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The extraordinary route to a green card

BY JANICE PASKEY

For Canadians looking to work in the United States, it's the hottest ticket in town. If one doesn't mind being branded an alien — an "extraordinary alien," that is. Few do. A select group of Canadians — from writers to investment bankers — are working in the United States under a special provision for "aliens of extraordinary ability."

For those bold enough to prove it, becoming an extraordinary resident alien (known as "the EB-1 green card") has great appeal: there's no labour certification — a process that can take four years — and no job offer is needed. Less than 0.5% of all Canadians with green cards fall into this category.

"I would say permanent residence category for extraordinary aliens is the most difficult immigration category," says Henry Chang, a Toronto-based American attorney with the firm Boos & Chang. "The person really has to prove that they are among the 'select few at the top of their field.'"

His clients include a Canadian celebrity photographer, Jim Allen, who sought to ply his services in New York three years ago at the age of 52. "I'm the type of person who likes a challenge," Mr. Allen says. His application included photographs of German model Claudia Schiffer, plus national magazine awards. (Mr. Chang says, "I thought the bureaucrat reviewing it might not have heard of Jim Allen but they had surely heard of Claudia Schiffer.")

Mr. Allen was approved within a year, but he says that the ego boost was less appealing than the practical advantages. Even so, the immediate challenges were formidable. "You have to be made of steel," he says of working in New York.

While the quality of his portrait of Ms. Schiffer may be a subjective issue, United States immigration

laws clearly define what it means to be extraordinary. Applicants must prove a major one-time achievement, preferably a Nobel Prize or Academy Award, or prove "sustained acclaim." To demonstrate this, applicants must have achieved some of the following: national and international awards, membership in associations that demand high standards, published material, participation as a judge of the work of others, articles written about them, employment in a distinguished organization, or a high salary in relation to others. The category targets those in the sciences, arts, business, education, and athletics.

"If you were a shy extraordinary person, you might find this a difficult process," says Roland Kuhn, a scientist with Panasonic in Santa Barbara. "I suppose being called extraordinary is flattering, but it was mitigated by having to hassle people in my field to write letters."

For CNN's Ron Dunsky, the road to being extraordinary came in the wake of the TWA jet explosion outside New York City in 1996. He was one of the lead producers and was widely quoted by magazines and newspapers including *The New York Times*. CNN's in-house counsel suggested that because of this, Mr. Dunsky might qualify as an extraordinary alien. As an avowed "non-earnest Canadian," he asked 30 well-placed people around the world to write letters of support. CNN also stressed that the former Montrealer was essential because he understood Quebec and Canadian politics and spoke French, English, and Hebrew.

Mr. Dunsky qualified as a resident alien of extraordinary ability two years ago. "I can tell you that nobody at work treats me as extraordinary," he laughs.

While the preferred route is to apply for a green card from the start, there is also a more recently established type of visa that draws



New York-based photographer Jim Allen, on the streets of New York with his motorcycle, has received the EB-1 green card, making him an extraordinary resident alien.

talented Canadians to the United States. In revising the Immigration Act in 1990, Congress noted that less than 10% of immigrants were admitted because of skill. (The majority qualified as refugees or on the basis of family reunification.) For economic reasons, it established a temporary visa for the extraordinary. Between 1992 and 1997, 569 Canadians qualified for the O-1 extraordinary alien visa, out of a total of 88,795 visas issued to Canadians during the same time period, according to United States immigration officials. This route is mildly less stringent, but requires a sponsor.

Novelist and writer Doug Cooper found his in Chiat Day, an advertising agency that hired him to write essays for a New York Web site. He later qualified as permanently extraordinary. "It was a real

honour, in a country which isn't all that eager to let people immigrate these days. In general, they don't open their arms up to starving novelists." Mr. Cooper is a travel writer for *New York* magazine and collaborates with artists and architects on installation projects. For his application, he collected "anything remotely thrilling" he'd ever won, including an international debating award, national magazine and first novel award nominations, and everything he'd ever written or that was written about him. And the ego boost? "When I cross the border, the customs agents know the O-1 category and ask me, 'Do I know you?'"

The category has special appeal for artists. "It's very difficult for people who are artists to be sponsored in a normal way," says Robert Gottfried, a New York at-

torney with 15 successful petitions for Canadians to his credit. His clients include illustrators Roxana Bikadoroff and Anita Kunz — perhaps not household names, but well-known in their field. A graduate of the Ontario College of Art, Ms. Kunz lives in New York and works for *Time*, *Rolling Stone*, and *Sports Illustrated* and teaches at Syracuse University. In her application, she included her many awards and lecturing posts — "things that would convince a bureaucrat that this was legitimate."

Meanwhile, Vancouverite Roxana Bikadoroff, says the extraordinary green card "makes things easier." Now based out of San Francisco, she says she raised a questioning eyebrow from an official at the U.S. consulate when she showed her book of dark collages, *Bouquet of Bones*, during the final

stages of her application. "I explained that one of my collages was in the Smithsonian."

A more traditional example in this category, however, is Tom Rossmann, vice-president of institutional sales with broker Solomon Smith Barney. With the 8 years on his HB-1 visa about to run out, he applied two years ago for the extraordinary green card as an expert on Asia (based on a previous job with Goldman Sachs Like those in the arts, the Western MBA graduate petitioned with his published work (business reports and speeches showing him to be an expert in the field. He did his, which satisfied the requirement to have been a judge of the work of others, and four clients wrote him letters of support.

"They said I made or saved the money," Mr. Rossmann says. The letters went back and forth between client and attorney to make sure they struck the right tone. "I felt a sense of relief," he says of obtaining the green card. "I did care about being extraordinary but about staying in the country."

Research scientist Roland Kuhn left Montreal for California three years ago — not to pay less tax or earn more income, but rather in search of a well-funded laboratory and publishing freedom. He was first inventor on seven patent submissions and named in six other. The company's lawyers thought his weakness would be on proving he was a judge of others in the same field. Quickly, Mr. Kuhn contacted the editor of a journal in his field and then he peer-reviewed some articles.

The final stages of his green card application involved answering questions about his plans to practice polygamy or overthrow the United States government. A negative, he says. "If I could practice polygamy and still get it work done, that would be extraordinary," he says.

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