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

(b)(6)

U.S. Citizenship and Immigration Services

Date: SEP 15 2014 Office: CALIFORNIA SERVICE CENTER FILE:

IN RE: Petitioner:
Beneficiaries:

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

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS

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,

Ron Rosenberg
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. We will dismiss the appeal.

The petitioner states that it is a talent management business acting as agent for the six beneficiaries who are members of the Mexican band ' The petitioner filed a Form I-129, Petition for a Nonimmigrant Worker, seeking classification of the beneficiaries under section under section 101(a)(15)(P)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(P)(i), as an internationally-recognized entertainment group, so that they may accept employment temporarily in the United States to perform at various venues for a period of one year.

The director denied the petition, concluding that the petitioner did not establish that the beneficiaries have been recognized internationally as outstanding in their field for a sustained and substantial period of time.

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to us for review. At the outset, the petitioner asserts general errors, including the director's statements regarding the location of the petitioner, its lack of employees and gross income of $150,000. The petitioner has not established that the director mischaracterized the information the petitioner provided. Specifically, the petitioner provided a P.O. box with no evidence of its physical location or operations. Further, part 5 of the petition listed no current employees and a gross annual income of $150,000. Thus, the director's decision correctly reflects the information the petitioner provided on the petition.

The petitioner further asserts that the beneficiaries as a group are internationally recognized by virtue of their music being played in more than one country, as supported by evidence that "the multiple television appearances they have made were on United States and International broadcasters[.]" The petitioner submits a brief and additional documentary evidence in support of the appeal.

Upon review, and for the reasons stated herein, the petitioner has not established that the beneficiaries' group has been internationally recognized as outstanding in the discipline for a sustained and substantial period of time.

I. The Law

Under section 101(a)(15)(P)(i) of the Act, an alien having a foreign residence which he or she has no intention of abandoning may be authorized to come to the United States temporarily to perform services for an employer or sponsor. Section 214(c)(4)(B)(i) of the Act, 8 U.S.C. 1184(c)(4)(B)(i), provides that section 101(a)(15)(P)(i)(b) of the Act applies to an alien who:

(I) performs with or is an integral and essential part of the performance of an entertainment group that has (except as provided in clause (ii)) been recognized internationally as being outstanding in the discipline for a sustained and substantial period of time,

(II) in the case of a performer or entertainer, except as provided in clause (iii), has had a sustained and substantial relationship with that group (ordinarily for at least one year) and provides functions integral to the performance of the group, and

(III) seeks to enter the United States temporarily and solely for the purpose of performing as such a performer or entertainer or as an integral and essential part of a performance.

The regulation at 8 C.F.R. § 214.2(p)(1) provides for classification of artists, athletes, and entertainers:

(i) *General.* Under section 101(a)(15)(P) of the Act, an alien having a residence in a foreign country which he or she has no intention of abandoning may be authorized to come to the United States temporarily to perform services for an employer or a sponsor. Under this nonimmigrant category, the alien may be classified under section 101(a)(15)(P)(i) of the Act as an alien who is coming to the United States to perform services as . . . [a] member of an internationally recognized entertainment group.

P-1 classification is accorded to the entertainment group as a unit, and is not available to individual members of the group to perform separate and apart from the group. 8 C.F.R. § 214.2(p)(4)(iii)(A). Except for the limited circumstances provided for in 8 C.F.R. § 214.2(p)(4)(iii)(C)(2) relating to certain nationally known entertainment groups, it must be established that the group has been internationally recognized as outstanding for a sustained and substantial period of time, and at least 75 percent of the group must have had a minimum of a one-year relationship with the group and must provide functions integral to the group's performance. *Id.* The petitioner bears the burden of proof in establishing that each of these requirements has been satisfied.

The regulation at 8 C.F.R. § 214.2(p)(1)(ii)(A) provides P-1 classification to an alien who is coming temporarily to the United States:

(2) To perform with, or as an integral part of the performance of, an entertainment group that has been recognized internationally as being outstanding in the discipline for a sustained and substantial period of time, and who has a sustained and substantial relationship with the group (ordinarily for at least 1 year) and provides functions integral to the performance of the group.

The regulation at 8 C.F.R. § 214.2(p)(3) defines "international recognition" as follows:

> *Internationally recognized* means having a high level of achievement in a field evidenced by a degree of skill and recognition substantially above that ordinarily encountered, to the extent that such achievement is renowned, leading, or well known in more than one country.

