

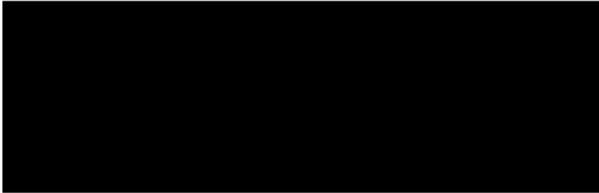
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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals, MS 2090  
Washington, DC 20529-2090



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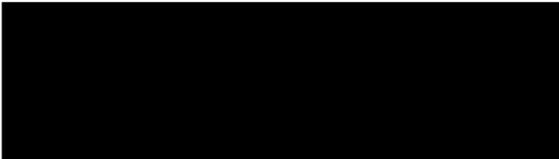
SEP 30 2010

IN RE:      Petitioner:  
                 Beneficiary:



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:

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.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew  
Chief, Administrative Appeals Office

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

The petitioner, an event company, filed this nonimmigrant 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 the arts. The petitioner seeks to employ the beneficiary as a performer, event supervisor, and professional ballroom dance instructor for a period of three years.

The director denied the petition based on two independent grounds, determining: (1) that the petitioner failed to provide a written advisory opinion from the appropriate consulting entity; and (2) the petitioner's explanation of the intended events for the beneficiary does not establish that he is coming to the United States to provide services related to a specific event or events.

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, counsel asserts that the petitioner submitted numerous peer review letters in lieu of a consultation from a labor consultation, and emphasizes that it provided evidence that the "Professional Dancers Association" does not provide consultations in immigration matters. Counsel further asserts that the itinerary provided by the petitioner clearly identifies discrete events, and suggests that the director did not conduct a substantive review of the evidence. Finally, the petitioner asserts that the director's decision refers to the beneficiary as a "designer" and thus clearly "does not relate to the beneficiary or petitioner."

## **I. The Law**

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

*Arts* includes any field of creative activity or endeavor such as, but not limited to, fine arts, visual arts, culinary arts, and performing arts.

*Extraordinary ability in the field of arts* means distinction. Distinction means a high level of achievement in the arts evidenced by a degree of skill and recognition substantially above that ordinarily encountered to the extent that a person described as prominent is renowned, leading, or well-known in the field of arts.

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

*Evidentiary criteria for an O-1 alien of extraordinary ability in the arts.* To qualify as an alien of extraordinary ability in the field of arts, the alien must be recognized as being prominent in his or her field of endeavor as demonstrated by the following:

- (A) Evidence that the alien has been nominated for, or the recipient of, significant national or international awards or prizes in the particular field such as an Academy Award, an Emmy, a Grammy, or a Director's Guild Award; or
- (B) At least three of the following forms of documentation:
  - (1) Evidence that the alien has performed, and will perform, services as a lead or starring participant in productions or events which have a distinguished reputation as evidenced by critical reviews, advertisements, publicity releases, publications, contracts, or endorsements;
  - (2) Evidence that the alien has achieved national or international recognition for achievements evidenced by critical reviews or other published materials by or about the individual in major newspapers, trade journals, magazines, or other publications;
  - (3) Evidence that the alien has performed, and will perform, in a lead, starring, or critical role for organizations and establishments that have a distinguished reputation evidenced by articles in newspapers, trade journals, publications, or testimonials;
  - (4) Evidence that the alien has a record of major commercial or critically acclaimed successes as evidenced by such indicators as title, rating, standing in the field, box office receipts, motion picture or television ratings, and other occupational achievements reported in trade journals, major newspapers, or other publications;
  - (5) Evidence that the alien has received significant recognition for achievements from organizations, critics, government agencies, or other recognized experts in the field in which the alien is engaged. Such testimonials must be in a form which clearly indicates the author's authority, expertise, and knowledge of the alien's achievements; or
  - (6) Evidence that the alien has either commanded a high salary or will command a high salary or other substantial remuneration for services in relation to others in the field, as evidenced by contracts or other reliable evidence; or

- (C) If the criteria in paragraph (o)(3)(iv) 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.

