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U.S. Department of Homeland Security  
Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE  
CIS, AAO, 20 Mass, 3/F  
425 Eye Street, N.W.  
Washington, DC 20536



File: WAC-02-229-50421

Office: California Service Center

Date:

**NOV 19 2003**

IN RE: Petitioner:  
Beneficiary:



Petition: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER:



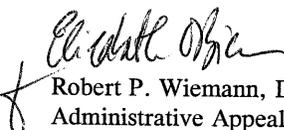
**INSTRUCTIONS:**

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of Citizenship and Immigration Services (CIS) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The employment-based immigrant visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as an alien of extraordinary ability in business. The director determined the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

Section 203(b) of the Act states, in pertinent part, that:

(1) Priority Workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with Extraordinary Ability. -- An alien is described in this subparagraph if --

- (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the alien's entry to the United States will substantially benefit prospectively the United States.

As used in this section, the term 'extraordinary ability' means a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2). The specific requirements for supporting documents to establish that an alien has sustained national or international acclaim and recognition in his or her field of expertise are set forth in the CIS regulation at 8 C.F.R. § 204.5(h)(3). The relevant criteria will be addressed below. It should be reiterated, however, that the petitioner must show that she has sustained national or international acclaim at the very top level.

This petition seeks to classify the petitioner as an alien with extraordinary ability as a chief executive officer (CEO). The regulation at 8 C.F.R. § 204.5(h)(3) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major, international recognized award). Barring the alien's receipt of such an award, the regulation outlines ten criteria, at least three of which must be satisfied for an alien to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability. The petitioner has submitted evidence that, she claims, meets the following criteria.

*Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.*

The director concluded that the petitioner's awards were mostly regional and that the petitioner had not established the significance of the awards. On appeal, counsel argues that five of the awards are national.

The national awards include a 1992 "Excellent Manager" certificate of honor issued by the Cooperative Commercial Enterprises Federation in China, a 1993 "National Extraordinary Female Entrepreneur" certificate of honor issued by the China Female Entrepreneur Association, a 1988 "National Excellent Female Entrepreneur" certificate of honor issued at the First National Excellent Female Entrepreneur Competition sponsored by the China National Female Federation, a 1989 "National March 8<sup>th</sup> Red-Flag Woman" certificate of honor issued by the China National Female Federation, and a 2<sup>nd</sup> Place Award issued by the Chinese Women Newspaper for an article entered in the "In the Road of Starting Business" competition.

In response to the director's request for additional documentation, the petitioner submitted information indicating that the China National Women Federation awarded the title of National Distinguished Female Entrepreneur to 79 female executives and managers. Also in 2002, the China National Female Federation honored 12 women as National March 8<sup>th</sup> Red-Flag Women. A newspaper article from 1993 reflects that the petitioner was one of ten Red-Flag Women that year.

The petitioner has not established that her "awards" are nationally recognized awards or prizes that top executives in the country aspire to win. Rather, the "awards" appear more akin to the type of recognition afforded to many successful businesswomen in China. Moreover, the most recent honor was issued in 1993, nine years prior to the filing date of the petition. As such, the honors cannot establish sustained acclaim as of that date.

*Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.*

The petitioner submitted evidence that in 1992 she was appointed as the Executive Director of the first Board of Directors of the Cooperative Commercial Enterprises Federation in Liaoning Province and that in 2000 she was appointed the Executive Director of the fourth Board of Directors of the Education Foundation of Shengyang City through January 11, 2005.

In response to the director's request for additional documentation, the petitioner submitted a certificate verifying her membership with the China Association of Female Entrepreneurs. The petitioner also submitted information indicating that the association's members "are successful female entrepreneurs and nationally distinguished female managers and executives." The materials do not specify the membership requirements or the selection procedure.