The regulation at 8 C.F.R. § 214.2(p)(4)(iii)(B) requires that a petition for members of internationally recognized entertainment groups must be accompanied by:

(*1*) Evidence that the group has been established and performing regularly for a period of at least 1 year;

(*2*) A statement from the petitioner listing each member of the group and the exact dates for which each member has been employed on a regular basis by the group; and

(*3*) Evidence that the group has been internationally recognized in the discipline for a sustained and substantial amount of time. This may be demonstrated by the submission of evidence of the group's nomination or receipt of significant international awards or prizes for outstanding achievements in its field or by three of the following types of documentation:

(i) Evidence that the group has performed, and will perform, as a starring or leading entertainment group in productions or events which have a distinguished reputation as evidenced by critical reviews, advertisements, publicity releases, publications, contracts, or endorsements;

(*ii*) Evidence that the group has achieved international recognition and acclaim for outstanding achievement in its field as evidenced by reviews in major newspapers, trade journals, magazines, or other published material;

(*iii*) Evidence that the group has performed, and will perform, services as a leading or starring group for organizations and establishments that have a distinguished reputation evidenced by articles in newspapers, trade journals, publications, or testimonials;

(*iv*) Evidence that the group has a record of major commercial or critical successes, as evidenced by such indicators as ratings; standing in the field; box office receipts; record, cassette, or video sales; and other

achievements in the field as reported in trade journals, major newspapers, or other publications;

(*v*) Evidence that the group has achieved significant recognition for achievements from organizations, critics, government agencies, or other recognized experts in the field. Such testimonials must be in a form that clearly indicates the author's authority, expertise, and knowledge of the alien's achievements; or

(*vi*) Evidence that the group has either commanded a high salary or will command a high salary or other substantial remuneration for services comparable to other similarly situated in the field as evidenced by contracts or other reliable evidence.

II. Discussion

The sole issue to be addressed in this proceeding is whether the petitioner established that the beneficiaries, as a group, are an internationally recognized entertainment group. If the petitioner establishes that the beneficiaries satisfy the requirements set forth in the regulation at 8 C.F.R. § 214.2(p)(4)(iii)(B), the petitioner establishes that the beneficiaries are internationally recognized.

Initially, the petitioner submitted the following evidence pertaining to the evidentiary requirements at 8 C.F.R. § 214.2(p)(4)(iii)(B):

- Immigration Detail Sheet dated October 31, 2013, listing each member of the group and the exact dates for which each member has been employed on a regular basis by the group.
- Itinerary for the group's 2013-2014 tour.
- Copies of the beneficiaries' contracts pertaining to their prospective United States employment at 14 different venues. The petitioner did not submit certified translations of the contracts. *See* 8 C.F.R. § 103.2(b)(3). In addition, the contracts show that the originals have been altered with correction fluid where they indicate the payee and the amounts of remuneration to be paid under the contracts. There are also line disturbances surrounding the agents' names. As the alterations relate to the regulatory criterion at 8 C.F.R. § 214.2(p)(4)(iii)(B)(*3*)(*vi*), they are material to this proceeding.
- Advisory opinion letter from the
- A copy of the contract for artistic representation between the petitioner and dated August 8, 2013.

- A letter dated October 9, 2013, from Secretary General of the Mexico, stating that the musical group has been lawfully registered since 2005. The letter also indicates that the beneficiaries are the current members of the group. The petitioner did not submit a certified translation of the letter. *See* 8 C.F.R. § 103.2(b)(3).

- A letter dated October 7, 2013, from Manager for in Mexico. Mr. states that he has known the group since 2006 and played their music on his radio stations. He also states that the group participated in community festivals and events. The petitioner did not submit a certified translation of the letter. *See* 8 C.F.R. § 103.2(b)(3).

- A letter dated October 4, 2013, from in the programming department of in Mexico, stating that they broadcast the group's music. The petitioner did not submit a certified translation of the letter. *See* 8 C.F.R. § 103.2(b)(3).

- A Certificate of Appreciation from the of for the group's 2004 performance at the The petitioner did not submit a certified translation of the certificate. *See* 8 C.F.R. § 103.2(b)(3).

The petitioner also submitted a copy of the group's CDs, articles about the group, excerpts from articles that mention the group, advertisements of the group's shows in newspapers, and several photographs showing members of the group outside a performance venue.

