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FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: **SEP 02 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.

Marie Johnson

RP 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 in 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 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 November 27, 2002, seeks to classify the petitioner as an alien with extraordinary ability as a "Chinese Peking Opera Actress." The statute and regulations require the petitioner's acclaim to be sustained. The record reflects that the petitioner has been residing in the United States since 1999. Given the length of time between the petitioner's arrival in the United States and the petition's filing date, it is reasonable to expect the petitioner to have earned national acclaim in the United States during that time. The petitioner has had ample time to establish a reputation as a performer in this country.

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 certificates with accompanying English language translations reflecting that she received the following awards:

1. New Sprout Instructor Award in the City of Tianjin's New Sprout Teenage Instrumental Music Competition (1989)
2. Peking Opera Solo Award in the Third Art Festival of Shenyang City (1991)
3. Traditional Opera Solo Singing Award for performance in the Peking Opera "Broken Bridge" in the Fourth Art Festival of Shenyang City (1994)
4. Second Prize in the National Performance Competition of Traditional Operas, Modern Plays and Opera (1994)
5. Excellent Performance Award in the Peking Opera [REDACTED] at the Peking Opera Joint Show of Shandong Province (1995)
6. Best Performance Award in the Ninth National [REDACTED] Traditional Opera Contest (1997)
7. Excellent Performance Award in the Peking Opera "Story of White Snake" at the National Traditional Joint Opera Show (1997)
8. "Second Prize of Peking Opera Qing-Yi Character of Stage Art Series in Grand Prize Contest of Chinese Traditional Opera Artistic Performance" (1997)
9. Excellent "Qing-Yi Award" in the National Traditional Opera Performance Grand Contest (1998)

Pursuant to 8 C.F.R. § 103.2(b)(3), any document containing foreign language submitted to Citizenship and Immigration Services 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. The translations accompanying the petitioner's award certificates were not certified as required by the regulation.

Items 1, 2, 3 and 5 listed above appear to local or provincial, rather than national or international, awards.

The record contains no information about the above competitions or evidence showing that the petitioner's awards enjoy significant recognition beyond the context of the event where they were presented. The level of recognition associated with the preceding certificates is not self-evident. Simply receiving an award certificate with the word "national" in the title does not satisfy this very restrictive criterion. The petitioner must provide evidence to establish that her awards enjoy significant national or international stature. In this case, the record contains no documentation from the awarding entities or print media to establish that the above certificates are nationally recognized performing arts awards. Furthermore, the petitioner offers no documentation detailing the criteria used for determining the winners or the number of other recipients.

Also provided was a certificate recognizing the petitioner's contribution in the Third National Competition of Traditional Opera and Local Musicals (1995). The petitioner offers no evidence to show that this certificate is

a nationally or internationally recognized award, rather than simply an acknowledgment of her participation in this competition.

The petitioner also submitted a “Henry Street Settlement/Abrons Art Center Artistic Achievement Award” certificate recognizing the petitioner for “unique contributions to the cultural diversity of the City of New York” (2001). No information was provided regarding what the petitioner did to receive this award. Nonetheless, this award is local, rather than national or international, in scope. Such an award is not adequate to demonstrate that the petitioner has sustained whatever acclaim she may have earned in China subsequent to her 1999 arrival in the United States.

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, a fixed minimum of education or experience, recommendations by colleagues or current members, or payment of dues, do not satisfy this criterion because participation, employment, education, experience, and recommendations do not constitute outstanding achievements. In addition, membership in an association that evaluates its membership applications at the local or provincial level would not qualify. It is clear from the regulatory language that members must be selected at the national or international, rather than the local, level. Finally, the overall prestige of a given association is not determinative; the issue here is membership requirements rather than the association’s overall reputation.

