U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 27097396

Date: MAY 25, 2023

Appeal of California Service Center Decision

Form I-129, Petition for a Nonimmigrant Worker (Extraordinary Ability – O)

The Petitioner, a fitness management company, seeks to classify the Beneficiary, a bodybuilder, as an individual of extraordinary ability. This O-1 nonimmigrant visa classification is available to individuals who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(O)(i), 8 U.S.C. § 1101(a)(15)(O)(i).

The Director of the Vermont Service Center denied the petition on the following three grounds: 1) the Petitioner did not provide a sufficient contract, 2) the Petitioner did not demonstrate the Beneficiary's events or activities, and 3) the Petitioner did not show the Beneficiary received a major a major, internationally recognized award or at least three of eight possible forms of documentation. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

As relevant here, the regulation at 8 C.F.R. § 214.2(o)(2)(ii)(B) requires any written contracts between the petitioner and the beneficiary or, if there are not any, a summary of the terms of the oral agreement. In addition, the regulation at 8 C.F.R. § 214.2(o)(2)(ii)(C) requires an explanation of the nature of the events or activities, the beginning and ending dates for the events or activities, and a copy of any itinerary for the events or activities.

As it relates to a beneficiary, section 101(a)(15)(O)(i) of the Act establishes O-1 classification for an individual who has extraordinary ability in the sciences, arts, education, business, or athletics that has been demonstrated by sustained national or international acclaim, whose achievements have been recognized in the field through extensive documentation, and who seeks to enter the United States to continue work in the area of extraordinary ability. Department of Homeland Security (DHS) regulations define "extraordinary ability in the field of science, education, business, or athletics" as "a level of

expertise indicating that the person is one of the small percentage who have arisen to the very top of the field of endeavor." 8 C.F.R. § 214.2(o)(3)(ii). Next, DHS regulations set forth alternative evidentiary criteria for establishing a beneficiary's sustained acclaim and the recognition of achievements. A petitioner may submit evidence either of "a major, internationally recognized award, such as a Nobel Prize," or of at least three of eight listed categories of documents. 8 C.F.R. § 214.2(o)(3)(iii)(A)-(B).

The submission of documents satisfying the initial evidentiary criteria does not, in and of itself, establish eligibility for O-1 classification. *See* 59 Fed. Reg. 41818, 41820 (Aug. 15, 1994) ("The evidence submitted by the petitioner is not the standard for the classification, but merely the mechanism to establish whether the standard has been met.") Accordingly, where a petitioner provides qualifying evidence satisfying the initial evidentiary criteria, we will determine whether the totality of the record and the quality of the evidence shows sustained national or international acclaim such that the individual is among the small percentage at the very top of the field of endeavor. *See* section 101(a)(15)(o)(i) of the Act and 8 C.F.R. § 214.2(o)(3)(ii), (iii).

II. ANALYSIS

A. Prior O-1 Nonimmigrant Visa Classification

The Petitioner initially filed Form I-129, Petitioner for a Nonimmigrant Worker, in December 2016, seeking to classify the Beneficiary as an O-1.[1] The Director of the California Service Center approved the petition in February 2017, granting the Beneficiary O-1 classification. Subsequently, the Director issued a notice of intent to revoke (NOIR) the approval of the petition in March 2021, concluding the statement of facts was not true and correct, and the record reflected gross error in classifying the Beneficiary as an individual of extraordinary ability. After reviewing the Petitioner's response to the NOIR, the Director issued a notice of revocation (NOR) in September 2021, determining the Petitioner did not overcome the issues raised in the NOIR. We subsequently dismissed the appeal in June 2022.[2]

As it relates to this petition, the Petitioner filed Form I-129 in April 2000, which the Director denied in March 2021, and the Petitioner filed the subsequent appeal in May 2021. Because the issues overlap between petitions, we will repeat the analysis from our prior appellate decision and incorporate it into this decision.

B. Previous Appellate Decision

In its accompanying initial cover letter, the Petitioner provided a job description:

> [The Beneficiary] will be representing [The Petitioner] at bodybuilding competitions and is expected to train, follow diet and supplement protocol as instructed in preparations for those competitions with the goal of attaining is [sic] professional status in the Bodybuilding arena.

