the statute requires evidence of "national or international acclaim" and evidence that the alien's achievements have been recognized in the field of endeavor through "extensive documentation." The petitioner has established that the beneficiary's abilities have been so recognized. The petitioner has demonstrated that he meets at least three of the criteria set forth in 8 C.F.R. § 214.2(o)(3)(iii), and as such may be considered to be an individual with extraordinary ability as a professional barista. Therefore, the appeal will be sustained.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. Here, that burden has been met.

**ORDER:** The director's decision dated June 3, 2009 is withdrawn. The petition is approved.