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U.S. Citizenship
and Immigration
Services

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FILE: WAC 05 180 52865 Office: CALIFORNIA SERVICE CENTER Date: APR 26 2007

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.

Robert P. Wiemann
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the employment-based immigrant visa petition, which is now before the Administrative Appeals Office on appeal. The appeal will be sustained and the petition will be approved.

The petitioner seeks classification as an "alien of extraordinary ability" 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 business. The director determined the petitioner had not established the requisite national or international acclaim. Specifically, the director determined that the petitioner only meets one of the ten regulatory criteria for the classification sought, of which an alien must meet at least three.

On appeal, counsel submits a brief. For the reasons discussed below, while some of the director's concerns are valid, we find that the petitioner has demonstrated that he meets two additional criteria through judging the work of others and serving in a leading or critical role for entities with a distinguished reputation.

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).

An alien, or any person on behalf of the alien, may file for classification under section 203(b)(1)(A) of the Act as an alien of extraordinary ability in science, the arts, education, business, or athletics. Neither an offer of employment nor a labor certification is required for this classification.

The specific requirements for supporting documents to establish that an alien has achieved sustained national or international acclaim are set forth in regulations at 8 C.F.R. § 204.5(h)(3). The relevant criteria will be discussed below. It should be reiterated, however, that the petitioner must show that he has sustained national or international acclaim at the very top level.

This petition seeks to classify the petitioner as an alien with extraordinary ability as a marketing professor. The petitioner is currently a professor at the University of Hong Kong. In compliance with the regulation at 8 C.F.R. § 204.5(h)(5), the petitioner submitted several offers of employment and letters of interest from U.S. universities.

The regulation at 8 C.F.R. § 204.5(h)(3) presents ten criteria for establishing sustained national or international acclaim, and requires that an alien must meet at least three of those criteria unless the alien has received a major, internationally recognized award. Review of the evidence of record establishes that the petitioner has in fact met three of the necessary criteria.

Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media. (8 C.F.R. § 204.5(h)(3)(vi))

The director concluded that the petitioner meets this criterion. The evidence relating to this criterion, however, is so indicative of the petitioner's acclaim in the field that it bears discussion beyond our mere concurrence. The petitioner is the author of at least 45 articles in prestigious journals. Significantly, the petitioner has also been frequently and widely cited. For example, he documented that he has authored articles cited 134, 122, 71, 60 and 25 times, respectively, as of the date of filing. Moreover, the article or book chapter "Twenty Years of Research on Marketing in China: A Review and Assessment of Journal Publications" lists the petitioner as the most cited author of journal papers on marketing in China from 1996 through 1998.

Under a separate criterion, the director dismissed the citation evidence, stating that citation of the work of others "is expected and routine in the research community." While it is ethically required to cite any work on which you are relying, that fact does not diminish the significance of frequent and wide citation. Rather, such evidence is highly probative objective evidence that others in the field have not only found the petitioner's work of interest, but have relied on his work in their own work.

In light of the above, we concur with the director that the petitioner meets this criterion.

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. (8 C.F.R. § 204.5(h)(3)(v))

The petitioner submitted evidence that he has served as a departmental editor for the *Journal of International Business Studies* and has served on editorial boards for the following journals: the *Journal of International Marketing*, *China Marketing*, the *Multinational Business Review* and the

Harvard Business Review China. As guest editor for a 2003 issue of the *Journal of International Marketing*, the petitioner selected the three regular articles completing the series on marketing in East Asia as well as authoring the foreword. In addition, the petitioner judged "cases" for the European Foundation for Management Development's award in the "Emerging Chinese Global Competitors" category. Further, the petitioner was invited to assess proposals submitted to the Research Grants Council (RGC) of Hong Kong, although it is not clear that he actually performed this duty prior to the date of filing. Finally, less persuasive but still worth mentioning, the petitioner reviewed manuscripts for journals not mentioned above.