The regulation at 8 C.F.R. § 214.2(o)(2)(ii) provides that petitions for O aliens shall be accompanied by the following:

- (A) The evidence specified in the particular section for the classification;
- (B) Copies of any written contracts between the petitioner and the alien beneficiary or, if there is no written contract, a summary of the terms of the oral agreement under which the alien will be employed;
- (C) An explanation of the nature of the events or activities, the beginning and end dates for the events or activities, and a copy of any itinerary for the events or activities; and
- (D) A written advisory opinion(s) from the appropriate consulting entity or entities.

The regulation at 8 C.F.R. § 214.2(o)(5)(ii) further details the consultation requirements for an O-1 alien of extraordinary ability as follows:

- (A) Content. Consultation with a peer group in the area of the alien's ability (which may include a labor organization), or a person or persons with expertise in the area of the alien's ability is required in an O-1 petition for an alien of extraordinary ability. If the advisory opinion is not favorable to the petitioner, the advisory opinion must set forth a specific statement of facts which supports the conclusion reached in the opinion. If the advisory opinion is favorable to the petitioner, it should describe the alien's ability and achievements in the field of endeavor, describe the nature of the duties to be performed, and state whether the position requires the services of an alien of extraordinary ability. A consulting organization may also submit a letter of no objection in lieu of the above if it has no objection to the approval of the petition.
- (B) Waiver of consultation of certain aliens of extraordinary ability in the field of arts. Consultation for an alien of extraordinary ability in the field of arts shall be waived by the Director in those instances where the alien seeks readmission to the United States to perform similar services within 2 years of the date of a previous consultation. . . . Petitioner's desiring to avail themselves of the waivers should submit a copy of the prior consultation with the petition and advise the Director of the waiver request.

## **II. Analysis**

As a preliminary matter, the AAO will address counsel's claim that the director's decision dated August 20, 2009 clearly "does not relate to the beneficiary or petitioner." Counsel's contention is based upon the following sentence, which appears on page six of the director's decision: "The petitioner appears to seek to employ the beneficiary as a designer to serve its clients in the normal course of business." Counsel emphasizes that the evidence clearly establishes that the beneficiary is a ballroom dancer, rather than a designer, and questions whether the decision pertains to the instant petition.

The AAO acknowledges this error on the part of the director. However, while such error is regrettable, a review of the adverse decision as a whole reveals that the director conducted a thorough review of the evidence and provided ample support for the conclusions reached regarding the petitioner and beneficiary's eligibility, based on the evidence of record. Therefore, counsel's assertion that the decision does not relate to the instant petition is without merit.

The first issue to be addressed is whether the petitioner provided the required written advisory opinion from an appropriate consulting entity, pursuant to 8 C.F.R. § 214.2(o)(2)(ii)(D).

On the O and P Classification Supplement that accompanied the Form I-129, the petitioner indicated that it obtained the required written consultation and attached it to the petition. The petitioner did not identify the name of the peer group or labor organization that provided the consultation.

Upon review of the index of documents that accompanied the initial petition, the petitioner did not identify which exhibit contained the required consultation letter, but rather listed two exhibits containing "letters of reference." Furthermore, the petitioner did not provide a copy of any previous consultation letter submitted on behalf of the beneficiary or request a waiver of the consultation requirement pursuant to 8 C.F.R. § 214.2(o)(5)(ii)(B). The beneficiary was previously granted O-1 classification for employment with a different petitioner in 2006. The AAO notes that any previous consultation letter would likely have been more than two years old at the time the instant petition was filed on April 24, 2009. As such, it does not appear that the petitioner would have been eligible for a waiver of the requirement even if such a waiver had been requested.

The petitioner indicated that it was submitting "information from the Professional Dancers Federation (PDF) indicating its policy of remaining neutral in immigration-related matters." This evidence consisted of an e-mail message dated August 28, 2006 in which [REDACTED] advised [REDACTED] that [REDACTED] should not use his PDF title or letterhead if he writes a recommendation letter in support of an immigration petition. [REDACTED] stated that "we should remain neutral with regard to immigration matters." The petitioner provided evidence that [REDACTED] and [REDACTED] held the positions of [REDACTED] respectively, within PDF.