[1] *See* [redacted]
[2] *See* [redacted]

> As a sponsored athlete for [the Petitioner], [the Beneficiary] will also be required to represent brands of sponsoring companies . . . for photoshoots, open houses, product demonstrations, guest posing and any other publicity or media events.
>
> As a representative of [the Petitioner], she will also be asked to assist in training and preparation of [the Petitioner's] clients when [s]he is able to and when it does not interfere with her preparation for competition.
>
> She will also be responsible for several tasks as a member of our team, including attending scheduled practices and training sessions; participate in bodybuilding events and competitions according to established rules and regulations; exercise and practice under the direction of athletic trainers or professional coaches in order to develop skills, improve physical condition, and prepare for competitions; maintain her optimum physical fitness levels by training regularly, following nutrition plans, and consulting with health professionals; assess her performance following an athletic competition, identifying her strengths and weaknesses, and making adjustments to improve her future performance.
>
> [The Beneficiary] will be paid a salary of $200,000 per year.

In addition, the Petitioner submitted an itinerary of tournament events in which the Beneficiary would compete from 2017 – 2019, a signed "Employment Agreement" (contract) between the Petitioner and Beneficiary reflecting a yearly salary of $200,000 and full coverage of health insurance, and documentation relating to the following categories of evidence: awards at 8 C.F.R. § 214.2(o)(3)(iii)(B)(*1*), memberships at 8 C.F.R. § 214.2(o)(3)(iii)(B)(*2*), published material at 8 C.F.R. § 214.2(o)(3)(iii)(B)(*3*), and high salary at 8 C.F.R. § 214.2(o)(3)(iii)(B)(*8*). Based on the submitted documentation, the Director determined that the Petitioner established the Beneficiary's eligibility for O-1 nonimmigrant classification and approved the petition.

Based of newly received information, the Director issued a NOIR on the following grounds. First, the Director concluded:

> USCIS has determined that the Employment Agreement is fraudulent. USCIS investigations revealed that [the Petitioner] is a shell company that was formed by the [B]eneficiary and [the Petitioner's] attorney, [redacted] solely for the purpose of filing the Form I-129 O-1A petition on the [B]eneficiary's behalf. Since [the Petitioner is] not an operational and viable entity, [the Petitioner does] not have the ability to employ the [B]eneficiary under the terms and conditions provided in the Employment Agreement.
>
> Indeed, USCIS has learned that the [B]eneficiary has not been employed in accordance with the terms and conditions in the Employment Agreement and is, in fact, engaging in self-employment in violation of her O-1A status. Service records show that the [B]eneficiary submitted wage documents in support of her Form I-140 and Form I-485 indicating that she was self-employed as a personal trainer, nutritional coach, poser and choreographer, earning wages far less than the $200,000 provided on the Employment

> Agreement. In addition, public records indicate that the [B]eneficiary started a GoFundMe account to raise funds to pay for her surgery, which demonstrates that she was not provided health insurance in accordance with the Employment Agreement. Service records also show that the [B]eneficiary has provided services to a company that was not included in the Form I-129 petition. Finally, USCIS investigations also revealed that the [B]eneficiary has been self-employed as a web cam model and actor, performing services outside the scope of the employment provided on the Employment Agreement.

Second, the Director determined:

> USCIS found that the Employment Agreement [the Petitioner] issued is fraudulent, and the record lacks any other evidence to show that [the Petitioner] had a valid contract to employ the [B]eneficiary as a Bodybuilder. Without a valid contract, USCIS concludes that the [B]eneficiary did not have definite U.S. employment when [the Petitioner] filed this petition. Thus, the contract requirement has not been satisfied.

