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FILE: EAC 04 055 52095 Office: VERMONT SERVICE CENTER Date: DEC 22 2005

IN RE: Petitioner: [Redacted]  
Beneficiary: [Redacted]

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.

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The employment-based immigrant visa petition was denied by the Director, Vermont 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. The director determined that the petitioner had not established the sustained national or international acclaim requisite to classification as an alien of extraordinary ability. On appeal, the petitioner submits additional evidence and reasserts her claim that she has achieved the requisite sustained acclaim and has risen to the top of her field. The petitioner's contentions and the supplemental evidence submitted on appeal do not overcome the deficiencies of the petition and the appeal will be dismissed for the reasons discussed below.

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

(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 into the United States will substantially benefit prospectively the United States.

Specific supporting evidence must accompany the petition to document the "sustained national or international acclaim" that the statute requires. 8 C.F.R. § 204.5(h)(3). An alien can establish sustained national or international acclaim through evidence of a "one-time achievement (that is, a major, international recognized award)." *Id.* Absent such an award, an alien can establish the necessary sustained acclaim by meeting at least three of ten other regulatory criteria. *Id.* However, the weight given to evidence submitted to fulfill the criteria at 8 C.F.R. § 204.5(h)(3), or under 8 C.F.R. § 204.5(h)(4), must depend on the extent to which such evidence demonstrates, reflects, or is consistent with sustained national or international acclaim at the very top of the alien's field of endeavor. A lower evidentiary standard would not be consistent with the regulatory definition of "extraordinary ability" as "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).

In this case, the petitioner seeks classification as an alien with extraordinary ability in the field of communication arts and media. In the following discussion of the regulatory criteria relevant to the petitioner's case, we address the evidence submitted initially and on appeal. The petitioner does not claim eligibility under any other regulatory criteria not discussed below.

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

The petitioner claims to meet this criterion by virtue of her receipt of a 2002 APEX Award for Publication Excellence in the subcategory of Training and Information Brochures, Manuals and Reports for her training brochure, "Siebel Systems Stock Benefits Website Brochure." The petitioner initially submitted a copy of her award certificate and a document about the APEX awards printed by the sponsor of the competition, Communications Concepts, Incorporated. This document states that the awards were granted "based on excellence in graphic design, editorial content and the success of the entry – in the opinion of the judges – in achieving overall communications effectiveness and excellence." The record shows that 5,863 total entries were received for all categories and that 98 APEX Grand Awards were presented in 11 major categories and 1,527 APEX Awards of Excellence were presented in 100 subcategories. For the category in which the petitioner received an APEX Award of Excellence (Brochures, Manuals and Reports), 656 entries were received and 18 Awards of Excellence were granted.

The petitioner states that the APEX Awards are internationally recognized, but the record does not corroborate this claim. Although some of the awardees are from other countries, the petitioner submitted no evidence that the awards themselves are internationally recognized in her field. For example, the record contains no evidence of media coverage of the awards in general or trade publications with international circulation or from other countries. The record also does not persuasively establish that the petitioner's award is consistent with national acclaim. On appeal, the petitioner submits printouts from the websites of five entities announcing their receipt of APEX awards. While these printouts indicate that these five entities take pride in their awards, they do not establish that the APEX awards are nationally recognized in the petitioner's field. The record contains no evidence, for example, that national trade publications in the petitioner's field regularly announce the APEX award winners or otherwise recognize the significance and prestige of those awards. Although the evidence shows that the petitioner's award was highly competitive, the record does not establish the national or international recognition of the APEX Awards. Accordingly, the petitioner does not meet this criterion.

*(ii) 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 claims to meet this criterion because she is a member of Media Communicators Association – International (MCA-I), the International Association of Business Communicators (IABC) and the Public Relations Society of America (PRSA). The record contains no evidence of the petitioner's membership MCA-I or IABC, no documentation of the membership criteria of these associations or other evidence that outstanding achievements are prerequisite to MCA-I or IABC membership. The record contains a copy of the petitioner's PRSA membership certificate and evidence submitted on appeal indicates that PRSA has 20,000 members and is the world's largest organization for public relations professionals. Although the record shows that PRSA accredits public relations specialists who have at least five years of experience and have passed a comprehensive six-hour examination, the petitioner submitted no evidence that such accreditation is prerequisite to PRSA membership or that she herself has been so accredited. The record contains no documentation of the PRSA membership criteria or other evidence that outstanding achievements, as judged by recognized national or international experts, are prerequisite to PRSA membership. Accordingly, the petitioner does not meet this criterion.

