U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF M-T-, INC.

DATE: AUG. 4, 2016

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a transportation and entertainment promotion business, seeks to classify the Beneficiaries as members of an internationally-recognized entertainment group. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(P)(i)(b), 8 U.S.C. § 1101(a)(15)(P)(i)(b). This P-1 nonimmigrant classification makes visas available to foreign nationals who perform as a member of an entertainment group that has been recognized internationally as being outstanding in the discipline for a sustained and substantial period of time. Section 214(c)(4)(B) of the Act, 8 U.S.C. § 1184(c)(4)(B).

The Director, California Service Center, denied the petition. The Director concluded that the Petitioner had not demonstrated that the Beneficiaries were recognized internationally.

The matter is now before us on appeal. On June 21, 2016, we issued a notice advising the Petitioner that its status in the State of Illinois was dissolved. We afforded the Petitioner 33 days in which to respond. In response, the Petitioner acknowledged that it is no longer active in the state and requests that we accept another company as the substitute petitioner. The Petitioner also requests that we add another Beneficiary.

Upon *de novo* review, we will dismiss the appeal.

I. LAW

Under section 101(a)(15)(P)(i) of the Act, a beneficiary 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 a foreign national who performs as an integral and essential part of the performance of an entertainment group.

The implementing regulation at 8 C.F.R. § 214.2(p)(1) characterizes the classification as follows:

> (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.

The regulation at 8 C.F.R. § 214.2(p)(2)(i) provides: "A P-1 petition for an athlete or entertainment group shall be filed by a United States employer, a United States sponsoring organization, a United States agent, or a foreign employer through a United States agent."

II. ANALYSIS

As noted above, in June 2016, we sent the Petitioner a notice of derogatory information and intent to dismiss. In this notice, we stated that, according to the records of the Illinois Secretary of State, the Petitioner was dissolved. We requested information such as a certificate of good standing or other proof that the Petitioner is in active status. We also advised the Petitioner that a dissolved company is not legally entitled to carry on any business, and cannot qualify as a United States employer, sponsor, or agent.

In its response, the Petitioner confirms that it is no longer in business, but expresses that it "would like to ask to continue processing of the petition with the new substitute petitioner," The Petitioner maintains: "The new petitioners [*sic*] assumes all obligations pertaining to the filed petition of the original petitioner." In the context of a Form I-140, Immigrant Petition for Alien Worker, U.S. Citizenship and Immigration Services (USCIS) has offered guidance on successors in interest.[1] However, the guidance does not indicate that it applies to the P-1 nonimmigrant classification.

Regardless, the Petitioner does not "document the transfer and assumption of the ownership of the predecessor by the successor" as required.[2] Rather, the Petitioner provided evidence that is active in Illinois, but no corroboration from this company that it is assuming the ownership of the Petitioner, or confirmation that it intends to sponsor the Beneficiaries on this petition and has a contract with them.

The Petitioner does not state that it has been reinstated as of this date, and we confirmed that it has not. *See* https://www.ilsos.gov/ (accessed on August 2, 2016, and incorporated into the record of proceedings.) As the Petitioner is dissolved, it cannot qualify as a U.S. employer for purposes of employing the Beneficiaries, either the ones listed on the petition or the new one the Petitioner seeks to add.[3]

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[1] USCIS Policy Memorandum AD09-37, *Successor-in-Interest Determination of Form I-140 Petitions; Adjudicators Field Manual (AFM) Update to Chapter 22.2(b)(5)* (August 6, 2009), http://www.uscis.gov/laws/policy-memoranda.

[2] *Id.* at 4.

[3] The Petitioner requests that we add another Beneficiary to the petition, but offers no information about this individual. We note that his name does not appear in the published and promotional material about the group. In fact, the

III. CONCLUSION

In summary, the Petitioner has not shown that it can serve as a U.S. employer, sponsoring organization, or agent, or that another company may be substituted as the petitioner. In visa petition proceedings, it is the Petitioner's burden to establish eligibility for the immigration benefit sought. 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.

ORDER: The appeal is dismissed.

Cite as *Matter of M-T-, Inc.*, ID# 17174 (AAO Aug. 4, 2016)

Beneficiaries listed on the petition also do not appear in these materials, which list the members as and That said, the letter from a radio personality and promoter at confirms that one of the Beneficiaries is and a news article about the group appearing in suggests the other Beneficiary is