In response to the director's request for additional evidence, the petitioner submitted evidence that he reviewed promotion applications for professors. While evaluating promotion candidates within one's own department is not indicative of any notoriety beyond one's employer, the petitioner was also requested to evaluate the promotion application of a professor at the National University of Singapore. The request, however, postdates the filing of the petition. The petitioner's duties after the date of filing are not evidence of his eligibility as of that date. See 8 C.F.R. § 103.2(b)(12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg. Comm. 1971). Nevertheless, they demonstrate that the petitioner continues to enjoy acclaim in his field.

The director concluded that the above responsibilities were all inherent to the occupation of professor or editor. On appeal, counsel asserts that the petitioner's employer is the University of Hong Kong, not the journals for which he serves on editorial boards. Counsel concludes that the director renders this criterion meaningless by concluding that the petitioner's judging responsibilities are routine.

We concur with counsel that the petitioner's editorial responsibilities as of the date of filing are beyond the normal evaluation of students or even manuscript peer-review that is routine in academia. As we are satisfied that these duties set the petitioner apart from others in the field and are consistent with national or international acclaim, we find that the petitioner meets this criterion.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. (8 C.F.R. § 204.5(h)(3)(viii))

Some of the petitioner's references assert that he founded the Chinese Management Centre at the University of Hong Kong. The record contains no confirmation of this assertion from those with first-hand knowledge of his position there. The record does, however, confirm that he is the director of the center, inaugurated in December 1998, but contains little information regarding the national reputation of the center. In response to the director's request for additional evidence, the petitioner submitted letters regarding his roles for the Asia Academy of Management and the China Marketing Institute.

Dr. [REDACTED] President of the [REDACTED] and Chairman of the Department of Management at the University of Hong Kong, discusses the petitioner's role for the academy. The petitioner was the founding vice-president and director of the Asia Academy of Management, a global

organization and international affiliate of the U.S.-based Academy of Management that publishes its own journal and hosts bi-annual conferences drawing participants worldwide.

██████████ Associate Dean at the ██████████ explains that the China Marketing Institute is composed of Peking University, Fudan University and Hong Kong University. The petitioner, Mr. ██████████ and a professor at Peking University co-founded the institute. The institute provides annual academic marketing forums attended by professionals from China, Australia, Canada and the United States. Through the institute, the petitioner also collaborated with a professor from Peking University to publish a research reference book entitled "Seminal Papers in China Marketing through the China Marketing Institute." Dr. ██████████ marketing professor at the Business School, Nankai University, confirms using this text in his teaching.

The director concluded:

In that the petitioner acted as either a founder or co-founder of the A ██████████ ██████████ and therefore exercised considerable control over management it is not a significant achievement for the petitioner to have assumed the role of vice-president and/or director. Simply establishing his role within these entities cannot satisfy the petitioner's burden of proof here.

Clearly, an alien cannot simply form an entity with no established reputation and appoint himself to a leading or critical role to meet this criterion. That said, there are two factors for this criterion. Specifically, at issue for this criterion are the reputation of the entity for which the petitioner plays a role and the nature of the role itself. The director does not question the national reputation of the Asia Academy of Management or the China Marketing Institute, and we are satisfied that they enjoy a distinguished reputation nationally. The director does not appear to consider founding either organization to be a leading or critical role and extrapolates that the petitioner's subsequent roles for these organizations simply derives from his founding position. We conclude, however, that the very act of founding the organizations is a leading or critical role, especially for the ██████████ which was founded by only three individuals. Moreover, 60 academics founded the Asia Academy of Management. Despite this large number, the petitioner was selected to serve as the academy's vice president and director. We are satisfied that this evidence as a whole serves to meet this criterion.

In review, while not all of the petitioner's evidence carries the weight imputed to it by counsel, the petitioner has established that he has been recognized as an alien of extraordinary ability who has achieved sustained national acclaim and whose achievements have been recognized in his field of expertise. The petitioner has established that he seeks to continue working in the same field in the United States. Therefore, the petitioner has established eligibility for the benefits sought under section 203 of the Act.

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 sustained that burden.

ORDER: The decision of the director is withdrawn. The appeal is sustained and the petition is approved.