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**U.S. Citizenship
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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: JUL 13 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:



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

S 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 (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 athletics and the arts. 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 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 14, 2003, seeks to classify the petitioner as an alien with extraordinary ability as a "Chinese acrobat."

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, internationally recognized award).

On appeal, counsel states that the following awards "are major, internationally recognized major awards in the profession of acrobat."

1. "Golden Paris Award" certificate presented to the "Chongqing Acrobatic Troupe" (rather than the petitioner) for its participation in the "Future World Circus Festival" in 1994 (the certificate itself is a pre-printed form with four "fill-in-the-blank" spaces for entering data)
2. "Silver Prize in the Belgium International Acrobatic Competition in 1997" (the record contains no first-hand evidence of this award)
3. "Diploma" issued in 2000 from the "Organizing Committee of the April Spring Friendship Art Festival, D.P.R. of Korea," which states: "THE GOLD PRIZE IS AWARDED TO [illegible] PARTICIPATING IN TH [sic] APRIL SPRING FRIENDSHIP ART FESTIVAL, D P R OF KOREA"
4. A non-translated, pre-printed "Diploma of Honor" presented in 2001 by the Kiwanis Club of Monaco with five "fill-in-the-blank spaces" for entering data

The record contains no evidence showing that the preceding prizes are major, internationally recognized prizes or awards, rather than simply an acknowledgment of petitioner's participation in the events. In regard to item 3, we note the omission of the letter "E" from the word "THE" on the certificate itself (not a translation error). Such a misspelling significantly diminishes the weight of this evidence. The regulation permitting eligibility based on a single award must be interpreted very narrowly, with only a small handful of awards qualifying as major, internationally recognized awards. Examples of one-time awards which enjoy truly international recognition include the Nobel Prize, the Academy Award, and (most relevant for athletics) the Olympic Gold Medal. These prizes are "household names," recognized immediately even among the general public as being the highest possible honors in their respective fields. The preceding awards do not meet this standard. These items will be further addressed below as lesser nationally or internationally recognized prizes or awards.

Barring the alien's receipt of a major, internationally recognized 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 claims eligibility under 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.

We note that the plain wording of this criterion requires "nationally or internationally recognized" prizes or awards for excellence in the field. The burden is on the petitioner to demonstrate the level of recognition and achievement associated with her individual awards.

In addition to the four prizes cited above, the petitioner provided non-certified translations of three "Golden Lion" award certificates (May 1991, September 1995 and October 2000). Information provided by the petitioner from the China Acrobatic Association states that the Golden Lion Award competition is "held every four years." We cannot ignore that the latter Golden Lion award certificates are dated September 1995 and October 2000 (more than five years apart). The petitioner has not resolved this discrepancy. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition.

The petitioner also submitted non-certified translations of award certificates for a Golden Prize and a Silver Prize at the "2nd National Promising Successors Acrobatic Competition" (September 1993). The record offers no explanation regarding how the petitioner's "Juggling with the Feet" program received both the Golden and Silver Prize at the same competition. We further note from the name of this competition that the petitioner faced competition limited to her approximate age group within her field rather than from throughout her entire field. Such competitions offer no meaningful comparison between the petitioner and the most experienced and practiced acrobats in the field.

The petitioner also submitted a non-certified translation of an award certificate for a paper she authored having won third place at the "4th National Acrobatic Theory Conference." There is no evidence showing that this award is recognized beyond the context of the event where it was presented.

Pursuant to 8 C.F.R. § 103.2(b)(3), any document containing foreign language submitted to Citizenship and Immigration Services (CIS) 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. We note that none of the award certificates presented by the petitioner comply with the regulation at 8 C.F.R. § 103.2(b)(3).

The significance and importance of the certificates presented by the petitioner are not self-evident. The existence of pre-printed, fill-in-the-blank, form-style documents suggests multiple winners at the petitioner's competitions. It should be emphasized that the petitioner must submit documentary evidence showing the degree of recognition accorded to her awards. The evidence of record does not indicate the total number of certificates annually distributed by the entities that recognized the petitioner, how many other individuals achieved a level of recognition similar to that of the petitioner, the criteria used in determining recipients for each particular award, or the level of media coverage associated with the award presentations. We note here that section 203(b)(1)(A)(i) of the Act requires extensive documentation of sustained national or international acclaim. Pursuant to the statute, the petitioner must provide adequate evidence to establish that the certificates presented under this criterion enjoy significant national or international stature. Simply submitting letters from the Chinese Acrobatic Association or the Chongqing Acrobatic Troupe alleging that an award is nationally recognized cannot suffice to satisfy this criterion. Contemporaneous evidence of national recognition associated with the awards is of far greater evidentiary value, particularly when the statute requires "extensive documentation" of sustained national or international acclaim. In this case, the petitioner has not shown that her awards are widely recognized beyond the organization that presented them.

In addition to the above deficiencies, the record contains no evidence showing that the petitioner has won any acrobatic awards subsequent to 2001. The absence of such awards 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, minimum education or experience, standardized test scores, grade point average, recommendations by colleagues or current members, or payment of dues, do not satisfy this criterion as such requirements do not constitute outstanding achievements. In addition, it is clear from the regulatory language that members must be selected at the national or international level, rather than the local or provincial level. Therefore, membership in an association that evaluates its membership applications at the local or provincial chapter level would not qualify. Finally, the overall prestige of a given association is not determinative; the issue here is membership requirements rather than the association's overall reputation.

