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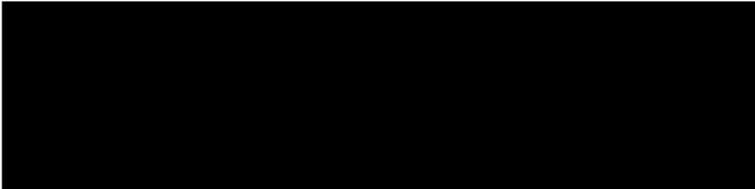
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals, MS 2090
Washington, DC 20529-2090



U.S. Citizenship
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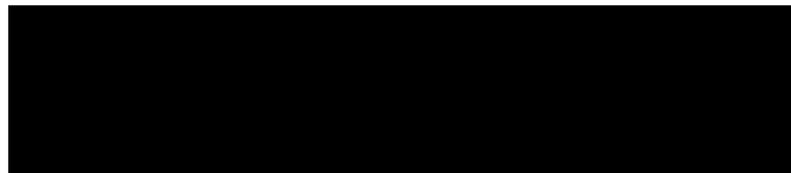
D9



MAR 04 2010

FILE: WAC 08 251 50938 Office: CALIFORNIA SERVICE CENTER Date:

IN RE: Petitioner:
Beneficiary:



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

ON BEHALF OF PETITIONER: SELF-REPRESENTED

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. 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. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

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 AAO will summarily dismiss the appeal.

The petitioner filed the nonimmigrant petition seeking classification of the beneficiaries under section 101(a)(15)(P)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(P)(iii), as entertainers in a culturally unique program. The beneficiaries are members of a Chinese acrobatics troupe. The petitioner states that it is a booking agency for school assembly programs. The petitioner seeks to employ the beneficiaries for a period of approximately eight months.

The director denied the petition, concluding that the petitioner failed to submit the required written consultation from a labor organization, as required by subparts (p)(2)(ii)(D) and (p)(7)(v) of 8 C.F.R. § 214.2, and for submission of a falsified document. The director acknowledged that the petitioner submitted a consultation letter dated August 23, 2008 from [REDACTED], American Guild of Variety Artists (AGVA). However, the director noted that the document contained obvious handwritten alterations and that [REDACTED] has confirmed that his office did not make the alterations, and that such alterations were made without the knowledge of the AGVA. The director emphasized that, because the petitioner submitted falsified evidence submitted in support of a material assertion, USCIS "is under no obligation to assume that the consultation letter issued by [AGVA] is the only falsified document in the record," and, likewise, not obligated to verify the entire record of proceeding.

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's president, [REDACTED] concedes that he instructed his secretary to make the alterations on the AGVA consultation letter. [REDACTED] states that the August 23, 2008 letter as issued by AVGA contained two clerical errors as it indicated the requested classification as "O-2" instead of "P-3" and the number of beneficiary's as two instead of five. He acknowledges that it was inappropriate for him to correct the errors and that he should have contacted the AVGA for a revised consultation letter.

[REDACTED] further states that he has requested and received favorable consultation letters from AGVA in the past for the same P-3 group and provides a copy of a prior consultation letter issued by AVGA in November 2007. He states that he "would be happy to send another formal request to AGVA for the correct consultation."

Section 101(a)(15)(P)(iii) of the Act, provides for classification of an alien having a foreign residence which the alien has no intention of abandoning who:

- (I) performs as an artist or entertainer, individually or as part of a group, or is an integral part of the performance of such a group, and
- (II) seeks to enter the United States temporarily and solely to perform, teach, or coach as a culturally unique artist or entertainer or with such a group under a commercial or noncommercial program that is culturally unique.

Regulations at 8 C.F.R. § 103.3(a)(1)(v) state, in pertinent part:

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

Upon review, the AAO concurs with the director's decision and affirms the denial of the petition. The petitioner's president concedes his own inappropriate actions in altering a material document submitted in support of the petition. However, the petitioner has not specifically identified any erroneous conclusion of law or statement of fact on the part of the director. The director correctly concluded that the petitioner failed to submit a credible written consultation letter and submitted a falsified document which raises questions regarding the credibility of the evidence as a whole. Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).

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. Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in support of the appeal, the petitioner has not sustained that burden.

ORDER: The appeal is summarily dismissed.