As noted above, the director issued an RFE on July 2, 2009. Counsel asserts on appeal that the director did not request a consultation from a peer group or labor organization. However, page three of the RFE includes the following instructions:

**Additional Evidence:**

An alien of extraordinary ability in the arts requires only one consultation from a labor organization. However, if an appropriate labor organization does not exist then a consultation from a peer group is sufficient.

Events and itinerary: Provide an explanation of the nature of the events or activities and a copy of any itinerary for the events or activities and a written advisory opinion(s) from the appropriate consulting entity or entities.

The petitioner did not submit a consultation from a labor organization or peer group in response to the RFE or otherwise acknowledge this portion of the RFE.

Therefore, notwithstanding counsel's contentions to the contrary, the director provided ample notice that a consultation from a labor organization or peer group would be required in support of the petition, and specifically requested that the petitioner submit the required written consultation. Failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14).

On appeal, counsel asserts that "letters from multiple professionals were presented with the initial filing, which also serve as a peer review."

The regulation at 8 C.F.R. § 214.2(o)(5)(ii)(A) provides that the required consultation may be provided by "a person or persons with expertise in the area of the alien's ability." The regulation states that "if the advisory opinion is favorable to the petitioner, it should describe the alien's ability and achievements in the field of endeavor, describe the nature of the duties to be performed, and state whether the position requires the services of an alien of extraordinary ability." *Id.*

As noted above, while the record contains numerous letters of reference from ballroom dancers, the petitioner did not indicate prior to the denial that any specific letter or letters were being submitted to satisfy the evidentiary requirement at 8 C.F.R. § 214.2(o)(ii)(2). The petitioner did not refer to this requirement other than providing evidence that one organization, the Professional Dancers Federation, is unwilling to provide consultations in immigration matters. The petitioner did not establish that there is no appropriate peer group or labor organization with expertise in the beneficiary's field.

While the submitted reference letters are highly complimentary to the beneficiary, and some of the letters mention some of the beneficiary's specific achievements in his field, none of the letters describe the nature of the duties to be performed or state whether the position requires the services of an alien of extraordinary ability. Such content is specifically required by 8 C.F.R. § 214.2(o)(5)(ii)(A).

Based on the foregoing, the AAO concurs with the director's conclusion that the petitioner has not submitted the required written advisory opinion from an appropriate consulting entity. Accordingly, the appeal will be dismissed.

The second issue addressed by the director is whether the petitioner adequately described the nature of the beneficiary's planned events or activities, the beginning and end dates for such activities, and provided an adequate itinerary for the events or activities. The director concluded that the evidence failed to identify that the beneficiary would be performing at specific events.

In denying the petition, the director cited to 8 C.F.R. § 214.2(o)(3)(ii) which defines the term "event" as follows:

Event means an activity such as, but not limited to, a scientific project, conference, convention, lecture series, tour, exhibit, business project, academic year, or engagement. Such activity may include short vacations, promotional appearances, and stopovers which are incidental to and/or related to the event. A group of related activities may also be considered to be an event. In the case of an O-1 athlete, the event could be the alien's contract.

In publishing the final O and P visa rule amending the regulations at 8 C.F.R. § 214.2 to reflect changes made by the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991, Public Law 102-232 (December 12, 1991), the legacy Immigration and Naturalization Service made the following observations:

Admission Periods for O Nonimmigrants—214.2(o)(10)

One commenter suggested that there be no regulatory limit on the length of admission for an O nonimmigrant alien. The suggestion cannot be adopted since the period of stay for an O nonimmigrant is limited by the Act to the period of time required by the alien to complete the event or events described on the petition. An O-1 classification may not be granted to an alien to enter the United States to freelance in the open market. An O-1 alien must be coming to the United States for specific reasons.