The director concluded that the petitioner had not submitted evidence that these organizations require outstanding achievements of their members. On appeal, counsel asserts that "all these three organizations are distinguished national and regional organizations whose members are highly selective, let alone the leading position like Executive Director." Counsel continues that the two organizations for which the petitioner served as Executive Director are regional but that the Executive Director is the most important position.

A board of directors is not an association with a membership. Thus, the petitioner's board positions are better considered under the "leading or critical role" criterion discussed below.

Finally, counsel states:

The China Association of Female Entrepreneurs is a national organization of successful businesspersons and outstanding female managers. To be included in this organization, the business entity being managed must be nationally, regionally, or provincially renowned for its established success in terms of economic gains, the size of the entity, its impact in the field, its unique experience leading to success, etc.

The assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). The petitioner has not submitted the official bylaws of the China Association of Female Entrepreneurs setting forth their membership requirements and selection procedure. As such, she has not established that this membership meets the plain language requirements of this criterion.

*Published materials about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.*

The director determined that the petitioner had not submitted sufficient translations of the articles submitted to meet this criterion and that the articles appeared to focus more on the petitioner's business than on her. On appeal, the petitioner submits full translations of eight articles. Of the articles submitted, many are about events and others are collections of brief biographies of multiple entrepreneurs in addition to the petitioner. The articles about events cannot be considered to be "about the alien" as required by the regulation. In addition, appearing as one of many successful individuals in a frequently published directory is not evidence of national acclaim. The record does contain two articles that are primarily about the petitioner in the *Economic Daily* and the *Reform Monthly*, both published in 1994. The record contains evidence that the *Economic Daily* has a national circulation of 800,000. The record contains no information regarding the circulation of the *Reform Monthly*. In addition, all of the news coverage ended in 1995. Minimal news coverage ending seven years prior to the filing date of the petition cannot establish sustained national acclaim as of that date.

*Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.*

The petitioner submitted a copy of her article, "Brave Venture and Hardworking," issued a second place award by the Chinese Women Newspaper at the In the Road of Starting Business competition. In response to the director's request for additional documentation, the petitioner submitted evidence that the *Chinese Women Daily*<sup>1</sup> is the largest national newspaper in China for women and that "based on 10 readers per copy, there are more than 3 million readers per issue." The director concluded that the article, the petitioner's personal reflections on her success as a businesswoman, was not scholarly. Counsel does not challenge this conclusion on appeal and we concur with the director.

*Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.*

The record establishes that the petitioner is the legal representative for the Shenyang Mulan Group and has served as the Executive Director of the Cooperative Commercial Enterprises Federation in Liaoning Province and the Education Foundation of Shenyang City. In response to the director's request for additional documentation, counsel references the article in the *Economic Daily* as evidence of Shenyang Mulan Group's nationally distinguished reputation.

The director concluded that while the petitioner had played a leading or critical role for Shenyang Mulan Group, she had not established that the business enjoyed a distinguished reputation nationally. On appeal, counsel notes that the *Economic Daily* reports that Shenyang Mulan Group was a 12 employee bankrupt business with RMB 128,000 in capital when the petitioner took over. The article further states that eight years later, the same business had RMB 220 billion in fixed assets and 40 subsidiary companies.

The Cooperative Commercial Enterprises Federation in Liaoning Province and the Education Foundation of Shenyang City appear to be local. The record does not indicate that they have a distinguished reputation nationally. Given the media attention garnered by Shenyang Mulan Group, however, we find that the company does enjoy a distinguished reputation nationally. Thus, the petitioner meets this criterion.

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim and is one of the small percentage who has risen to the very top of the field of endeavor.

Review of the record, however, does not establish that the petitioner has distinguished herself as a chief executive officer to such an extent that she may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of her field. The evidence indicates that the petitioner shows talent as a chief executive officer, but is not persuasive that the petitioner's achievements set her significantly above almost all others in her field. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

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<sup>1</sup> The record contains no evidence that the *Chinese Women Newspaper* and the *Chinese Women Daily* are one and the same publication.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.