*(v) Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.*

As evidence of her eligibility under this criterion, the petitioner initially submitted a letter verifying that the petitioner coordinated monthly events at the United Officer's Club in 1997; a letter from The India Foundation of Dayton, Ohio confirming the petitioner's initial \$1,000 payment (and \$4,000 balance) to participate in the "KABEER show" on October 13, 2001; and two editions of a community newspaper that she edited and published in India in 1997. The record contains no evidence to establish the significance of the first two documents. To support the significance of her community newspaper, the petitioner submits on appeal a letter from [REDACTED], Marketing Director of Eastern Media Holdings, Incorporated, who states that she has known the petitioner for over a decade and has worked with her on two occasions. Ms. [REDACTED] explains that the petitioner was the first person in Bombay to publish a local community newspaper in different parts of the city. Ms. [REDACTED] states that the petitioner's newspaper "quickly gained popularity and got noticed by big publishers, and was eventually bought by one of them." The record contains no evidence to corroborate this statement. The petitioner submitted no evidence regarding, for example, the circulation, sales, popularity, or critical acclaim of her newspaper and the record contains no documentation of the newspaper's sale to a larger publisher. Furthermore, even if the petitioner's newspaper was a documented success in Bombay, the record contains no evidence that the petitioner's work extended beyond the Bombay metropolitan region and brought her national acclaim in her field throughout India. In addition, the submitted copies of this newspaper are dated in 1997, six years prior to the filing of this petition, and do not reflect sustained acclaim. Accordingly, the petitioner does not meet this criterion.

*(vi) 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 numerous samples of her work, including brochures, business plans and websites for various entities. These documents are not scholarly articles in the petitioner's field. On appeal, the petitioner submits a copy of an article she wrote for *DiversityInc* in 2001 entitled "To Successfully Sell to Emerging Markets, Use Cultural Competence in Corporate Communications." The petitioner submitted a printout from the website of *DiversityInc.com*, which indicates that *DiversityInc* is a magazine addressing diversity issues in the business world, but the petitioner submitted no information regarding the magazine's circulation, editorial criteria or other evidence to establish that *DiversityInc* is a professional or major trade publication. The record also contains no evidence to establish the significance of this article. For example, the petitioner submitted no documentation that her article was well-received, cited by other public relations specialists or otherwise recognized in her field. Moreover, the publication of just one scholarly article over the course of an 11-year career does not demonstrate sustained acclaim. Accordingly, the petitioner does not meet this criterion.

*(vii) Evidence of the display of the alien's work in the field at artistic exhibitions or showcases.*

This criterion applies to the visual arts. Inasmuch as the petitioner's field may incorporate aspects of the visual arts, we will discuss her eligibility under this criterion. However, activities which nominally fall under a given regulatory criterion at 8 C.F.R. § 204.5(h)(3) do not demonstrate national or international acclaim if they are inherent or routine in the occupation itself, or in a substantial proportion of positions within that occupation. Frequent display of artwork is inherent to the majority of artistic professions. Hence, publication and exhibition of an alien's artwork will not meet this criterion without evidence that the work has been displayed at major national or international exhibitions or showcases or that the display of the alien's work otherwise demonstrates

sustained national or international acclaim, rather than merely documenting the alien's continued employment or activity in his or her field.

On appeal, the petitioner states: "Most of the communication pieces created by me have been distributed to a large number of publics [sic] in various formats – as corporate brochures, newsletter[s], training materials and websites." The distribution of the petitioner's work to an entity's employees and clients does not meet this criterion. There is no evidence that the petitioner's brochures, newsletters, training materials and websites were displayed at artistic exhibitions or showcases in a manner consistent with sustained national or international acclaim.