Third, the Director decided:

> [T]he itinerary states the [B]eneficiary would compete in events in 2017 to 2019, but [the Petitioner] did not provide any evidence to show that the [B]eneficiary was registered to participate in the listed competitions; in fact; documents in the [B]eneficiary's I-140 petition indicate that she only competed in two competitions in 2017 and competed in zero competitions in 2018 and 2019.
>
> [T]he itinerary [the Petitioner] submitted is vague and does not provide specific competition locations nor specific event dates and locations for the photo shoots, open houses, product demonstrations, guest posing and other publicity and media events [the Petitioner] claimed she would attend. The itinerary also lacks specific dates and locations for events during which the [B]eneficiary would assist in the training and preparation of [the Petitioner's] clients. Additionally, the itinerary lacks any information about where the [B]eneficiary will attend scheduled practices and training sessions. USCIS notes that the Form I-129 indicates the [B]eneficiary will work at [redacted] but public records indicate that this is a residential property rather than a gym or other appropriate location. Thus, the events requirement has not been satisfied.

Finally, the Director concluded that the record reflected gross error in determining that the Beneficiary satisfied at least three of the categories of evidence under 8 C.F.R. § 214.2(o)(3)(iii)(B)(*1*)-(*8*). In fact, the Director found that the Beneficiary met only one criterion - awards, and she did not meet any of the other claimed criteria relating to memberships, published material, and high salary.

In response to the NOIR, the Director acknowledged the Petitioner's submission of a letter from its attorney; a letter from the Petitioner's vice-president, [redacted] and printouts from PayPal. However, the Director concluded:

[redacted] letter is not sufficient. First, the letter is not independent and objective evidence to resolve the discrepancies pertaining to the [B]eneficiary's employment because she is associated with [the Petitioner]. Moreover, [redacted] explanation for the [B]eneficiary's webcam activities is not credible. Service investigators determined that the [B]eneficiary was engaging in pornographic activities when she appeared on the webcam. In addition, [redacted] does not explain why the [B]eneficiary had a GoFundMe account to raise funds to pay for her surgery if she was receiving full health coverage, as provided in the employment agreement. Additionally, [redacted] states that [the Petitioner] "obtain[ed] several sponsorships averaging $200,000" that "allowed [the Beneficiary] to travel for seminars, guest appearances, and competitions," but neither [redacted] letter nor any other evidence in the record sufficiently demonstrates that [the Petitioner's] company paid the [B]eneficiary $200,000 in wages and resolves the discrepancies found in the [B]eneficiary's wage documents. Also, [the Petitioner] did not provide additional evidence to explain why the [B]eneficiary reported to be self-employed as a personal trainer if she was [the Petitioner's] employee and engaging in valid U.S. employment for [the Petitioner's] company.

The PayPal statements are also insufficient to show that [the Petitioner is] a valid company that employed the [B]eneficiary. The address on the PayPal printouts do not correspond to the company address [the Petitioner] provided on the Form I-129. Also, the PayPal printouts do not demonstrate the nature of the payments made to and from [the Petitioner's] account; they only provide the payee and the amounts paid. Notably, none of the payments were made to the [Beneficiary], which further demonstrates that she was not engaged in valid employment with the [Petitioner's] company and receiving the wages provided in the employment agreement.

[The Petitioner] did not provide sufficient evidence to cure the deficiencies noted in the ITR and show, by a preponderance of the evidence, that the employment agreement [the Petitioner] submitted was valid. Thus, USCIS concludes that the employment agreement was not true and correct.

As it related to the contract, the Director referenced the submission of the letter from the Petitioner's attorney, the letter from [redacted] and the printouts from PayPal and concluded for the reasons discussed above that the response was "insufficient to show that the employment agreement [the Petitioner] submitted was valid and credibly established the terms and conditions of the [B]eneficiary's U.S. employment."

Regarding the Beneficiary's events, the Director again acknowledged the above-mentioned documentation, as wells as scorecards, an Instagram post, photos, flyers, and an article about home businesses. However, the Director found:

[A]s previously discussed, the evidence is insufficient to show that the employment agreement [the Petitioner] submitted is valid, and USCIS thus concludes that the [B]eneficiary did not have events pursuant to legitimate, U.S. employment in accordance with the terms and conditions provided in the employment agreement. In

addition, the scorecards indicate the [B]eneficiary competed in three competitions in 2017; inexplicably, [the Petitioner] provided a scorecard for a men's competition, as well as those that do not list the [B]eneficiary's name. Due to the limited nature of the scorecards, USCIS cannot determine that the [B]eneficiary competed in 2018, 2019, and 2020 in accordance with the events listed on [the Petitioner's] itinerary and the terms and conditions provided on the employment agreement. The flyers provide the event dates and locations for three publicity events, but [the Petitioner] did not provide specific event dates and locations for the [B]eneficiary's other activities, as listed in the ITR; these include photo shoots, product demonstrations, guest posing, training sessions, practices, and client training and preparation sessions. Finally, the article about home businesses does not reference [the Petitioner's] business and indicate that [the Petitioner] ran a valid gym and bodybuilding company from [the Petitioner's] residence.

[The Petitioner] did not satisfy this requirement by a preponderance of the evidence and show that the [B]eneficiary had definite, non-speculative events.

Finally, as it pertained to the Beneficiary's classification as an individual of extraordinary ability, the Director discussed the submitted evidence and concluded that the Beneficiary did not satisfy any additional criteria. Specifically, the Director determined that the Beneficiary's membership with the International Federation of Bodybuilding and Fitness (IFBB) did not meet the membership criterion, articles from MuscleMag and muscleinsider.com did not fulfill the published material criterion, and the issues with the Employment Agreement did not demonstrate the Beneficiary's eligibility for the high salary criterion.

On appeal, the Petitioner submitted the same documentation offered in response to the Director's NOIR and listed or referenced the evidence for some of the issues discussed in the Director's NOR. Moreover, the Petitioner did not explain how the Director erred in any of her findings. Further, the Petitioner did not address the Director's conclusion that [redacted] letter lacked independent, objective evidence, failed to explain the Beneficiary's pornographic activities, did not rectify the Beneficiary's GoFundMe account for surgery when the contract claimed full health coverage, lacked evidence showing that the Petitioner paid the Beneficiary $200,000 in wages as stipulated in the contract, and offered no explanation as to why the Beneficiary reported to be self-employed as a personal trainer in a separate immigration proceeding.

In addition, the Petitioner did not address the Director's findings as they related to the submitted PayPal statements. Specifically, the Petitioner did not dispute that the PayPal printouts did not correspond the Petitioner's address provided on Form I-129, they did not show the nature of payments to and from the Petitioner's account, and none of the payments were made to the Beneficiary.

We also noted that the Petitioner submitted a letter from [redacted], who stated:

As a bodybuilding video producer, I have unfortunately found that users of my website: [redacted]com have illegally uploaded content from the website to other platforms such as YouTube, Pornhub, and others. I have no control over what users upload; it is

> an illegal act and as such I issue Digital Millennium Copyright Act reports to have this content removed from these platforms, as I find it.
>
> Furthermore, this is an ongoing and useless venture. The U.S. DMCA does not protect copyright holders; rather it enables piracy and illegal use of legitimately held copyrighted content to nefarious and illegitimate outlets. [The Beneficiary] is not in control and does not monetarily gain from these uploads and I am stating that in fact with this letter.

However, the letter did not resolve, or even dispute, that the Beneficiary was engaged in pornographic activities on the webcam rather than performing bodybuilding services for the Petitioner as outlined in the initial cover letter and Employment Agreement.

As it pertained to the Beneficiary's events, the Petitioner simply stated "[a]attached please find documentation which clearly shows that the beneficiary participated in the listed events on the itinerary." Again, the Petitioner did not address any of the Director's findings or explain how the Director erred. The Petitioner did not respond to the Director's evaluation of the scorecards, the flyers and other promotional material, and the home business articles.

We determined the Director outlined the serious errors and discrepancies in the record through the issuance of the NOIR. Furthermore, the Director thoroughly addressed the evidence in response to the NOIR and sufficiently explained why the evidence did not overcome the derogatory information. Because the Petitioner did not resolve the inconsistencies in the record, we agreed with the Director's revocation of the petition's approval. In addition, regarding the Beneficiary's eligibility for O-1 nonimmigrant classification, the Petitioner made the identical arguments it used in response to the Director's NOIR. In fact, the Director's NOR discussed the submitted evidence and addressed the arguments and explained how the evidence did not show that the Beneficiary satisfied the membership, published material, and high salary criteria. Again, the Petitioner did not address any of the Director's specific findings or explained how the Director erred as a matter of law, statement of fact, or evaluation of the evidence. Accordingly, the Petitioner did not demonstrate that the Beneficiary met at least three criteria.