Documentation accompanying the petition included evidence of the petitioner’s membership in the Tianjin Chinese Opera Troupe, the World Association of Beauty Culture (New York), and the Association of Chinese Artists. We note that the Tianjin Chinese Opera Troupe and the World Association of Beauty Culture (New York) appear to be local (rather than national or international) associations. In regard to all three organizations, the record contains no evidence of their bylaws or membership requirements to demonstrate that they require outstanding achievement in the performing arts. Assertions from the petitioner regarding the exclusive nature of their membership requirements are not adequate to satisfy the “extensive documentation” requirement for this classification set forth at section 203(b)(1)(A)(i) of the Act. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

In view of the foregoing, it has not been established that the petitioner’s membership in the above organizations required outstanding achievement or that her admission to membership was evaluated by experts at the national or international level.

Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.

In general, in order for published material to meet this criterion, it must 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.

The record contains an article authored by the petitioner appearing in *Peking Opera of China* entitled "Talk on the Translation of Play Names of Peking Opera." The record, however, does not include evidence (from an objective source such as a media guide, for example) indicating the national or international circulation of the magazine edition in which the petitioner's article appeared. Nor is there evidence showing that the petitioner's article is widely viewed throughout her field as significantly influential.

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.

In addressing this criterion, the petitioner (in a signed letter dated November 7, 2002) states:

I had been serving my role as leading Peking Opera actress in Tianjin Chinese Opera Troupe, China, for 23 years, before I came to the U.S. This troupe is one of the most active Chinese Opera theaters in Tianjin, China and won its popularity through frequent performances in citywide television tour shows around the country. I had been a principal Qing-Yi actress of the troupe.

The record, however, contains no published reviews of the petitioner's performances to support this assertion. It has not been established that the petitioner's role in the troupe is any more critically acclaimed than that of the other performers. Nor does the record adequately demonstrate that the Tianjin Chinese Opera Troupe, which the petitioner claims to have worked for since 1976 (according to her letter), has earned a distinguished reputation when compared to other Peking Opera Troupes throughout China.¹ 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.

On May 24, 2002, the petitioner filed Form I-589, Application for Asylum and Withholding of Removal. According to her asylum application, which the petitioner signed under penalty of perjury on April 15, 2002, the petitioner's occupation was that of a "Technician" at the "Second Hospital Attached to Tianjin Medical and Science University" from September 1977 to August 1999. Nowhere in the petitioner's asylum application was there any indication that her primary occupation in China was that of a principal actress in an opera troupe. On June 19, 2002, the petitioner appeared for an interview and affirmed the truthfulness of the contents of Form I-

¹ We note here that the petitioner came to the United States in 1999. Her November 7, 2002 letter indicated that she worked for the Tianjin Chinese Opera Troupe for 23 years before coming to the United States (or since 1976). However, the record contains a notarized certificate (dated August 5, 1997) stating that the petitioner worked as a "professional" Peking Opera actress in the Tianjin Chinese Opera Troupe beginning in "August 1974." The petitioner has not resolved this discrepancy in regard to the period of her professional employment with the Tianjin Chinese Opera Troupe.

589 under oath in an interview before an Asylum Officer. Correspondence accompanying the asylum application (such as a letter from the hospital that employed the petitioner as a medical inspection technician from 1977 to 1999) is not consistent with the petitioner's claim that Peking Opera was her primary source of employment during that same period.

According to the assessment of the Asylum Officer who interviewed the petitioner:

Applicant also applied for and was granted P3 status [based on the claim that she was an artist/entertainer in a culturally unique program] on 5/25/2001. Applicant indicated her friend helped her obtain the visa. Applicant indicated she has never performed or worked in the category for which she was granted this visa. Applicant did not provide any documentation she would otherwise be eligible for this visa if her friend had not helped her obtain it. She indicated she did not intend to perform but likes performing and only obtained the visa so she would be in a valid status.

The information contained in the record raises serious questions regarding the authenticity of much of the documentation accompanying this petition. 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).

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." Subsequent to her arrival in 1999, there is no evidence showing that the petitioner's primary occupation in the United States involves Peking Opera. For example, there is no documentation showing that the petitioner has regularly taken part in performances here in the United States.

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 1999 arrival in the United States. Nor has the petitioner adequately demonstrated that she will "continue work in the area of expertise."

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 in this case 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.

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 his 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.

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.