The petitioner submitted her China Acrobats Association membership card. The petitioner also submitted a letter from the China Acrobats Association listing its membership requirements. According to the association's membership criteria, admission to membership requires "five years in an acrobatic career" and other achievements at the "provincial level." This evidence does not establish that the petitioner's membership in the China Acrobats Association required outstanding achievement or that her admission to membership was evaluated by experts at the national or international level.

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.

In general, in order for published material to meet this criterion, it must be primarily about the petitioner and, as stated in the regulations, be printed in professional or major trade publications or other *major* media. To qualify as major media, the publication should have significant national or international distribution. An alien would not earn acclaim at the national or international level from a local publication or from a publication in a language that most of the population cannot comprehend. Some newspapers, such as the *New York Times*, nominally serve a particular locality but would qualify as major media because of significant national distribution, unlike small local community papers.¹

The petitioner submitted an incomplete translation of a May 3, 2002 article appearing in *Tianfu Morning*. This article appears to devote only four sentences to the petitioner. Aside from not meeting the requirements of 8 C.F.R. § 103.2(b)(3), the petitioner does not appear to have been the primary subject of this article. The petitioner also submitted promotional flyers from the Chinese Performing Artists of America related to events in Southern California (only one of the items names the petitioner), but these local flyers do not qualify as major media.

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

¹ Even with nationally-circulated newspapers, consideration must be given to the placement of the article. For example, an article that appears in the *Washington Post*, but in a section that is distributed only in Fairfax County, Virginia, cannot serve to spread an individual's reputation outside of that county.

The petitioner submitted letters from the Chairman and Vice Chairman of the Chinese Acrobatic Association and the Head Coach of the Chongqing Acrobatic Troupe. These letters describe the petitioner as a talented performer and mention her competitive awards. The petitioner's awards, however, have already been addressed under a previous criterion. Here it should be emphasized that the regulatory criteria are separate and distinct from one another. Because separate criteria exist for awards and contributions, CIS clearly does not view the two as being interchangeable. If evidence sufficient to meet one criterion mandated a finding that an alien met another criterion, the requirement that an alien meet at least three criteria would be meaningless.

The letters provided in support of this petition describe the petitioner as an accomplished acrobat, but they offer no information as to how the petitioner's individual contributions have significantly influenced her field. The issue here is not the skill level or creativity of the petitioner, but, rather, whether her past endeavors would qualify as a contribution of major significance in her field. In this case, there is no evidence showing the extent of the petitioner's influence on professional acrobats. An individual with sustained national or international acclaim should be able to produce ample unsolicited materials reflecting that acclaim. Without extensive documentation showing that the petitioner's work has been unusually influential or highly acclaimed at the national or international level, we cannot conclude that she meets this criterion.

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 an incomplete translation of a paper that she authored entitled "Scientific Training is a Must Road for Acrobatic Innovation." There is no evidence showing that this article was published or that it appeared in major media. Furthermore, this article cannot be accepted as evidence because it was not accompanied by a full English language translation as required by 8 C.F.R. § 103.2(b)(3). Nor is there any evidence showing that the petitioner's article is widely viewed throughout her field as significantly influential.

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

The AAO has consistently found that this particular criterion is more appropriate for visual artists (such as sculptors and painters) rather than for performers or athletic competitors such as the petitioner. Virtually every acrobat "displays" her work in the sense of performing in front of an audience. In athletic competition or the performing arts, acclaim is generally not established by the mere act of appearing in public, but rather by attracting a substantial audience. For this reason, the regulations establish separate criteria, especially for those whose work is in the performing arts. The petitioner's stage performances will be addressed under a subsequent criterion.

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.

The petitioner submitted a letter from nine of her team members on the Chongqing Acrobatic Art Troupe stating:

Because of her sports acrobatic foundation, she learned the two programs faster and better than all of us. Therefore she took up the most difficult acts and served as a lead performer for the two programs. She performed with great balance, beauty, and charm. Without her as a lead performer in the latter program, we would not have been able to participate in several major national and international competitions and win major awards.

The petitioner may have “served as a lead performer” for two of the troupe’s programs, but the evidence of record is not adequate to establish that the petitioner’s role is any more critically acclaimed than that of the other performers. For example, the record lacks multiple published reviews of the petitioner’s performances to demonstrate that her performances earned her significant acclaim throughout China. Nor does the record adequately demonstrate that the Chongqing Acrobatic Art Troupe enjoys a distinguished national or international reputation. In conclusion, 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.

Evidence of commercial successes in the performing arts, as shown by box office receipts or record, cassette, compact disk, or video sales.

An unsigned letter from the Culture Bureau of Sichuan Province states that the petitioner “has performed more than 1900 times and reached audiences of more than 15,000,000 people.” This criterion, however, calls for commercial success in the form of “sales” or “receipts”; simply documenting the petitioner’s participation in multiple stage performances cannot meet the plain wording of the regulation. The record contains no evidence of documented “sales” or “receipts” to show that the petitioner’s individual performances drew record crowds, were regular sell-out performances, or resulted in greater audiences than other similar performances that did not feature the petitioner.

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 2002 arrival in the United States.

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 has failed to demonstrate receipt of a major internationally recognized award, or that she meets at least three of the criteria that must be satisfied to establish the sustained 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 the 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.