59 Fed. Reg. 41808-01, 41822. 1994 WL 422027, Rules and Regulations, Department of Justice, Immigration and Naturalization Service, 8 C.F.R. Part 214, *Temporary Alien Workers Seeking H-1B, O and P Classifications Under the Immigration and Nationality Act*, Monday, August 15, 1994.

The petitioner, an event company with six employees, indicated on Form I-129 that it seeks to employ the beneficiary as a performer, event supervisor and professional ballroom instructor and will compensate him at an hourly rate of \$25.00. On the O and P Classifications Supplement to Form I-129, the petitioner, where asked to explain the nature of the event stated that the beneficiary will:

Perform at shows and events, teach ballroom dance, and supervise at events when not performing. Competing in dance competition to enhance [sic] the individual as well as [the petitioner]

The petitioner further described the beneficiary's proposed duties as the following:

Teach forms of dance at two specified dance studios; Prepare students for local, regional and national dance competition by choreographing various routines as required, coaching and leading. Perform at events with his partner. Compete at local, regional, national and international professional dance competitions.

In a letter dated January 20, 2009, the petitioner explained that it has been referring the beneficiary's services for performances at weddings, parties and other celebrations for the past three years and now seeks to offer him employment. The petitioner further stated:

Apart from performing at our events, [the petitioner] will place [the beneficiary and his partner] at two dance studios whereby their student base will grown [sic] as a result of that connection, (this has already been confirmed). Through [the petitioner], [the beneficiary] will work at these two studios teaching all forms of dance and preparing students for competition and showcasing.

With [the petitioner] and its referrals, [the beneficiary] is currently:

- Teaching all forms of dance for special events such as weddings, etc.
- Performing at our special events with his partner

Upcoming plans with [the petitioner] for [the beneficiary]:

- Teaching all forms of dance at two specified dance studios
- Preparing students for local, regional and national dance competition by choreographing various routines as required, coaching and leading
- Choreographing, coaching and leading students in various routines for showcasing
- Performing at events with his partner Ingrid
- Demonstrations for charity events such as various senior centers, studio demonstrations and other organizations
- Preparing Brides and Grooms and their families for the 1<sup>st</sup> Dance, etc.
- Compete with his partner at local, regional and national professional dance competitions which serves to enhance the name recognition and prestige for both [the beneficiary], his partner Ingrid and [the petitioner].
- Various Television Performances
- Supervision and management of events
- Whatever may come

The petitioner further states:

Based on student instruction alone, I anticipate that [the beneficiary] will earn a salary of \$40,000.00 to \$60,000.00 annually; \$50.00 per student, 50 minutes per class, with five to eight students per day. With the addition of competitions prize money, events and television,

the potential earnings could be considerably higher. Not to mention that any event contracted by [the beneficiary] personally would allow him 100% of those earnings as he is allowed to work as an independent agent as well. . . . We expect that there will come a day in the future when [the beneficiary] will have his own business, it is inevitable, his talent, charisma and professionalism will expect no less; we at [the petitioning organization] will encourage and support any future personal growth for business or otherwise as we continue our association, even if only in a referral capacity when that day comes.

The petitioner submitted a business plan, in which it indicated that it recently recommenced business activities in January 2009 after a two-year break from operations. The petitioner indicates that during the break, she "continued to receive many referrals for events" which she "passed on to [the beneficiary] whenever possible providing him with work as a performer for all types of special events." The business plan indicates the petitioner's intent to feature the beneficiary and his partner by providing opportunities for them to teach dance lessons, to encourage his participation in competitions, and to promote themselves on television and at personal appearances.

The petitioner submitted a copy of its agreement with the beneficiary which states that he will be retained as a consultant "to provide Dance Classes at two specific dance studios as well as perform and supervise at special events contracted by [the petitioner] and compete professionally." The agreement indicates that the petitioner will compensate the beneficiary at a rate of at least \$25.00 per hour and up to a maximum of \$1500.00 "for those events requesting services of performing several dances for that event." The agreement further provides that the beneficiary is "free to peruse other business ventures while under agreement with [the petitioner]." Specifically, the agreement indicates that he may freely contract for shows and performances without any prior consent from the petitioner.

