U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: VERMONT SERVICE CENTER Date: OCT 2 0 2004

IN RE: Petitioner: [redacted]
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:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

Mari Johnson

Robert P. Wiemann, Director
Administrative Appeals Office

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DISCUSSION: The employment based immigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) 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 the arts. The director determined the petitioner had not established that he qualifies 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 field of expertise are set forth in the 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 he has earned sustained national or international acclaim at the very top level.

This petition, filed on November 22, 2002, seeks to classify the petitioner as an alien with extraordinary ability as a "Chinese Peking Opera Actor." The statute and regulations require the petitioner's acclaim to be sustained. The record reflects that the petitioner has been residing in the United States since 2000. Given the length of time between the petitioner's arrival in the United States and the petition's filing date, it is reasonable to expect him to have earned national acclaim in the United States during that time. The petitioner has had ample time to establish a reputation as a performer in this country.

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 pertaining to 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 petitioner submitted certificates with accompanying translations reflecting that he received the following awards:

1. First Prize of "Double Phoenix Cup" Peking Opera Young Performer Contest of Shangdong Province (1999)
2. Second Prize in the Second Northern China Peking Opera Television Contest (1998)
3. Excellent Performance Prize in the Fourth Art Festival of Shenyang City (1994)

The preceding awards are reflective of provincial, regional, or local (rather than national or international) recognition.

Also submitted was a certificate with an accompanying translation indicating that the petitioner was awarded Second Prize of Traditional Opera in the National "Spring Orchid Cup" Traditional Opera and Musicals Grand Prize Contest (1992).

Also provided were three certificates with accompany translations indicating that the petitioner participated in the Peking Opera performance "Coincidence in Wardrobe" in the Chinese Traditional Opera Show of New Year's Eve (1999), the Joint Spring Welcome Show of New Year's Eve of China Central Television (1998), and a benefit performance sponsored by various organizations in the Liaoning Province for "people in areas stricken by natural catastrophe" (1998). The petitioner offers no evidence to show that these certificates are nationally or internationally recognized awards, rather than simply an acknowledgment of his participation in the preceding events.

Pursuant to 8 C.F.R. § 103.2(b)(3), any document containing foreign language submitted to Citizenship and Immigration Services shall be accompanied by a full English language translation that the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English. The translations accompanying the petitioner's award certificates were not certified as required by the regulation.

The record contains no evidence of publicity surrounding the above awards or evidence showing that the petitioner's awards enjoy significant recognition beyond the context of the event where they were presented. The level of recognition associated with the preceding certificates is not self-evident. The petitioner must provide evidence to establish that his awards enjoy significant national or international stature. In this case, the record contains no documentation from the awarding entities or print media to establish that the above certificates are nationally recognized performing arts awards.

In addressing the petitioner's awards, the director's decision stated: "The prestige of these awards has not been established because they are not supported by the award criteria used and field of entrants listings. It is

not apparent that these awards would be recognized for their importance beyond the government committees and festivals that bestow them."

On appeal, the petitioner addresses the director's observations stating:

> For the award criteria used, as the traditional and old art, it is full of lots of express channel & estimated standard [sic]. It is really difficult to set up the only criteria till now [sic]. I already asked helps of some experts in China [sic].... For the letter from renowned independent experts in support of my ability..., they are on going now [sic].

More than ten months after the petitioner's appellate submission, the AAO has received nothing further from the petitioner in support of his appeal. Letters from "renowned independent experts" discussing the awards' selection criteria have not been provided. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

In addition to the above deficiencies, the record contains no evidence showing that the petitioner has won any significant performing arts awards subsequent to his arrival in the United States in 2000. The absence of such awards suggests that the petitioner has not sustained whatever acclaim he may have earned in China.

