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FILE: [REDACTED]  
EAC 05 092 51339

Office: VERMONT SERVICE CENTER

Date: NOV 16 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.

*Marif Johnson*

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 (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. 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 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 February 7, 2005, seeks to classify the petitioner as an alien with extraordinary ability as a fashion designer.

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 stating that she received a “silver prize in the year 2000 World Chinese Exhibition” for her “Star of Dinner” design. The record, however, includes no evidence of publicity surrounding this prize or evidence showing that it enjoys a significant level of recognition. In order to satisfy this criterion, the petitioner must provide evidence showing that her prize enjoys significant national or international stature.<sup>1</sup> In this case, the record contains no documentation from the awarding entity or the print media to establish that the petitioner’s prize is a nationally or internationally recognized award for fashion excellence.

On appeal, the petitioner submits an unsigned, non-certified document entitled “Agenda of the World Chinese Art Exhibition” allegedly issued by the “Culture Department of China, Culture & Art & Talented Center, Chinese Literature & Art Alliance, Art Guidance Committee, Year 2000 The World Chinese Art Exhibition Committee.” This document (issued in the English language) does not include an address, phone number or any other information regarding how this organization may be contacted. Furthermore, the document has numerous grammatical errors. In light of these multiple deficiencies, we do not accept this document as being authentic.

*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 regional level. Therefore, membership in an association that evaluates its membership applications at the local or regional 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 an English language document entitled “VENEZUENA [sic] FASHION DESIGNER” certifying that she is a “MEMBER OF THE VENEZUENA [sic] CASABLANCA FASHION GROUP.” This document is allegedly signed by an individual named “Richard Griffman” (whose relevance to the fashion industry has not been explained). Aside from the two misspellings of “Venezuela,” Richard Griffman’s letter does not include an address, phone number or any other information regarding how he may

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<sup>1</sup> Large-scale competitions typically issue event programs listing the various competitive categories and the names of the individual participants. At a competition’s conclusion, results are usually provided indicating how each participant performed in relation to the other competitors in his or her category. The petitioner, however, has provided no evidence of the official comprehensive results for the World Chinese Art Exhibition.

be contacted. In light of these deficiencies, we do not accept his letter as being authentic. 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).

Even if we were to accept the authenticity of the document bearing Richard Griffman's signature (which we do not), the record includes no evidence of the bylaws or the official admission requirements for the "Venezuela [sic] Casablanca Fashion Group." There is no evidence showing that this organization requires outstanding achievement in the fashion industry or that individuals are evaluated by national or international experts in consideration of their admission to membership.

*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.*

The regulation at 8 C.F.R. § 204.5(h)(3) provides that "a petition for an alien of extraordinary ability must be accompanied by evidence that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise." Evidence of the petitioner's participation as a judge must be evaluated in terms of these requirements. For example, serving as a judge for a national competition involving professionals is of far greater probative value than serving as a judge for a local competition involving amateurs.

On appeal, the petitioner submits what is alleged to be a "Certificate of Engagement" issued by "The China International Fashion Research Committee" stating that the petitioner "is engaged as advanced judge advisor." We note that the translation accompanying this certificate was not certified as required by the regulation at 8 C.F.R. § 103.2(b)(3). Further, the plain wording of this criterion requires "[e]vidence of the alien's participation . . . as a judge of the work of others." In this instance, there is no evidence of the petitioner's activities as a judge for "The China International Fashion Research Committee." For example, the record lacks information regarding the nature of the petitioner's duties in this capacity, the fashion events at which she served as a judge, the names of individuals she evaluated, and their level of expertise. We cannot ignore that the statute and regulations require "extensive documentation" of sustained national or international acclaim. Without evidence showing that the petitioner's activities involved evaluating professional designers at the national or international level, we cannot conclude she meets this criterion.

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

The petitioner submits various photographs of what are alleged to be her fashion designs, but the specific venues and dates of display have not been identified. In fact, there is no evidence (such as an event program or fashion exhibition brochure) confirming the petitioner's involvement in any fashion exhibition or showcase in China, Venezuela, or the U.S. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

It must be stressed that a fashion designer does not satisfy this criterion simply by arranging for his or her apparel to be displayed or sold. In this case, the petitioner has not submitted evidence demonstrating that her

designs have been displayed at significant national venues. Nor is there any indication that the petitioner's apparel has been featured along side that of fashion designers who enjoy national or international reputations. Furthermore, the petitioner has not demonstrated her regular participation in shows or exhibitions at exclusive venues devoted largely to the display of her fashion designs alone. The evidence presented by the petitioner is not sufficient to show that her exhibitions enjoy a national reputation or that participation in her exhibitions was a privilege extended to only top national or international fashion designers.

In this case, the petitioner 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.

Beyond the regulatory criteria at 8 C.F.R. § 204.5(h)(3), the petitioner submitted letters of support allegedly issued by the Venezuela Textile Design Association and the Venezuela Casablanca Fashion Group. These letters did not include an address, phone number, or any other information regarding how these organizations may be contacted. Such letters are not adequate to demonstrate the petitioner's sustained national or international acclaim in the fashion industry.

Review of the record does not establish that the petitioner has distinguished herself as a fashion designer 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.

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. Such evidence may include letter(s) from prospective employer(s), evidence of prearranged commitments such as contracts, or a statement from the beneficiary detailing plans on how he or she intends to continue his or her work in the United States." The record contains no such evidence.

An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003); *see also Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989)(noting that the AAO reviews appeals on a *de novo* basis).

The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

**ORDER:** The appeal is dismissed.