On November 19, 2013, the director issued a request for additional evidence (RFE), instructing the petitioner to submit additional evidence to establish, *inter alia,* that the group has been internationally recognized in the field for a sustained and substantial period of time, pursuant to the evidentiary criteria at 8 C.F.R. § 214.2(p)(4)(iii)(B)(*3*).

In a letter dated December 19, 2013, the petitioner stated that the group has the required sustained international recognition. The evidence submitted in response to the RFE included the following:

- Printouts from internet sites selling the group's music.

- Advertising flyers from the group's past performances.

- DVDs containing video clips of the group's performances in Mexico and the United States.

- Printouts from the group's Facebook page.

The petitioner also submitted additional certificates of appreciation received by the group for their performances on behalf of local organizations. Because the petitioner did not submit certified translations of the documents, it is not apparent whether the evidence supports the petitioner's claims. *See* 8 C.F.R. § 103.2(b)(3). Accordingly, the evidence is not probative and has little evidentiary any weight in this proceeding.

The director denied the petition on January 6, 2014, concluding that the petitioner did not establish that the beneficiaries have been internationally recognized in their field for a sustained and substantial period of time. The petitioner did not provide evidence of the group's nomination or receipt of significant international awards or prizes for outstanding achievements in its field. The director determined that the petitioner also did not provide evidence meeting at least three of the criteria at 8 C.F.R. § 214.2(p)(4)(iii)(B)(*3*)(*i*) through (*vi*).

On appeal, the petitioner submits a brief and additional documentary evidence. The additional evidence includes an amended statement dated March 5, 2014, listing each member of the group and the exact dates for which each member has been employed on a regular basis by the group, signed by beneficiary as co-founder of the group. The statement has been amended to indicate that two of the beneficiaries, first became group members in 2012 instead of 2011 as indicated in the initial version. The petitioner also submits an invitation for the group to perform at a Cinco de Mayo festival given by a radio station in California, and printouts from internet sites selling the group's recordings.

Upon review, and for the reasons stated herein, the petitioner has not established that the beneficiaries' group has been internationally recognized as outstanding in their discipline for a sustained and substantial period of time.

The Evidentiary Criteria

The regulation at 8 C.F.R. § 214.2(p)(4)(iii)(B)(*3*) states that evidence that the group has been internationally recognized for a sustained and substantial amount of time may be demonstrated by the submission of evidence of the group's nomination or receipt of significant international awards or prizes for outstanding achievements in its field, or by three of the six types of documentation set forth in 8 C.F.R. §§ 214.2(p)(4)(iii)(B)(*3*)(*i*)-(*vi*).

The petitioner has not submitted evidence of the group's nomination or receipt of significant international awards or prizes for outstanding achievements in its field. The petitioner submitted evidence that the group was awarded a Certificate of Appreciation from the for the group's 2004 performance at the As stated previously, because the petitioner did not submit a certified translation of the document, it is not apparent whether the evidence supports the petitioner's claims. *See* 8 C.F.R. § 103.2(b)(3). Regardless, this award, given by a local business

organization, falls considerably short of a significant international award or prize for outstanding achievements in the field, as required by the regulation. In addition, the petitioner submitted evidence that the group has received certificates for its participation in various local events, such as programs with the and the 2003 music marathon for The petitioner also submitted evidence that the group has received certificates of recognition from the in for the group's 5th anniversary and from the group's record label, "[f]or ten years of successful artistic career and being the pride of ' The petitioner has not established that these recognition awards are significant international awards that recognize the group for outstanding achievements in the field.

Therefore, the petitioner must establish that the group is internationally recognized by submitting evidence satisfying three out of the six criteria outlined at 8 C.F.R. § 214.2(p)(4)(iii)(B)(*3*)(*i*)-(*vi*). Each criterion will be discussed below.

> *Evidence that the group has performed, and will perform, as a starring or leading entertainment group in productions or events which have a distinguished reputation as evidenced by critical reviews, advertisements, publicity releases, publications, contracts, or endorsements.*

Under the criterion at 8 C.F.R. § 214.2(p)(4)(iii)(B)(*3*)(*i*), the director found that the petitioner established that the group has performed as a starring or leading entertainment group at various events and productions with distinguished reputations. However, the director found that the petitioner has not established that the beneficiary will perform services as a lead or starring participant in productions or events which have a distinguished reputation, upon approval of the petition. On appeal, the petitioner asserts that it has already documented the significance of the beneficiaries' past television performances without addressing the beneficiaries' future performances.

