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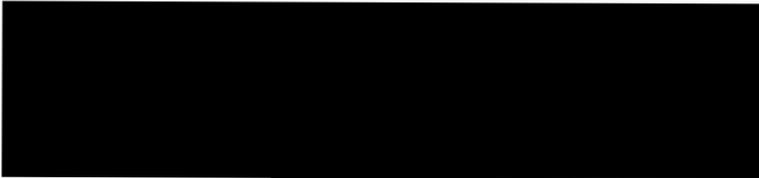
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U.S. Citizenship  
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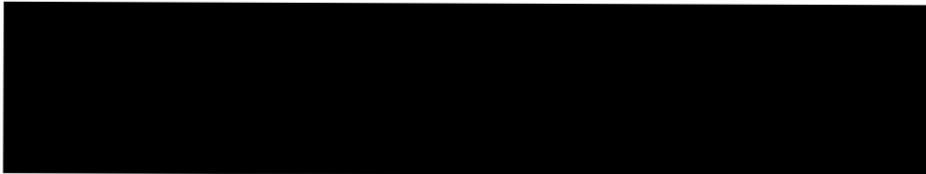
IN RE:

Petitioner:  
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:



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.

*Maura Deadrick*  
Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center, denied the employment-based immigrant visa petition. The petitioner subsequently filed two late appeals that the director appears to have “terminated.” The director then reopened the matter on her own motion and issued a request for additional evidence. Upon considering the petitioner’s response, the director denied the petition a second time. The matter is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

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). 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.

On appeal, counsel submits a brief and additional evidence. While electronic records reveal that the director terminated the two prior appeals and reopened the matter on her own motion on October 12, 2005, the record of proceeding does not contain written notices to this effect. Nevertheless, the petitioner was provided another opportunity to provide evidence pursuant to an October 28, 2005 request and the director issued a new decision from which the petitioner has filed a timely appeal. Regardless of any prior procedural errors in this matter, the matter is before us on appeal. The most expedient means of adjudicating eligibility while addressing any past procedural errors is to consider the entire record on appeal. For the reasons discussed below, we find that the petitioner has not established her eligibility for the classification sought.

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.

Citizenship and Immigration Services (CIS) and legacy Immigration and Naturalization Service (INS) have consistently recognized that Congress intended to set a very high standard for individuals seeking

immigrant visas as aliens of extraordinary ability. *See* 56 Fed. Reg. 60897, 60898-9 (November 29, 1991). 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 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 bioenergy therapist. We will not narrow an alien’s field to the point where there are so few people in it that comparison is meaningless. Moreover, pursuant to section 203(b)(1)(A)(i), the petitioner must demonstrate extraordinary ability in the sciences, arts, education, business, or athletics. Notably, Congress did not include aliens with extraordinary ability in religion or the paranormal, defined by the Merriam-Webster Dictionary 523 (New ed. 2004) as “not scientifically explainable.” Clearly, the petitioner is not claiming extraordinary ability in education, business or athletics. We interpret “arts” as visual or performing arts, not the “art” of healing. Rather, we consider medicine to be a science. While we acknowledge that the petitioner paints, her paintings are claimed to have a healing effect. More specifically, the claim is that the petitioner is acclaimed for her healing and psychic abilities, not for her ability as an artistic painter. Thus, if the petitioner is to qualify for this classification, she must demonstrate that bioenergy therapy is a valid science.

On appeal, the petitioner submits materials about bioenergy and other psychics. None of these materials suggest that the petitioner’s occupation is accepted in the greater medical community or that articles on bioenergy have been accepted in general peer-reviewed medical journals. Within the field of medicine, we will not consider “traditional” or “alternative” medicine separately.

There is only scientifically proven, evidence-based medicine supported by solid data or unproven medicine, for which scientific evidence is lacking. Whether a therapeutic practice is ‘Eastern’ or ‘Western,’ is unconventional or mainstream, or involves mind-body techniques or molecular genetics is largely irrelevant except for historical purposes and cultural interest.

