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FILE: WAC 03 253 54832 Office: CALIFORNIA SERVICE CENTER Date: **APR 11 2006**

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.

Robert P. Wiemann, Chief
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 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.

On appeal, the petitioner states: “This appeal is being filed because the said decision was made not on the basis of the internationally acknowledged facts and the submitted evidence, but on the basis of someone’s order, discrimination, prejudice and bias to the beneficiary [sic].” The petitioner, however, offers no evidence or any statement from the director’s correspondence that would lend support to his observations. Nowhere in the director’s decision, the request for evidence, or the record of proceeding is there any documentation that would confirm the petitioner’s unfounded allegations.

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 he has earned sustained national or international acclaim at the very top level.

This petition, filed on September 9, 2003 seeks to classify the petitioner as an alien with extraordinary ability as a religious scholar and philosopher.

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 February 27, 2001 "Invitation of Award Ceremony" letter from the Taoist Culture and Information Center of Hong Kong and a "List of Awardees" posted on that organization's internet website in 2001. 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. The translations accompanying these documents were not certified as required by the regulation. The aforementioned documents reflect that the petitioner was among several recipients who received an "Excellent Paper Prize of the University Division" from the Taoist Culture and Information Center of Hong Kong in 2001. According to the "List of Awardees" from the "University Division," one individual received first prize, one individual received second prize, two individuals received third prize, and ten individuals (including the petitioner) received an Excellent Paper Prize. It is noted that the petitioner placed below the top four prize winners in this contest. Further, there is no evidence showing the number of individuals who entered this contest in the petitioner's division or the percentage of entrants who earned some type of recognition. We find no evidence showing that this prize enjoys substantial recognition beyond the presenting organization.

The petitioner submitted documents printed from the websites of the Buddhist Association of the United States (BAUS) and the Western American Buddhist Association. The translations accompanying these documents were not certified as required by the regulation 8 C.F.R. § 103.2(b)(3). The aforementioned documents reflect that the petitioner was among several individuals who received scholarships for Buddhist Studies from the Rev. ██████████ Memorial Educational Fund in 1999. Information submitted by the petitioner from the BAUS' website states: "The Rev. ██████████ Memorial Education Fund Inc. totally received nine applications from U.S.A. and China this year." Based on the information provided by the petitioner, it appears that all of the individuals who applied received a scholarship from this organization. We note here that scholarships are generally presented for scholastic achievement and the pursuit of further academic study rather than for excellence in one's field of endeavor. The most established and experienced scholars, who are employed in their own right and do not apply for graduate scholarships, are ineligible for consideration for such awards and therefore we cannot conclude that an individual selected for a graduate scholarship stands at the very top of his field. Nor are we persuaded that obtaining financial support for one's graduate studies is a rare mark of acclaim or extraordinary ability.

The petitioner submitted five certificates issued by the Buddhist Association of Canada (BAC) reflecting the petitioner's receipt of four honorable mentions (1992, 1993, 1996, and 1998) and one second prize (1995) in the BAC's annual "Buddhist Philosophy Essay Competition." There is no indication that these certificates enjoy substantial recognition beyond the presenting organization. The petitioner also submitted information

reflecting that the competition for this contest was limited to college and university students of Buddhist studies “whose age must be under 35” rather than more experienced scholars who had already completed their educational training and who therefore would not enter such a contest. In this instance, the petitioner faced competition limited to his approximate age group rather than throughout his entire field. Receiving a prize in such a competition is not an indication that the petitioner has reached the “very top of the field of endeavor.” See 8 C.F.R. § 204.5(h)(2). Further, there is no evidence showing the number of individuals who entered this essay competition or the percentage of entrants who earned some type of recognition. The evidence submitted by the petitioner is not adequate to demonstrate that the preceding certificates qualify as nationally or internationally recognized prizes for excellence.

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.

