U.S. Citizenship and Immigration Services

**Non-Precedent Decision of the Administrative Appeals Office**

MATTER OF B- USA CORP.

DATE: JULY 19, 2017

APPEAL OF VERMONT SERVICE CENTER DECISION

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

The Petitioner, a dance studio, seeks O-2 nonimmigrant visa classification for the Beneficiary as an accompanying individual to a competitive ballroom dancer whose petition for O-1 classification was filed concurrently. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(O)(ii), 8 U.S.C. § 1101(a)(15)(O)(ii).

The Director of the Vermont Service Center denied the petition based, in part, upon the denial of the O- 1 petition filed on behalf of The Petitioner subsequently appealed both denials. We dismissed the Petitioner's appeal of the O-1 petition denial. The matter is now before us on appeal.

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

## I. LAW

Section 101(a)(15)(O)(ii) of the Act provides classification to a qualified alien who:

> (I) seeks to enter the United States temporarily and solely for the purpose of accompanying and assisting in the artistic or athletic performance by an alien who is admitted under clause (i) for a specific event or events;
>
> (II) is an integral part of such actual performance,
>
> (III) (a) has critical skills and experience with such alien which are not of a general nature and which cannot be performed by other individuals . . . .
>
> (IV) has a foreign residence which the alien has no intention of abandoning.

[1] The Director also found the Petitioner had not established that the Beneficiary's proposed role, in which she would compete alongside the principal O-1 and serve as a choreographer and instructor to him and others, qualifies as an essential support position.

The regulations at 8 C.F.R. § 214.2(o)(4) provide, in pertinent part, the following requirements for an O-2 accompanying alien:

> (i) General. An O-2 accompanying alien provides essential support to an O-1 artist or athlete. Such aliens may not accompany O-1 aliens in the fields of science, business or education. Although the O-2 alien must obtain his or her own classification, this classification does not entitle him or her to work separate and apart from the O-1 alien to whom he or she provides support. An O-2 alien must be petitioned for in conjunction with the services of the O-1 alien.

## II. ANALYSIS

As stated above, an O-2 individual may enter the United States temporarily and solely for the purpose of accompanying and assisting in the artistic or athletic performance of the O-1 individual, and must be petitioned for in conjunction with the services of the O-1 individual. Section 101(a)(15)(O)(ii)(I) of the Act; 8 C.F.R. § 214.2(o)(4)(i).

Here, while the Beneficiary's services as an O-2 accompanying individual were petitioned for in conjunction with the services of an O-1 individual, the O-1 petition was denied, and we dismissed the Petitioner's appeal of that denial. As there is no O-1 individual for the Beneficiary to support, the statute and regulations prohibit the approval of this petition.[2]

**ORDER:** The appeal is dismissed.

Cite as *Matter of B- USA Corp.*, ID# 126500 (AAO July 19, 2017)

[2] Accordingly, we need not consider the remaining eligibility issues discussed by the Director.