“Alternative medicine meets science,” *Journal of the American Medical Association* 280: 1618-1619, 1998. Moreover, science does not rely on testimonials or anecdotal evidence. Rather, medical science involves experiments with statistically significant numbers of patients, control groups and, most importantly, peer review. More specifically, while the National Institutes of Health does include the National Center for Complementary and Alternative Medicine, the mission of this entity is to explore complementary medicine “in the context of rigorous science” and it only funds research using scientific methods. Thus, while counsel asserts on appeal that the testimonials of patients should be considered “comparable evidence” pursuant to 8 C.F.R. § 204.5(h)(4), we do not consider the numerous testimonials in the record as having significant

evidential value. Statements relating anecdotal personal experiences are not “comparable” to the specific objective evidence mandated by the ten regulatory criteria.

Initially, prior counsel stated:

While in Bulgaria, [the petitioner] worked on projects for the Scientific and Methodological Council of the Association Phenomena in their laboratory as a Bioenergy Therapist. During that time she was able to diagnose 216 patients whom traditional medical doctors were unable to diagnose. Her talents have been called upon and utilized by doctors in many countries to diagnose patients, by police in solving cases and locating persons, even high ranking government officials of various countries have utilized her scientific abilities to solve all kinds of problems. Most of her work is of a confidential nature and therefore difficult to document.

The petitioner herself asserts that she did not record her activities during the last 12 years and is currently unable to provide all the information about her work. The regulation at 8 C.F.R. § 103.2(b)(2) provides that the non-existence or unavailability of required documentation creates a presumption of ineligibility. In her own statement, the petitioner states:

Unfortunately, a great number of charlatans discredit the work of bona fide specialists. This proves one more time that demand generates supply. And so demand must be satisfied by specialists with pure energy and a pure intention to help people, as well as with a consciousness that is not clouded by mercantile calculations. I personally do not belong to the crowd of healers and soothsayers who advertise themselves in all the newspapers, magazines and on every street corner. I do not use my talent for commercial purposes. It is given to me so that I can use it to help people and not take advantage of it for self-profit. Because if I start using it for selfish purposes, it will be taken away from me - - an unbending rule.

We will not presume the petitioner’s psychic abilities simply from her claim not to have benefited financially from her claims. The petitioner further asserts that she had produced paintings and writings inspired by God that contain coded information that will be revealed in time, which she calls the “Akashik Records.” This would appear to be a religious claim. As stated above, this classification does not include extraordinary ability in religion. Moreover, we interpret “extraordinary ability” as normal human talent in an established field, not paranormal abilities which are not amenable to scientific scrutiny.

Moreover, if the petitioner does not accept payment for her services, she cannot make a living in her purported field of expertise. While no job offer is required for this classification, it is primarily an employment-based classification. Thus, the petitioner must show that she is able to make a living in her claimed field of expertise. We acknowledge that on appeal the petitioner submits a letter from the Southern Delegation of the Federal Investment Association of Russia asserting that they are ready to

travel to the United States to begin financing her project in the field of healthcare and parapsychology. The record contains no evidence regarding this delegation or its own ability to finance this project.

On appeal, the petitioner relies heavily on a lengthy affidavit from Stamen Stamenov, Assistant Chairman of the Board of Directors of the National Institute of Ultrasensory Mediatorics and Phenomenology (NIUMP) in Bulgaria. The petitioner has not established that NIUMP is a distinguished entity among the general scientific community in Bulgaria. For example, the record lacks evidence that NIUMP has produced any peer-reviewed published research or patents, a hallmark of scientific expertise.

Regardless, the opinions of experts in the field, while not without weight, cannot form the cornerstone of a successful claim of sustained national or international acclaim. CIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm. 1988). However, CIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive evidence of eligibility; CIS may evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795-796. CIS may even give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *Id.* at 795; *See also 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)).

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). Prior counsel asserted that the petitioner's Bulgarian award meets this criterion. The one-time achievement, however, must be a major internationally recognized award. Congress provided the Nobel Prize as an example of a one-time achievement. H.R. Rep. No. 101-723, 59 (September 19, 1990). Moreover, lesser internationally recognized awards can only be considered in combination with meeting two other regulatory criteria. 8 C.F.R. § 204.5(h)(3)(i). Thus, a major internationally recognized award must be more than simply international in scope; it must also be one with a global pool of candidates and significant international notoriety. A national award simply cannot serve as a one-time achievement.

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 that, she claims, meets the following criteria.<sup>1</sup>

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

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<sup>1</sup> The petitioner does not claim to meet or submit evidence relating to the criteria not discussed in this decision.