With respect to the dance lessons to be provided by the beneficiary, the petitioner submitted a letter dated January 28, 2009 from [REDACTED] who indicates that her studio, as well as a "partner dance studio," [REDACTED] have partnered with the petitioner for Ballroom Dance instruction. Specifically, she states that the petitioner uses its studios for ballroom dance instruction, and plans to bring in the beneficiary and his partner as new teachers "as they use our studios for their business." [REDACTED] states that the petitioner and the two dance studios operate independently of each other.

The petitioner also submitted a letter dated January 22, 2009 from [REDACTED]. She states that she owns and operates a dance studio in Reseda, California and that her "teaching staff is composed of some ten instructors including [the beneficiary] for the past year." [REDACTED] further stated that she presents an annual dance spectacular at the Kavili Theatre at which the beneficiary and his spouse were recently the prime attraction.

As noted above, in the RFE issued on July 2, 2009, the director requested an explanation of the nature of the events or activities requiring the beneficiary's services. The director also requested a complete itinerary for all events, the exact periods for each service, and the names and addresses of the locations/employers.

In response, the petitioner indicated that the beneficiary will appear monthly at the Valencia Hyatt Hotel in Valencia, California in a program called "An Evening of Ballroom Dance" hosted by the petitioning organization, beginning August 22, 2009. The petitioner listed "other future events and plans" as the following:

[The beneficiary] as the Featured Dancer with [REDACTED] for event on August 8<sup>th</sup>, Private Senior Resort, The Belcaro, Valencia, CA 91355

[The beneficiary] will be the featured instructor to hundreds of students teaching Latin Rhythm. In Palm Springs, for a Ballroom Dance Camp, the weekend of August 29<sup>th</sup> through August 31<sup>st</sup>, 2009

There are many future opportunities pending. A television appearance at Teletica Channel 7, Costarican Television Network for a new Dance program called "Studio 7" [the beneficiary] and his partner Ingrid Blanco Rojas have been approached to make a guest appearance and perform.

Perform at private events, Choreograph and Teach

**Future Competitions:**

Holiday Dance Classics Championships, Las Vegas, Nevada  
December 9<sup>th</sup>, through 13<sup>th</sup> 2009

Vegas Showdown, Las Vegas, Nevada  
March 5<sup>th</sup> and 6<sup>th</sup>, 2010

Emerald Ball Dancesport Championships, Los Angeles, Airport Hilton Hotel  
April 28 through May 2, 2010

San Diego Dancesport Championships, Westin Horton Plaza, San Diego, CA  
June 10<sup>th</sup> through 13<sup>th</sup> 2010

Embassy Ball Dancesport Championships, Inc. Hyatt Regency Hotel, Jamboree Rd., Irvine, CA  
September 2<sup>nd</sup> through 5<sup>th</sup> 2010

California Star Ball Championships, Radisson Hotel, LAX Airport, Los Angeles, CA  
November 26<sup>th</sup> through 28<sup>th</sup> 2010

The petitioner submitted a flyer for the beneficiary's upcoming performance at The Valencia Hyatt Hotel on August 22, 2009. The flyer describes the program as "An Evening of Ballroom Dancing with Willy & Ingrid of D'Wilfri Dance Art and Entertainment," and indicates that it is presented by the petitioner. The petitioner

also submitted a number of invoices evidencing the beneficiary's receipt of payments for previous performances occurring in 2007 and 2008. This evidence shows that the beneficiary and his partner have been billing clients directly for their performances at events using the names "Willy & Ingrid Entertainment" and, more recently, "D'Wilfri Danceart & Entertainment."

The director denied the petition on August 20, 2009. Referring to the varied list of proposed duties listed in the petitioner's initial letter, the director concluded that the petitioner did not indicate that the beneficiary would be participating in "the type of specific event contemplated for the temporary employment of an alien with extraordinary ability in the arts," and did not establish that the beneficiary would be continuing employment in the area of extraordinary ability.

