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 20 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

for Robert P. Wiemann, Director
Administrative Appeals Office

identifying data deleted to
prevent [illegible]
invasion of personal privacy

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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 she 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 she has earned sustained national or international acclaim at the very top level.

This petition, filed on July 18, 2002, seeks to classify the petitioner as an alien with extraordinary ability as a "Chinese Peking Opera Actress."

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 a certificate with an accompanying translation reflecting that she received Second Prize in the National Performance Competition of Traditional Operas, Modern Plays and Opera (1994).

Also provided was a certificate, dated August 15, 1998, with an accompanying translation, indicating that the petitioner won an "'Excellent Hua-Dan Award' in the 1998 National Young Peking Opera Performer Contest." The petitioner submitted another certificate from that same date (with an accompanying translation) indicating that she was granted an "'Opera Achievement Award' in the 1998 National Traditional Performance Grand Competition." The petitioner has not adequately explained how certificates from seemingly two separate events, the "1998 National Young Peking Opera Performer Contest" and the "1998 National Traditional Performance Grand Competition" were both awarded to her on the same date (August 15, 1998).

Also provided was a "Certificate of Honor" (with an accompanying translation) from the Shanghai Peking Opera Troupe, the petitioner's employer, recognizing the petitioner for her "outstanding services" in 1993. This certificate is reflective of institutional or local, rather than national or international, recognition.

Also submitted was a certificate and accompanying translation indicating that the petitioner participated in Chinese Central Television's "Missing Jade Bracelet" Peking Opera performance in the "Chinese Opera Show" of New Year's Eve (1999). The petitioner offers no evidence to show that this certificate is a nationally or internationally recognized award, rather than simply an acknowledgment of her participation in the show.

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. Simply receiving an award certificate with the word "national" in the title does not satisfy this very restrictive criterion. The petitioner must provide evidence to establish that her 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 preceding awards, the director's decision noted that the record contained no evidence of the criteria used to select the winners, nor information regarding the size of the pool of candidates from which the winners were chosen.

On appeal, the petitioner addresses the director's finding stating: "I asked many experts in China by mail. They told me that it is very difficult to set up the criteria for the old and traditional art. Peking opera have 20

kinds of roles style and over 80 kinds of expression systems [sic]. Before liberation, there is no any criteria and standard for this art [sic]."

The petitioner does not identify the "many experts" in China with whom she corresponded. Nor does she provide the response letters from these individuals to support her assertions. 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 received any performing arts awards subsequent to arriving in the United States in 2001. Contrary to the petitioner's claim, the certificate from the World Association of Beauty Culture (New York) is evidence of a local association "membership" rather than a nationally or internationally recognized award for excellence in the performing arts. The absence of awards presented to the petitioner subsequent to 1999 (in China or the United States) suggests that the petitioner has not sustained whatever acclaim she 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 World Association of Beauty Culture (New York). This association, founded in New York in 2000, appears to be a local (rather than a national or international) association.

In response to the director's request for evidence, the petitioner submitted a letter, dated March 10, 2003, stating that she was a "second-class performer of state of China." The petitioner does not explain how being a "Second-Class Performer" indicates that she is one of that small percentage who have risen to the very top of the performing arts field.

A second letter provided by the petitioner, also dated March 10, 2003, states:

> This is to certify that I am the member of the Association of Chinese Artists, that the association requires an applicant of membership to be member of council of associations in province or city, and

> that its membership is the highest grade membership of artist [sic]. Only outstanding talent can be an applicant of the Association of Chinese Artists.

According to the petitioner, the Association of Chinese Artists evaluates membership based on one's activities at the provincial or citywide, rather than the national or international, level. In regard to the petitioner's assertions regarding both the Association of Chinese Artists and the World Association of Beauty Culture, 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 associations required outstanding achievement or that her admission to membership was evaluated by experts at the national or international level.

> *Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.*

In an occupation where "judging" the work of others is an inherent duty of the occupation, simply performing one's job related duties demonstrates competency, and is not evidence of national or international acclaim. Instead, the petitioner must demonstrate that her sustained national or international acclaim resulted in her selection to serve as a judge of the work of others. Similarly, the competition or contest must be on a national or international level and involve accomplished professionals in the petitioner's field. For example, evaluating professional entrants in a national contest would carry far greater weight than serving as a judge at a local amateur competition.

In response to the director's request for evidence, the petitioner submitted a letter, dated March 10, 2003, stating: "This is to certify that I was the judge member of Shanghai City Peking Opera Performance Grand Contest and the judge member of Chinese Tianjin City Dramatist Association, and that both of them are authoritative judge organizations of municipality directly under Chinese Central government [sic]." The record, however, contains no evidence to substantiate the petitioner's claim. *See Matter of Treasure Craft of California.* Aside from an absence of evidence supporting the petitioner's assertion, according to her letter, the petitioner served as a judge at the local, rather than the national or international, level. The record contains no evidence showing that the petitioner has ever evaluated artistic performances at the national or international level.

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

In response to the director's request for evidence, the petitioner submitted an article she authored, entitled [redacted] A Selfless Senior Dedicated to Promotion of Peking Opera," which appeared in *Chinese Peking Opera* in 1996. Based on the content of the article, we do not find that it qualifies as "scholarly" published material. Furthermore, there is no evidence (from an objective source such as a media guide, for

example) indicating the national or international circulation of the edition in which the petitioner's article appeared. Nor is there any supporting evidence showing that the petitioner's article is widely viewed throughout her field as significantly influential.

> *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 she performed a leading or critical role for an organization or establishment with a distinguished reputation, the petitioner must establish the nature of her 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 July 15, 2002) states:

> I have worked as a principal Peking Opera actress for more than 20 years in Shanghai Peking Opera Troupe. The troupe has a traceable history of 60 years. It is the most important Peking Opera Troupe in southeast China. Its popularity is regional and even national, since its shows are on television and on stages all around the country. I had been playing the Hua-Dan role in its classical plays.

The record, however, contains no published reviews of the petitioner's Peking Opera performances to demonstrate that her acting roles earned her significant acclaim throughout China. It has not been established that the petitioner's role in the Shanghai troupe is any more critically acclaimed than that of the other performers. Furthermore, the record does not adequately demonstrate that the Shanghai Peking Opera Troupe has earned a distinguished reputation when compared to other Peking Opera Troupes throughout China. We find the petitioner has not established that she has performed in a leading or critical role for a distinguished organization, or that her involvement has earned her 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 her arrival in 2001, 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 her native China, and there is no evidence showing that the petitioner has sustained whatever acclaim she earned in China since her 2001 arrival in the United States. Nor has the petitioner adequately demonstrated that she 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 she 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 herself as a performer 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 is not persuasive that the petitioner's achievements set her significantly above almost all others in her 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.