The petitioner submitted evidence of his membership in the International Association of Religious Studies (IARS) and the International Association of Philosophers (IAP). The petitioner has indicated that these two associations are interrelated by stating that the [REDACTED] is the theoretical periodical of both the IAP and the IARS.¹

Information submitted by the petitioner from the IARS website states:

To become a regular member, you must qualify the following criteria [sic]:

1. Be a postdoctoral research fellow or a professor in the area of religious studies at an academic institution;
2. Be a regional or national association member of religious studies;
3. Have published a number of papers in reputed journals or scholarly books; and
4. Have positively participated in international conferences on religious studies.

Information submitted by the petitioner from the IAP website states:

To become a Regular Member, you must qualify the following criteria [sic]:

1. Be a postdoctoral research fellow or a professor of philosophy at an academic institution;

¹ The petitioner submitted evidence showing that he is the founder, publisher, and president of the [REDACTED] an internet publication that he started in 2001.

2. Be a regional or national philosophy association member;
3. Have published a number of papers in reputed journals or scholarly books; and
4. Have positively participated in international philosophy conferences.

The requirements cited above are not indicative of outstanding achievement. Interestingly, the IARS, the IAP, and the alien petitioner share the exact same mailing address: [REDACTED] El Monte, CA 91734-0820. The petitioner also happens to be the president of both of these associations. Further, according to the petitioner's documentation, these organizations also share the same internet address at [REDACTED] which is registered under the petitioner's name. There is no evidence showing a continuity of activities undertaken by these associations since their formation or demonstrating the national or international reputation of these associations (beyond the claims on their websites). We find no evidence showing that holding membership in these recently formed associations is indicative of sustained national or international acclaim or that the petitioner himself was evaluated by national or international experts in consideration of his admission to membership.

The petitioner submitted evidence of his membership in the International Noble Academy (INA). This organization was established in 2002 with the petitioner serving as its Vice-Chancellor. The record, however, includes no evidence showing the specific activities undertaken by this association from 2002 to present, the number of applicants who apply for admission and the percentage of those applicants admitted to membership, or the national or international reputation of this association (beyond the claims on its website). Nor is there evidence showing that the petitioner was evaluated by national or international experts in consideration of his admission to membership.

The petitioner submitted evidence showing that he is a subscriber to H-Buddhism, an internet-based informational exchange medium for specialists in "Buddhist Studies who are currently affiliated with academic institutions." The record, however, does not indicate whether the petitioner holds a "voting" membership or a "free" membership in this informational network. There is no evidence of the membership bylaws or the official admission requirements for H-Buddhism showing that admission to membership requires outstanding achievement or that the petitioner was evaluated by national or international experts in consideration of his admission to membership.

The petitioner submitted documentation printed from the internet showing that he is a member of the Daoist Studies Organization (DSO).² The record, however, includes no evidence showing that admission to membership in the DSO requires outstanding achievement or that the petitioner was evaluated by national or international experts in consideration of his admission to membership.

The petitioner submitted a letter dated February 28, 2003 welcoming him to membership in the American Academy of Religion (AAR). The petitioner also submitted informational material printed from the internet

² This evidence includes materials reflecting the internet website address for the DSO. This organization's website, <http://www.daoiststudies.org/register.php> (accessed April 4, 2006), states: "Membership is open to all those who are scholars or teachers of Daoist Studies."

about the AAR.³ The record, however, includes no evidence showing that admission to membership in the AAR requires outstanding achievement or that the petitioner was evaluated by national or international experts in consideration of his admission to membership.

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. 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.⁴

The petitioner submitted material from *American Business News*, *World Hongming Philosophical Quarterly*, *World Hongming News*, *Hsai Lai University News*, and *Florida Capital News*, *Buddhist in Hong Kong*, and *Humanities* (Hong Kong), but it has not been established that these publications qualify as major media.⁵ Additional material submitted by the petitioner from *Xiamen Daily* was not accompanied by a certified English language translation in accordance with the regulation at 8 C.F.R. § 103.2(b)(3). Regarding the radio broadcasts involving the petitioner, he has not shown that these broadcasts reached a substantial national audience.