C. Contract

The Director's first ground for denial relates to the contract requirement under the regulation at 8 C.F.R. § 214.2(o)(2)(ii)(B). The Director issued a request for evidence (RFE) and repeated it in the denial reflecting:

> You provided a letter in which you claim to be a company that caters to a wide variety of active people and professional athletes focusing on proper nutrition, education and guidance. You also claim to have a division that solely focuses on professional and amateur athletes. In your letter, you state that the beneficiary started with the company in 2017 and has become a very important part of your success. You describe her duties to include creating individualized posing routines, nutritional guidance for contest preparation, nutrition and posing seminars, and personal training. You also indicate

that the beneficiary will be in charge of running posing workshops that you will implement.

Although the letter describes what the beneficiary has done and will do for the company, it is neither a contract nor a summary of the terms of an oral agreement.

On Form I-129, you indicated the beneficiary would be a "bodybuilder" for your company for $80,000 per year. You signed the form as [redacted] Vice President. However, you signed your letter as [redacted] President.

On your previously filed Form I-129, [redacted] you also signed as "Vice President." On that Form, you stated you would pay the beneficiary $200,000. You also provided an Employment Agreement in which you agreed to pay the "EMPLOYEE" (beneficiary) a $200,000 per year salary to be paid bimonthly and provide health insurance. In your accompanying letter, you describe the beneficiary as a sponsored athlete who may be asked to assist in training your clients if it does not interfere with her own training and competition.

In order to show the beneficiary's income for the current O1A extension, you submitted a copy of a spreadsheet with the beneficiary's 2019 YTD income breakdown along with projected income for October-December 2019. You also provided a copy of her Form 1040 tax return for 2018. Both indicate that the beneficiary is not nor has she been your employee. On her 2018 tax return, she indicated that she is self-employed as a personal trainer and had a gross receipt or sales of $24,806. On her 2019 spreadsheet, she lists four entries for "in person training" and then "[redacted]" In addition, in February 2018, the beneficiary created a "Go Fund Me" campaign to raise money for surgery because she was injured about a year before while creating an "educational video" and she has no health insurance. See https://www.gofundme.com[redacted]

Furthermore, a search on "Google Maps" indicates that the location listed as your address is a ranch home. It does not appear to be a business and there is no indication via an internet search or in the record that you provide the services you claim to provide nor that you employ the beneficiary in the capacity you claim.

The statements you made on the Form I-129, in the Employment Agreement, and in your letters are inconsistent with the evidence and thus not sufficiently reliable to meet this requirement.

In response to the RFE, the Director's decision acknowledged the Petitioner's submission of an Employment Contract, Contractor Agreements, and a letter from [redacted]

1. Employment Contract

The Director determined the Employment Contract to be insufficient to cure the deficiencies in the RFE and not credible. Specifically:

- The Employment Contract is dated February 28, 2017, with no expiration date. However, the Employment Agreement submitted with the previous petition reflected a date of November 1, 2016, with an expiration date of November 1, 2019, with automatic renewals for successive years.
- The Petitioner did not demonstrate why the Beneficiary has two different employment contracts for the same employment period with the Petitioner.
- The Petitioner did not establish which contract governs the Beneficiary's present employment with the Petitioner, and the submission of two contracts for the same purpose casts doubt of the validity of both documents.

On appeal, the Petitioner does not contest or address this issue. The Petitioner also does not contest or address other inconsistencies and discrepancies discussed in the Director's decision:

- The multiple claimed positions of [redacted]
- [redacted] claim of Zoom services provided by the Beneficiary.
- The Beneficiary's income tax documentation reflecting self-employment rather than employment with the Petitioner.
- Different signatures on the Employment Agreement and Employment Contract.