> *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.*

In order to demonstrate that membership in an association meets this criterion, the petitioner must show that the association requires outstanding achievement as an essential condition for admission to membership. Membership requirements based on employment or activity in a given field, a fixed minimum of education or experience, recommendations by colleagues or current members, or payment of dues, do not satisfy this criterion because participation, employment, education, experience, and recommendations do not constitute outstanding achievements. In addition, membership in an association that evaluates its membership applications at the local or provincial level would not qualify. It is clear from the regulatory language that members must be selected at the national or international, rather than the local, level. Finally, the overall prestige of a given association is not determinative; the issue here is membership requirements rather than the association's overall reputation.

Documentation accompanying the petition included evidence of the petitioner's membership in the Liaoning Chinese Traditional Peking Opera Troupe and the Association of Chinese Artists. According to the translation accompanying the petitioner's membership card from Association of Chinese Artists, the petitioner's membership grade is listed as "Second-Class Performer of State." The petitioner does not explain how being a "Second-Class Performer" indicates that he is one of that small percentage who have risen to the very top of the performing arts field. We further note that the Liaoning Chinese Opera Troupe is a local, rather than a national or international, association. In regard to both organizations, the record contains no evidence of their bylaws or membership requirements to demonstrate that they require outstanding achievement in the performing arts. Assertions from the petitioner regarding the exclusive nature of their

membership requirements are not adequate to satisfy the "extensive documentation" requirement for this classification set forth at section 203(b)(1)(A)(i) of the Act. *See also Matter of Treasure Craft of California.*

In view of the foregoing, it has not been established that the petitioner's membership in the above organizations required outstanding achievement or that his admission to membership was evaluated by experts at the national or international level.

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

In order to establish that he performed a leading or critical role for an organization or establishment with a distinguished reputation, the petitioner must establish the nature of his role within the entire organization or establishment and the reputation of the organization or establishment.

In addressing this criterion, the petitioner (in a letter dated November 15, 2002) states:

> I have worked as a principal Peking Opera actor for more than 14 years in Liaoning Chinese Traditional Peking Opera Troupe. The troupe is an important Peking Opera performing organization in Liaoning Province, China. Its performance is popular, since its shows are often on television more and more recently. I had been playing the Hua-Lian role in its most of classical plays [sic].

The record, however, contains no published reviews of the petitioner's Peking Opera performances to demonstrate that his acting roles earned him significant acclaim throughout China. It has not been established that the petitioner's role in the Liaoning troupe is any more critically acclaimed than that of the other performers. Furthermore, the record does not adequately demonstrate that the Liaoning Peking Opera Troupe, the petitioner's employer during the 1980's and 1990's, has earned a distinguished reputation when compared to other Peking Opera Troupes throughout China. We find the petitioner has not established that he has performed in a leading or critical role for a distinguished organization, or that his involvement has earned him sustained national or international acclaim.

Beyond the decision of the director, the regulation at 8 C.F.R. § 204.5(h)(5) requires "clear evidence that the alien is coming to the United States to continue work in the area of expertise." Subsequent to his arrival in 2000, there is no evidence showing that the petitioner's primary occupation in the United States involves Peking Opera. For example, there is no documentation showing that the petitioner has regularly taken part in performances here in the United States.

For the reasons discussed above, the record is ambiguous regarding the petitioner's acclaim throughout his native China, and there is no evidence showing that the petitioner has sustained whatever acclaim he earned in China since his 2000 arrival in the United States. Nor has the petitioner adequately demonstrated that he will "continue work in the area of expertise."

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim, is one of the small percentage who has risen to the very top of the field of endeavor, and that the alien's entry into the United States will substantially benefit

prospectively the United States. The petitioner in this case has failed to demonstrate that he meets at least three of the criteria that must be satisfied to establish the sustained national or international acclaim necessary to qualify as an alien of extraordinary ability.

Review of the record does not establish that the petitioner has distinguished himself as a performer to such an extent that he may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of his field. The evidence is not persuasive that the petitioner's achievements set him significantly above almost all others in his field at a national or international level. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

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.