The petitioner's appellate submission includes a listing of several internet websites that mention the name of the petitioner or his published work. The plain wording of this criterion, however, requires "published materials about the alien." The petitioner's listing of websites does not meet this requirement. Further, without copies of the actual material appearing on each website, it cannot be determined if the petitioner was the primary subject of the material.

We find that the evidence presented by the petitioner is not adequate to show that he has been the primary subject of sustained major media attention in the United States or any other country.

³ This documentation reflects the internet website address for the AAR. This organization's website, <http://www.aarweb.org/about/bylaws.asp> (accessed April 4, 2006), states: "Persons qualified by being engaged in or having expressed interest in research and/or instruction in the study of religion may be admitted to full membership in the Academy upon application and payment of appropriate dues to the Membership Services Secretary."

⁴ 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.

⁵ The petitioner submitted evidence showing that he is the founder, publisher, and president of the [REDACTED] [REDACTED] an internet publication that he started in 2001 [REDACTED] and [REDACTED] share the same internet address at [REDACTED] which is registered under the petitioner's name.

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.

As previously noted, 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, evaluating the work of accomplished professors as a member on a national panel of experts is of far greater probative value than evaluating the work of graduate students.

The petitioner submitted evidence showing that he is the founder, publisher, and president of the *World Hongming Philosophical Quarterly*, an internet publication that he started in 2001. The petitioner also submitted various e-mails reflecting his participation in this publication's peer review process. We do not find, however, that the petitioner's service as an editor or reviewer for an internet publication that he himself recently founded is indicative of sustained national or international acclaim. There is no independent evidence showing that this internet publication has established a national or an international reputation as a distinguished philosophical journal. Nor is there any quantitative evidence establishing that the *World Hongming Philosophical Quarterly* enjoys substantial national or international readership.

The petitioner submitted correspondence dated October and November of 2001 reflecting that he reviewed an article for the journal *Sophia*. We note here that peer review of manuscripts is a routine element of the process by which articles are selected for publication in scholarly journals. Occasional participation in peer review of this kind does not automatically demonstrate that the petitioner has earned sustained national or international acclaim at the very top of his field. Normally a journal's editorial staff will enlist the assistance of numerous professionals in the field who agree to review submitted papers. It is common for a publication to ask several reviewers to review a manuscript and to offer comments. The publication may accept or reject any reviewer's comments in determining whether to publish or reject submitted papers.

The petitioner claims that he served as editor of the *Journal of Minnan Buddhist College* during the 1990's.⁶ The record, however, includes no evidence showing the petitioner's participation as an editor for this journal. Nor is there any evidence showing that this journal had substantial national or international readership. The petitioner submitted what are alleged to be "letters of appreciation" from various individuals regarding the petitioner's promotional activities for the *Journal of Minnan Buddhist College*, but these letters were not accompanied by certified English language translations in accordance with the regulation at 8 C.F.R. § 103.2(b)(3).

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

The petitioner submitted several letters of support. We cite representative examples here.

⁶ The petitioner attended Minnan Buddhist College from 1989 through 1992.

Dr. [REDACTED] Professor at California State University, Monterey Bay, states: “[The petitioner’s] work is truly of exceptional quality, representing in his writings the very best and most universally applicable Asian focused post-structuralist philosophy of our day, urging all of us to universal acceptance and respect for the ideas of others, after the manner of the ‘hard’ and mathematical sciences.”

Dr. [REDACTED] George and [REDACTED] Professor of Humanities and Professor of History, Rice University, states:

I have read a number of [the petitioner’s] writings in both Chinese and English, and can say that there are very few scholars anywhere – at least in my experience – who can match his breadth of vision and depth of knowledge. On both his writings and his other academic activities, [the petitioner] has demonstrated a long-standing interest in, and a deep commitment to, cross-cultural understanding.

In an e-mail addressed to the petitioner, [REDACTED] Vice-Chancellor, [REDACTED] University, Varanasi, India, states: “It was really my great pleasure to meet you in Bangkok on May 21-22, 2001. I am happy to say that your research paper on ‘Sanskrit and Chinese Buddhism’ is highly praiseworthy and it shows your high eminence in the field of Buddhism.”

