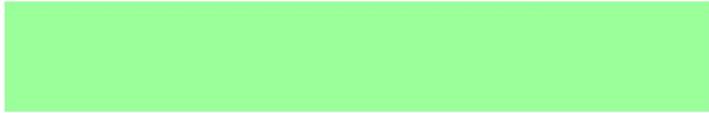


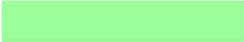
(b)(6)

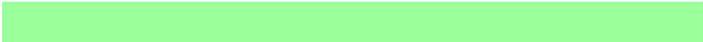
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

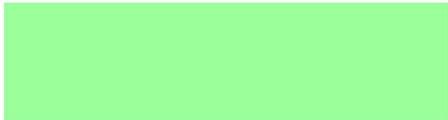


DATE: **SEP 05 2013** Office: VERMONT SERVICE CENTER FILE: 

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:



Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the petition for a nonimmigrant visa and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner filed this nonimmigrant petition seeking classification of the beneficiary 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 an artist or entertainer in a culturally unique program. The petitioner is self-described as an entertainment company. The beneficiary was previously granted P-3 status and the petitioner seeks to extend the beneficiary's status for an additional period of one year.

The director denied the petition, concluding that the petitioner failed to submit evidence that the beneficiary possesses culturally unique skills as an artist or entertainer or that all of his performances or presentations would be culturally unique events. The director further found that although the submitted evidence identifies the beneficiary variously as a stage manager/stage director/actor, the evidence fails to establish that the beneficiary is an artist or an entertainer, or that the beneficiary's proposed activities fall within the plain language of the statute, set forth at section 101(a)(15)(P)(iii)(I) of the Act, or within the regulatory definition of "arts."

Although a timely appeal was filed, the AAO notes that the only Form G-28, Notice of Entry of Appearance as Attorney or Representative, submitted by current counsel was signed by the beneficiary, and the petitioner is not named as the represented party either on the Form G-28 or the Form I-290B. Thus, the record shows that current counsel represents the beneficiary, not the petitioner.

The regulation at 8 C.F.R. § 103.3(a)(1)(iii) states:

- (B) *Meaning of affected party.* For purposes of this section and sections 103.4 and 103.5 of this part, *affected party* means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

Similarly, only an authorized party may maintain an appeal. 8 C.F.R. § 103.3(a)(2)(v) states:

Improperly filed appeal—(A). Appeal filed by person or entity not entitled to file it--
(1) Rejection without refund of filing fee. An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

Inasmuch as neither the beneficiary nor his representative has standing to file an appeal in this matter, the appeal must be rejected as improperly filed, pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A).¹

¹In addition, according to New York State Department of State records accessed on August 5, 2013, the petitioner's corporate status is "inactive" with a "Dissolution by Proclamation/Annulment of Authority" dated January 25, 2012. The AAO notes this petition was filed on July 30, 2012. The New York State Department of Taxation and Finance Technical Services Bureau Memo 86(5)C (revised September 15, 1986) defines dissolution by proclamation as follows: "A domestic (formed in New York State) corporation which has failed to file required franchise tax reports or pay franchise taxes due for two consecutive years may be dissolved by the Secretary of State upon recommendation by the

ORDER: The appeal is rejected.

State Tax Commission." The memo also notes that dissolution by proclamation "will result in substantial penalties against the corporation," and that "once the corporation is dissolved, its name may no longer be used legally." Therefore, since the corporation may not carry on any further business except that necessary to wind up and liquidate its affairs, the company can no longer be considered a legal entity in the United States. *See* New York Business Corporation Law Article 10, section 1005(a)(1)(2013). Therefore, if this appeal were not being rejected for the reasons set forth herein, this would call into question the petitioner's continued eligibility for the benefit sought.