Accordingly, we consider these issues to be waived by the Petitioner. *See Rizk v. Holder*, 629 F.3d 1083, 1091 n.3 (9th Cir. 2011) (finding that issues not raised in a brief are deemed waived).

2. Occupation

The Director concluded that the Employment Contract is materially inconsistent with the Employment Agreement from the prior petition. Specifically, the Employment Contract indicates the Beneficiary's employment as a bodybuilding trainer while the Employment Agreement indicates the beneficiary employment as a head bodybuilder.

On appeal, the Petitioner claims the Beneficiary's "duties have remained the same or similar in that the [B]eneficiary would train [redacted] clients," and "[t]he contract and also the request for an extension also indicate that she is a bodybuilder and a trainer." As indicated above, the Petitioner's first petition claimed to employ the Beneficiary as a bodybuilder, and the initial cover letter indicated that "she will also be asked to assist in training and preparation of [the Petitioner's] clients when [s]he is able to and when it does not interfere with her preparation for competition." In the filing of the second petition, the Petitioner indicated in Part 5 of Form I-129, that the Beneficiary's job title is "BODYBUILDER." Furthermore, the Petitioner's cover letter stated that it "continues to the employ [the Beneficiary] and wants to continue to employ her as she continues to be regarded nationally and internationally as a top ranked professional body builder with especially marked expertise in the area of posing and nutrition."

The record contains two contracts during the same period asserting to employ the Beneficiary in two different positions. The Employment Agreement claims to employ the Beneficiary as a bodybuilder while the Employment Contract claims to employ the Beneficiary as a bodybuilding trainer. Again, the Petitioner did not demonstrate which contract, if any, governs the Beneficiary's employment.

Moreover, the Employment Contract does not align with the Petitioner's response on Form I-129, which listed the Beneficiary's occupation as a bodybuilder rather than as a bodybuilding trainer. Further, the Employment Contract does not indicate the Beneficiary will perform any services as a bodybuilder, supporting the Beneficiary's occupation listed on Form I-129. The Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time filing and continuing through adjudication. *See* 8 C.F.R. § 103.2(b)(1). Further, a petition cannot be approved at a future date after the petitioner becomes eligible under a new set of facts. *Matter of Izummi*, 22 I&N Dec. 169, 175 (Comm'r 1988). That decision further provides, citing *Matter of Bardouille*, 18 I&N Dec. 114 (BIA 1981), that USCIS cannot "consider facts that come into being only subsequent to the filing of a petition." *Id.* at 176. Even if we accepted the validity of the Employment Contract, which we do not, the Employment Contract materially changes the Beneficiary's occupation from a bodybuilder to an exclusive bodybuilding trainer.

3. Work Address

The Director indicated the Employment Contract reflected the Beneficiary will primarily "work out of gyms and training facilities," but Part 5 of Form I-129 ("Address where the beneficiary(ies) will work if different from address in Part 1") reflects the Beneficiary will work at the address listed in Part 1, which is [redacted] residential address. On appeal, the Petitioner argues that [redacted] address "is the registered business address and the activities of the business take places [sic] in gyms and other facilities" and submits "evidence of the official registration of [redacted] as an established business." Regardless of the business' registration, the Petitioner's claims and evidence do not explain the discrepancy between her response in Part 5 of Form I-129 and the Employment Contract. If the Petitioner intended for the Beneficiary to work at gyms and training facilities, the Petitioner did not explain why it indicated the Petitioner's address [redacted] residential address) on the petition.

4. Salary

The Director pointed out the Employment Agreement claimed the Beneficiary's salary of $200,000 while the Employment Contract claimed $80,000. Further, the Director determined that although the Petitioner claims the salary in the previous petition "may have been an oversight by the previous attorney in that it was an estimate as the evidence provided in that submission establishes that the current salary of $80,000 is more reflective of the average amounts paid for the type of work conducted," the Petitioner did not offer any evidence to support its assertions. Moreover, the Director found the record did not reflect the $200,000 salary was an estimated salary, especially since the Petitioner is the Beneficiary's direct employer and would therefore have determined her definite salary.