Prior counsel asserted that the petitioner won Bulgaria's highest national award, the Golden Statuette, for her work in bioenergetic diagnosis and treatment. The petitioner submitted a photograph of the award, a copy of the certificate without translation and a letter from [REDACTED] Chairman of the Board of Directors of the National Institute of Ultrasensory, Mediatorics and Phenomenology, asserts:

The "Golden Statuette" is the highest national prize awarded annually by the Association "Phenomena" to the most prominent individuals in the following categories: Science, Art, Medicine and People with Extraordinary Abilities. Some of them, like [the petitioner], are known not only in Bulgaria, but other places of the world. The highest reward is given to the laureates at the ceremony every year.

The petitioner did not submit official materials from the Bulgarian National Association "Phenomena" describing its award criteria, evidence of the association's national reputation or media coverage of the award selections. The petitioner did submit evidence that the association is a "collective member" of the International Informatization Academy (IIA), which is in "consultative status" with the United Nations. As will be discussed below, the petitioner has not demonstrated the significance of this status.

On appeal, the petitioner submits promotional websites of other winners of statuettes from "Phenomena." All of the winners are performing or visual artists.<sup>2</sup> Thus, the petitioner has not established that the Golden Statuette is an award for excellence in *science*, judged by general *scientific* experts recognized in the greater scientific community.

While we concur with counsel's assertion on appeal that the petitioner's residence in the United States when she received this award is not determinative, without evidence that the Golden Statuette is nationally recognized within Bulgaria beyond those affiliated with Phenomena and awarded for excellence *in the sciences*, the award cannot serve to meet this criterion.

*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 submitted evidence of her "corresponding membership" in IIA, membership in the Scientific and Methodical Council of "Phenomena" and membership in the Department of Ultrasensory Mediatorics at NIUMP. As discussed above, Phenomena is affiliated with the IIA, which has consultative status with the Economic and Social Council of the United Nations.

The petitioner submitted a letter from the Head of the "Department of Ufology and Bioenergy Informatics" of the IIA, [REDACTED] asserts that the department studies the

[REDACTED] a woman who claims to converse with Nostradamus, indicates on her own website that she won the "Orpheus Award" in Bulgaria for the highest advancement in the research of psychic phenomenon. The record contains no evidence that the Orpheus Award and the Golden Statuette are one and the same.

informatiology of the noosphere (not defined); information vacuum and information matter of the Universe; informatiological bases of the folk scientific and ontopsihological medicine, discovering the hidden human abilities; informatiology of corruscles and the delicate structure of the Universe and man and extraterrestrial civilizations. [REDACTED] further asserts that the department trains its members, who obtain a “diploma of corresponding member of the Department of Ufology and Bioenergy Informatics.” In Bulgaria, the training is carried out by Phenomena, a corresponding member of the IIA since 1994. The petitioner’s certificate from Phenomena indicates that the petitioner completed 600 course hours in Bioresonance Methods for Diagnostics and Correction. Memberships based on completing a course of study cannot serve to meet this criterion.

The petitioner has not established the significance of the IIA’s affiliation with the United Nations. For example, while the IIA materials submitted on appeal boast that “only” 131 associations in the world have a similar status, we find that number to be quite large.<sup>3</sup> Moreover, there is no evidence that the IIA is affiliated with the United Nations’ medical divisions, such as the World Health Organization. Moreover, while the materials prepared by the IIA assert that it has proposed projects to the United Nations, the record lacks official materials from the United Nations discussing its reliance on IIA.

On appeal, the petitioner submits materials printed from the IIA’s website regarding types of membership. Academicians and Associate Academicians must be elected based on having a doctoral degree or equivalent and must be outstanding in their field of expertise. The website does not indicate what types of accomplishment might demonstrate that a candidate is outstanding. Regardless, the record lacks evidence that the petitioner is an Academician or Associate Academician. Rather, the petitioner is a corresponding member.

In light of the above, the petitioner has not established that she is a member of an exclusive scientific association. In addition, the petitioner did not establish that national or international experts, as recognized by the general science community, judge eligibility for membership in any of the above associations.

*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.*

The petitioner initially submitted a letter from [REDACTED] asserting that the results of research conducted at NIUMP, including that performed by the petitioner, “cannot be exposed to mass media or discussed in open public outside the Institute due to its nature, delicacy and confidentiality.” [REDACTED] asserts that the same concerns relate to a November 2003 National Bulgarian television broadcast about the petitioner hosted by [REDACTED]

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<sup>3</sup> According the United Nations’ website, [www.un.org/esa/coordination/ngo/about.htm](http://www.un.org/esa/coordination/ngo/about.htm), there are, in fact, 2,870 associations in consultative status.