With respect to the group's future performances, the petitioner submitted contracts and an itinerary indicating that the group will perform at several venues in the United States, including However, the petitioner did not establish that the group will perform as a starring or leading group in these productions. Although the itinerary states that ' ' the contracts are silent as to whether the group will be the sole performer or will be performing along with other groups as a starring or leading entertainment group. In addition, the petitioner has not submitted critical reviews, advertisements, publicity releases, publications or other evidence to establish that the productions or events in which the group will perform in the United States have a distinguished reputation, as required pursuant to the plain language of the regulation.

Based on the above, the petitioner's evidence fails to meet the criterion at 8 C.F.R. § 214.2(p)(4)(iii)(B)(*3*)(*i*).

Evidence that the group has achieved international recognition and acclaim for outstanding achievement in its field as evidenced by reviews in major newspapers, trade journals, magazines, or other published material

In order to meet the criterion at 8 C.F.R. § 214.2(p)(4)(iii)(B)(*3*)(*ii*), the petitioner must submit evidence from major newspapers, trade journals, magazines, or other major media, establishing that the group has achieved international recognition and acclaim. To qualify as major media, the publication should have significant national or international distribution.

The petitioner has submitted several published reviews which describe the group in positive terms such as "successful" and "born to be great." The reviews appeared in publications including The director concluded that, while the published pieces from these publications are about the beneficiaries, the petitioner did not submit evidence establishing that these reviews were published by major newspapers, trade journals, magazines, or other major media as required by the plain language of the regulation, such as evidence establishing the nature, distribution, and circulation of the publications.

On appeal, the petitioner asserts that electronic media is a current indicator that the beneficiaries' group has been internationally recognized as being outstanding in its discipline, and references Exhibit IV. Exhibit IV contains exhibits discussing social media in general, and printouts from internet sites selling the group's music. The sites selling the group's music contain no reviews, comments or rankings. While the petitioner also submitted printouts relating to the group on YouTube, the comments are not in English and the petitioner did not provide an English translation, certified or otherwise. As such, while social media can serve as probative evidence on a case-by-case basis, it does not in this case. However, printouts from internet sites selling the group's music are not reviews, and do not meet the petitioner's burden to establish the group's international recognition and acclaim through published reviews in major newspapers, trade journals, magazines, or other major media, as required by the plain language of the regulation. Based on the above, the petitioner's evidence fails to meet the criterion at 8 C.F.R. § 214.2(p)(4)(iii)(B)(*3*)(*ii*).

Evidence that the group has performed, and will perform, services as a leading or starring group for organizations and establishments that have a distinguished reputation evidenced by articles in newspapers, trade journals, publications, or testimonials.

The director found that petitioner did not meet this evidentiary criterion with respect to the group's future performances. On appeal, the petitioner asserts there are no guidelines as to the standard for "distinguished reputation." As previously indicated, the petitioner submitted contracts and an itinerary indicating that the group will perform at several venues in the United States, including in Although the itinerary states that ne contracts are silent as to whether

the group will be the sole performer or will be performing along with other groups at these organizations and establishments. As discussed previously, the petitioner asserts that electronic media is a current indicator of reputation and references Exhibit IV. Exhibit IV discusses social media in general but not the night clubs. Contrary to the petitioner's assertion on appeal, the regulation provides guidance as to the type of evidence that is required to show a distinguished reputation. The petitioner, however, with respect to the future performances has not submitted critical reviews, advertisements, publicity releases, publications or other evidence to establish the distinguished reputation of these organizations and establishments where the beneficiaries will perform. Therefore, the petitioner did not submit evidence meeting the criterion at 8 C.F.R. § 214.2(p)(4)(iii)(B)(*3*)(*iii*).

> *Evidence that the group has a record of major commercial or critical successes, as evidenced by such indicators as ratings; standing in the field; box office receipts; record, cassette, or video sales; and other achievements in the field as reported in trade journals, major newspapers, or other publications*

The director found that the petitioner has not submitted evidence to establish that the group has a record of major commercial or critical successes, as evidenced by such indicators as ratings; standing in the field; box office receipts; record, cassette, or video sales; and other achievements in the field as reported in trade journals, major newspapers, or other publications. On appeal, the petitioner asserts that the beneficiaries' performances on television are relevant to this criterion. Although the beneficiaries' group has performed and released recordings of their music, the petitioner has not submitted evidence of album or concert sales reports. The group has made several appearances on local television in [redacted] as follows: on the [redacted] show on Channel 12 in 2002, 2003 and 2004; in a program called [redacted] in 2007; on "The [redacted] in October 2013, and on '[redacted] on November 1, 2013. In addition, the group appeared on a game show, '[redacted] in Los Angeles in 2004. At most, it appears that the group has appeared on local television in Mexico and in the United States. The record does not establish that the group has garnered any major commercial or critical successes at the regional, national or international level. Therefore, the petitioner has not met the criterion at 8 C.F.R. § 214.2(p)(4)(iii)(B)(*3*)(*iv*).