On appeal, counsel for the petitioner states:

The decision mysteriously finds that the itinerary [*sic*] as described does not contain discrete [*sic*] events. However, in response to the RFE, the petitioner outlined multiple and numerous discrete [*sic*] events, some repetitive [*sic*] and some not. The position of the Service Center director is incomprehensible and does not include a substantive review of the evidence.

Upon review, and for the reasons discussed below, the AAO concurs with the director's determination. Upon review of the totality of the evidence, it appears that the beneficiary will be in large part freelancing on the open market rather than performing services specifically for the petitioner. As noted above, an O-1 classification may not be granted to an alien to enter the United States to freelance in the open market.

Although the petitioner states that the beneficiary will be working "through the petitioner" in teaching dance lessons, the petitioner has not submitted any details regarding the terms of this arrangement. The petitioner's letter suggests that the beneficiary will actually retain all monies earned in providing dance instruction, rather than being paid by the petitioner to provide this service for its event planning organization. Specifically, the petitioner stated that "based on student instruction, I anticipate that [the beneficiary] will earn a salary of \$40,000.00 to \$60,000.00 annually; \$50.00 per student, 50 minutes per class, with five to eight students per day." This information appears to be at odds with the petitioner's statement that it intends to pay the beneficiary \$25.00 per hour for his services. Ms. Patka, the owner of one of the studios at which the petitioner claims it will employ the beneficiary, already counts the beneficiary as one of her regular instructors and she makes no mention of hiring the beneficiary through the petitioning company. While the AAO does not doubt that the beneficiary will spend some portion of his time providing services as a dance instructor, there is ample reason to question whether he will do so as an employee or contractor of the petitioner.

In addition, the petitioner clearly indicates that the beneficiary intends to personally contract his own activities and events independently of the petitioner, and does not claim to be serving as his agent pursuant to 8 C.F.R. § 214.2(o)(2)(iv)(E). The petitioner indicates that it expects that "there will come a day in a future when [the beneficiary] will have his own business," but the record shows that the beneficiary and his partner are already doing business as "D'Wilfri Danceart & Entertainment," and have been freelancing their services

under this and a previous name since early 2007. The beneficiary will be providing services to the petitioner, but the petitioner will clearly not be his only employer and it appears that he will continue to work for multiple employers on a short-term basis as he independently secures additional performance opportunities.

The only discrete future event at which the beneficiary would appear on behalf of the petitioning company is the "Evening of Ballroom" dance at the Valencia Hyatt Hotel. The petitioner indicates that this event will occur monthly, but did not provide a copy of its contract with the hotel confirming this. Although the petitioner listed a number of competitions at which the beneficiary expects to compete through November 2010, it did not indicate that he will do so on behalf of the petitioner. The petitioner indicates that the beneficiary will keep all prize monies he receives at dance competitions and the petitioner does not appear to be acting as the beneficiary's manager or agent for the purposes of such competitions.

Upon review, the record remains nearly devoid of documentation to support the petitioners' claim that the beneficiary will be engaged in qualifying "events" on behalf of the petitioner. If the beneficiary is in fact "representing" the petitioner in dance competitions, then it is reasonable to expect the petitioner to be able to produce some documentary evidence in support of its claims. The petitioner has not provided evidence that it intends to compensate the beneficiary in any way for his competitive dancing, nor does the petitioner claim to receive anything in return.

Based on the evidence of record, it appears that the beneficiary, at most, may be working part-time as a dance instructor for the petitioner, occasionally performing at the petitioner's events, independently performing at live and televised events that he personally arranges under the fictitious name of "D'Wifri Danceart & Entertainment," and independently entering dance competitions. Given the largely freelance nature of the beneficiary's work, the AAO concurs with the director's conclusion that the beneficiary's proposed activities are not the types of specific events contemplated for an alien with extraordinary ability in the arts. The petitioner has not supported its claim that it intends to utilize the beneficiary's full-time services over a period of three years for a discrete event or events, or that the employment arrangement described in the record, in which the beneficiary is encouraged to arrange his own work, is acceptable for an O-1 alien of extraordinary ability. Accordingly, the appeal will be dismissed.

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, the petitioner has not met that burden.

**ORDER:** The appeal is dismissed.