On appeal, the petitioner also claims that "[s]ome of the pieces have reached the general public in the form of TV programs, advertisements and art exhibitions." The mere fact that the public has viewed the petitioner's work does not satisfy this criterion. The record contains no evidence that the petitioner's work on television programs and advertisements was displayed at artistic exhibitions or showcases in a manner consistent with sustained national or international acclaim. The record documents the petitioner's participation in one visual arts exhibition, but the submitted brochure shows that this was an exhibition of students enrolled in the Masters of Business Administration (MBA) media management program at Audrey Cohen College in New York City. The petitioner submitted no evidence that her work in this exhibition was critically acclaimed, received significant media coverage or was otherwise recognized as making an original, major contribution to her field.

The record indicates that only one piece of the petitioner's work has been recognized in her field at large (apart from her employers and colleagues). As discussed under the first criterion, the petitioner won a 2002 APEX Award for Excellence for one of her company brochures. While this honor reflects the quality of the petitioner's work as judged by experts in her field, the record contains no evidence that the petitioner's brochure was exceptionally innovative, significantly influenced other individuals in her field, or otherwise made an original artistic contribution of major significance to her field. Accordingly, the petitioner does not meet this criterion.

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

The petitioner does not claim eligibility under this criterion, but the record contains relevant evidence that merits brief discussion. Several of the recommendation letters submitted on appeal state that the petitioner made valuable contributions to certain projects and companies. While the letters praise the petitioner's professional and personal qualities, they do not establish that she performed a leading or critical role for any of the companies. The record also does not demonstrate the distinguished reputation of any of the companies. Accordingly, the petitioner does not meet this criterion.

*(ix) Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.*

The petitioner claims that her salary is high in comparison to others in her field. The petitioner submitted a letter from her employer, Citigroup, confirming her employment as an Assistant Vice President who receives an annual salary of \$58,700. The petitioner also submitted a printout from "total comp@citigroup" which states that the petitioner received a cash bonus of \$2,200 in 2003 such that her total income was \$60,900. The petitioner claims that the submitted excerpt on Public Relations Specialists from the U.S. Department of Labor's

Occupational Outlook Handbook supports her claim because it states that the median annual earnings for salaried public relations specialists were \$41,710 in 2002. While the petitioner's salary is above this median, it is not comparable to salaries of public relations specialists in the top ten percent who, according to the Handbook, earned more than \$75,100. In addition, the Handbook states that according to a joint survey conducted by PRSA and IABC, the median annual income for a public relations specialist in 2002 was \$66,800. Hence, the record does not establish that the petitioner's salary is higher than other specialists in her field or comparable to individuals at the top of her field. Accordingly, the petitioner does not meet this criterion.

On appeal, the petitioner also submits a letter from *Strathmore's Who's Who* as evidence of her "prominent position" in her field. We cannot consider this evidence because it arose after the petition was filed. The petitioner must establish eligibility at the time of filing; a petition cannot be approved at a future date after the petitioner becomes eligible under a new set of facts. See 8 C.F.R. § 103.2(b)(12), *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm. 1971). Even if this letter was dated prior to the filing of this petition, it would not support the petitioner's claim. The letter states that the petitioner was selected as a candidate for inclusion in *Strathmore's Who's Who*, a publication which the letter states, "recognizes those men and women who have achieved success in their respective fields." The record contains no evidence of the selection criteria for this publication or any other evidence that selection as a candidate for inclusion, or actual inclusion, in the volume demonstrates national or international acclaim.

An immigrant visa will be granted to an alien under section 203(b)(1)(A) of the Act, 8 U.S.C. § 1153(b)(1)(A), only if the alien can establish extraordinary ability through extensive documentation of sustained national or international acclaim demonstrating that the alien has risen to the very top of his or her field. The evidence in this case does not establish that the petitioner has achieved sustained national or international acclaim placing her at the very top of her field. She is thus ineligible for classification as an alien with extraordinary ability pursuant to section 203(b)(1)(A) of the Act, 8 U.S.C. § 1153(b)(1)(A), and her 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. The petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.