> *Evidence that the group has achieved significant recognition for achievements from organizations, critics, government agencies, or other recognized experts in the field. Such testimonials must be in the form that clearly indicates the author's authority, expertise, and knowledge of the alien's achievements*

In order to meet the fifth criterion at 8 C.F.R. § 214.2(p)(4)(iii)(B)(*3*)(*v*), the petitioner must provide evidence the group has achieved significant recognition for achievements from organizations, critics, government agencies, or other recognized experts in the field. Such testimonials must be in a form that clearly indicates the author's authority, expertise, and knowledge of the alien's achievements. The director concluded that petitioner did not meet this evidentiary criterion. On appeal, the petitioner states it has provided "clear and concise evidence and proof."

The petitioner has submitted several recognition certificates the group has received from various organizations. As stated previously, the petitioner did not submit certified translations of the documents as required. *See* 8 C.F.R. § 103.2(b)(3). Regardless, the petitioner did not establish that these certificates constitute evidence that the group has achieved "significant recognition for achievements" from "recognized experts in the field," as required by the plain language of the regulation.

While the petitioner has submitted two testimonial letters, neither of the persons who provided letters recognized the group's specific achievements in the field. The fact that the beneficiaries have worked steadily as musicians and performed in more than one country does not establish that the beneficiaries are an "internationally recognized" group. As discussed above, the term means having a high level of achievement in a field evidenced by a degree of skill and recognition substantially above that ordinarily encountered, to the extent that such achievement is renowned, leading, or well known in more than one country. Here, the evidence does not establish that the group is well-known or leading in the field. Therefore, the petitioner has not met the criterion at 8 C.F.R. § 214.2(p)(4)(iii)(B)(*3*)(*v*).

> *Evidence that the group has either commanded a high salary or will command a high salary or other substantial remuneration for services comparable to other similarly situated [groups] in the field as evidenced by contracts or other reliable evidence.*

The sixth and final criterion requires the petitioner to submit evidence to establish that the group has either commanded a high salary or will command a high salary or other substantial remuneration for services compared to other groups similarly situated in the field as evidenced by contracts or other reliable evidence. 8 C.F.R. § 214.2(p)(4)(iii)(B)(*3*)(*vi*). The director concluded that petitioner did not meet this evidentiary criterion. The petitioner has not submitted evidence to establish the salary or remuneration received by the group in the past. The petitioner stated on Form I-129 that the beneficiaries' hours of work per week and weekly wages will vary. The group's contracts for their prospective United States employment indicate that the group will be paid $8,000 or $10,000 per event.

On appeal, the petitioner asserts that it submitted contracts pertaining to the beneficiaries' future remuneration and the beneficiary is not privy to the earnings of other musicians. The petitioner is a self-described talent management business and claims to have been in the business since 1999. The petitioner states only that the beneficiary is not privy to the earnings of other musicians without addressing whether or not it has such information based on its experience with other clients. The petitioner has also not established that this information is not available from the media, internet, or another source. The petitioner has, therefore, not submitted any evidence to establish that the group's past or prospective remuneration or wages is high compared to other groups similarly situated in the field.

In addition, as previously noted, the contracts show that the originals have been altered with whiteout where they indicate the payee and the amounts of remuneration to be paid under the contracts. The alterations are material to this regulatory criterion. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. *Matter of Ho,* 19 I & N Dec. 582, 591-592 (BIA). These alterations undermine the credibility of the petitioner's claim of the amount of the beneficiaries' prospective remuneration. Based on the above, the petitioner has not met this criterion.

III. Conclusion

In summary, the evidence submitted by the petitioner fails to meet at least three of the six criteria listed in the regulations at 8 C.F.R. § 214.2(p)(4)(iii)(B)(*3*). Therefore, the petitioner did not establish that the group has achieved sustained international recognition in the field.

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; *Matter of Otiende,* 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.