On appeal, the Petitioner contends the $200,000 salary "relates to several sponsorships averaging $200,000" and submits a letter from [redacted] who claimed "[o]ur estimated goal was $200,000." However, the Petitioner did not offer evidence to support [redacted] assertion. Further, as indicated above, the Petitioner listed the Petitioner's salary as $200,000 in Part 5 of Form I-129 and provided an Employment Agreement stipulating the Beneficiary's salary as $200,000, without any indication of an estimated salary. In addition, while the Petitioner argues that it previously submitted salary

schedules with the current petition, the evidence does not resolve the inconsistency between one contract claiming $200,000 salary and the other contract claiming $80,000.

5. Go Fund Me

The Petitioner contends:

> The denial would want to suggest that beneficiary has never been employed by the Petitioner due to the fact that there was a Go Fund Me page set up to assist with the medical costs of the beneficiary's surgery. We submit that the high cost of surgeries and medical care in the United States is highly documented and not all health insurance is able to cover the necessary cost of surgery.

As indicated in our previous appellate decision, the Petitioner did not explain why the [B]eneficiary had a GoFundMe account to raise funds to pay for her surgery if she was receiving full health coverage, as provided in the Employment Agreement. Although the Petitioner claims that "not all health insurance is able to cover the necessary cost of surgery," the Petitioner did not submit evidence showing that it provided the Beneficiary with health insurance, as claimed in Employment Agreement, and additional funding was required to cover the costs not covered by her health insurance.

6. Contractor Agreements

The Director also found deficiencies with the Contractor Agreements. Specifically, [redacted] are not registered to conduct business in Florida. In addition, public records for PG do not indicate it offers bodybuilding preparation services requiring the Beneficiary's assistance. In addition, the address for the [redacted] does not pertain to [redacted] Finally, the Contractor Agreements for [redacted] lack material terms of the Beneficiary's work, including the wages they will pay the Petitioner for the Beneficiary's services, and specific employment hours.

On appeal, for each business, the Petitioner claims "[c]ontrary to the statement in the denial, [name of business], is a fully functioning business and is up and running" and "[t]here is no evidence to conduct business as they are currently fully in business."[3] Although the Petitioner submits screenshots from each business' websites, none of the documentation shows they are registered to conduct business in Florida. The Petitioner did not submit evidence from the State of Florida authorizing them to conduct business.

Moreover, the Petitioner asserts that there is no requirement to provide the exact working hours. According to the Employment Contract, "[t]he Employee will commence permanent full-time employment with the Employer . . . ." (Item 1) and "[t]he Employee agrees to devote full-time efforts, as an employee of the Employer, to the employment duties and obligations as described in the Agreement" (Item 20). Without the hours indicated in the Contractual Agreements, the Petitioner did not establish the Beneficiary would comply with the terms of the Employment Contract in working full-time.

[3] The Director did not question registrations to conduct business in Florida for [redacted]

Finally, the Petitioner does not address the absence of wages the businesses will pay the Petitioner for the Beneficiary's services.

For the reasons discussed above, the Petitioner either did not address or contest the Director's specific findings or the Petitioner did not overcome the deficiencies and inconsistencies contained in the record. The Petitioner must resolve inconsistencies in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Unresolved material inconsistencies may lead us to reevaluate the reliability and sufficiency of other evidence submitted in support of the requested immigration benefit. *Id.* In general, a few errors or minor discrepancies are not reason to question the credibility of an individual or an employer seeking immigration benefits. *See Spencer Enterprises Inc. v. U.S.*, 345 F.3d 683, 694 (9th Circ. 2003). However, if a petition includes serious errors and discrepancies, the petitioner fails to resolve those errors and discrepancies after an officer provides an opportunity to rebut or explain, then the inconsistencies will lead USCIS to conclude that the facts stated in the petition are not true. *Ho*, 19 I&N Dec. at 591. Therefore, we will dismiss the appeal.

III. CONCLUSION

Because the Petitioner did not meet the contractual requirement, we need not make a determination on the other grounds for denial in the Director's decision. Accordingly, we reserve those issues.[4] Consequently, the Petitioner has not demonstrated the Beneficiary's eligibility for the O-1 visa classification as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.

[4] *See INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to results they reach"); *see Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).