We note, however, that “authorship of scholarly articles” falls under the next criterion. Here it should be emphasized that the regulatory criteria are separate and distinct from one another. Because separate criteria exist for published work and contributions, Citizenship and Immigration Services (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. We will fully address the petitioner’s published works under the next criterion.

In regard to the petitioner’s conference presentations, we note that acclaim is generally not established by the mere act of presenting one’s work at a conference. The record includes no documentation demonstrating that presentation of one’s work is unusual for recent Ph.D. graduates or that the invitation to present at conferences where the petitioner spoke was a privilege extended to only a few top national or international scholars. Participation in conferences of the petitioner’s kind is routine and expected in the academic community. Many professional fields regularly hold conferences and symposia to present new work, discuss new findings, and to network with other scholars. These conferences are promoted and sponsored by professional associations, businesses, educational institutions, government agencies, and, in the petitioner’s case, religious studies organizations. Participation in such events, however, does not elevate the petitioner above almost all others in his field at the national or international level. For example, there is no evidence showing that the petitioner’s speaking engagements attracted substantial audiences or an unusual level of national or international attention.

The petitioner’s appellate submission includes a listing of several internet websites that mention the name of the petitioner or his published work. This evidence has already been addressed under a preceding criterion. We note that the actual material appearing on these websites was not submitted. Without extensive documentation showing that the petitioner’s work has been unusually influential or highly acclaimed throughout the greater field, we cannot conclude that his work rises to the level of a contribution of major significance.

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

While we agree with the director's conclusion that this criterion has not been met, we withdraw the director's observation that some of the petitioner's articles "were co-authored with other colleagues." That said, we concur with the director's remaining observations that the petitioner had not shown that his publications had set him apart from others in his field or that his published work had appeared in major media.

The petitioner submitted listings of his authorship of scholarly books and articles, but the record lacks evidence of the actual publications themselves. In certain instances, the materials submitted under this criterion were not accompanied by a certified English language translation in accordance with the regulation at 8 C.F.R. § 103.2(b)(3). Further, the record includes no quantitative evidence showing that the petitioner's publications had substantial national or international readership. We do not find that publication of scholarly books or articles (particularly those of limited circulation) is presumptive evidence of sustained national or international acclaim; we must also consider the scholarly community's reaction to those publications. When judging the influence and impact that the petitioner's work has had, the very act of publication is not as reliable a gauge as is the citation history of the published works. If a given article in a prestigious journal attracts the attention of other scholars, those scholars will cite the source article in their own published work, in much the same way that the petitioner himself has cited sources in his own publications. Numerous independent citations would provide solid evidence that other scholars have been influenced by the petitioner's work and are familiar with it. If, on the other hand, there are few or no citations of an alien's work, suggesting that that work has gone largely unnoticed by the greater field, then it is reasonable to conclude that the alien's work is not nationally or internationally acclaimed. In this case, the petitioner has not submitted evidence showing that his work widely cited in publications written by other scholars.

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

The petitioner submitted evidence of his roles for the IARS, the IARP, and the *World Hongming Philosophical Quarterly*. It has not been demonstrated, however, that these recently formed organizations have earned a distinguished reputation at the national or international level.

On appeal, the petitioner submits documentation related to his fundraising efforts for the Hakka Foundation in 2004. This evidence came into existence subsequent to the petition's filing date. A petitioner, however, must establish eligibility at the time of filing. 8 C.F.R. § 103.2(b)(12); see *Matter of Katigbak*, 14 I&N Dec. 45 (Comm. 1971).

We find the petitioner has not established that he performed in a leading or critical role for a distinguished organization, or that his involvement has earned him sustained national or international acclaim.

In conclusion, we concur with the director's finding that the petitioner has failed to demonstrate that he meets at least three of the criteria at 8 C.F.R. § 204.5(h)(3). Review of the record does not establish that the petitioner has distinguished himself to such an extent that he 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 him significantly above almost all others in his 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.