As stated above, the unavailability of required evidence creates a presumption of ineligibility. 8 C.F.R. § 103.2(b)(2). Medical science requires peer review, which can be and is conducted with sufficient safeguards of patient confidentiality. Without evidence from Bulgarian National Television confirming the broadcast of a show dedicated to the petitioner and the content of that program, we cannot conclude that the petitioner meets this criterion.

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

As discussed above, the petitioner relies on testimonials from patients and others who claim to have verified her abilities. The petitioner has failed to provide published, peer-reviewed studies confirming her abilities, citing her belief that she did not need to document her achievements. As stated above, ██████████ asserts that the "nature, delicacy and confidentiality" of her work prevents its wide distribution.

According to the regulation at 8 C.F.R. § 204.5(h)(3)(v), an alien's contributions must be not only original but of major significance. We must presume that the phrase "major significance" is not superfluous and, thus, that it has some meaning. To be considered a contribution of major significance in the field of science, it can be expected that the results would have already been reproduced and confirmed by other experts and applied in their work. Otherwise, it is difficult to gauge the impact of the petitioner's work.

As discussed above, we will not accept anecdotal testimonials as evidence of scientific contributions. For whatever reason, it remains that the petitioner's abilities have not been documented in peer-reviewed medical journals. Thus, we cannot conclude that she has influenced the field of medical science.

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

Prior counsel asserted that the petitioner plays a leading role for Phenomena as one of between 10 and 19 members of the Scientific and Methodological Council. Prior counsel asserted that researchers at Phenomena have presented their work at international conferences, congresses and symposia. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). The joint letter from ██████████ Chairman of the Board of Directors and Mr. Stamenov does not indicate the number of people on the council or the duties of council members. The record does not contain presentations at major scientific conferences or published peer-reviewed research in major scientific journals authored by researchers at Phenomena.

On appeal, counsel reiterates the claim that the petitioner plays a leading or critical role for Phenomena and also asserts that the petitioner plays a leading role for the International Scientific and Research

Center (ISRC) and NIUMP. Counsel relies on the affidavit of [REDACTED]. [REDACTED] asserts that, as the subject of a research study, the petitioner was critical to an ISRC study conducted from 1998 to 2001. He further asserts that she “provided invaluable information about energy, bioenergy and disease to the team of scientists and doctors who observed her.” The record lacks evidence that ISRC enjoys a nationally distinguished reputation or even that the study referenced by [REDACTED] was published in a peer-reviewed medical journal.

[REDACTED] further asserts that as a member of the “Scientific-Methodological Council” for Phenomena, the petitioner “officially directs and develops the research activities and programs at the ISRC in a cooperative effort with the other Members of the Council.” [REDACTED] further asserts that the petitioner assists other members develop joint programs with other scientific organizations around the world. [REDACTED] does not identify any of these organizations. While the petitioner’s role with Phenomena would appear to be critical, as discussed above, the record lacks evidence that Phenomena enjoys a nationally distinguished reputation in the sciences. As discussed above, the petitioner has not established the significance of the IIA, with which Phenomena is affiliated, or IIA’s affiliation with the United Nations. The record lacks evidence that researchers at Phenomena routinely participate in major scientific conferences or have their work published in peer-reviewed medical or science journals.

Finally, [REDACTED] asserts that the petitioner is performing a leading and critical role for NIUMP as the coordinator of its Ultrasensory Mediatorics Department and representative of the group in the United States. Even assuming the petitioner had submitted an organizational chart demonstrating the importance of these positions, once again, the record lacks evidence that NIUMP enjoys a nationally distinguished reputation within the scientific community. As with the other groups, the record lacks evidence that NIUMP researchers routinely participate in major scientific conferences or publish their work in peer-reviewed major medical or science journals.

In light of the above, the petitioner has not demonstrated that she meets this criterion.

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim and is one of the small percentage who has risen to the very top of the field of endeavor.

Review of the record, however, does not establish that the petitioner has distinguished herself as a therapist 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 indicates that the petitioner has satisfied clients, but is not persuasive that the petitioner’s achievements set her significantly above almost all others in her field. 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.