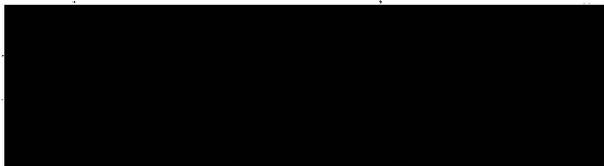


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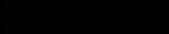
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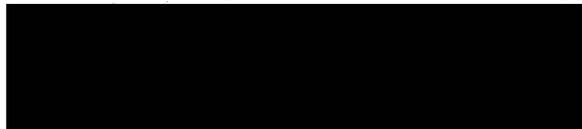
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FILE: SRC 00 246 54446 Office: CALIFORNIA SERVICE CENTER Date: **MAR 15 2007**

IN RE: Petitioner:   
Beneficiary: 

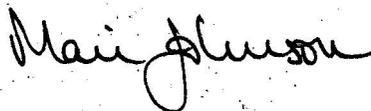
PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

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.



Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The employment-based immigrant visa petition was initially approved by the Director, California Service Center. On the basis of further review of the record, the director determined that the petitioner was not eligible for the benefit sought. Accordingly, the director served the petitioner with notice of intent to revoke the approval of the immigrant visa petition, and the reasons therefore, and ultimately revoked the approval of the petition on August 10, 2005. On appeal, the Administrative Appeals Office (AAO) remanded the case to the director for further action. The director again served the petitioner with a notice of intent to revoke the approval of the immigrant visa petition, and the reasons therefore, and ultimately revoked the approval of the petition on January 16, 2007. The matter is now before the AAO on certification. The director's decision will be affirmed.

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 205 of the Act, 8 U.S.C. § 1155, states: "The Secretary of Homeland Security may, at any time, for what he deems to be good and sufficient cause, revoke the approval of any petition approved by him under section 204."

Regarding the revocation on notice of an immigrant petition under section 205 of the Act, the Board of Immigration Appeals has stated:

In *Matter of Estime*, . . . this Board stated that a notice of intention to revoke a visa petition is properly issued for "good and sufficient cause" where the evidence of record at the time the notice is issued, if unexplained and unrebutted, would warrant a denial of the visa petition based upon the petitioner's failure to meet his burden of proof. The decision to revoke will be sustained where the evidence of record at the time the decision is rendered, including any evidence or explanation submitted by the petitioner in rebuttal to the notice of intention to revoke, would warrant such denial.

*Matter of Ho*, 19 I&N Dec. 582, 590 (BIA 1988) (citing *Matter of Estime*, 19 I&N 450 (BIA 1987)).

By itself, the director's realization that a petition was incorrectly approved is good and sufficient cause for the issuance of a notice of intent to revoke an immigrant petition. The approval of a visa petition vests no rights in the beneficiary of the petition, as approval of a visa petition is but a preliminary step in the visa application process. The beneficiary is not, by mere approval of the petition, entitled to an immigrant visa. *Id.* at 582, 590.

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 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.

The petitioner seeks classification as an alien with extraordinary ability as an artist. The I-140 petition was initially approved by the California Service Center on January 23, 2002.

On September 17, 2003, the petitioner appeared for an interview at the U.S. Consulate in Guangzhou, China to obtain his immigrant visa. At that time, the consular officer concluded that the petitioner was not eligible for the benefit sought.

On October 22, 2003, the Chief of the Immigrant Visa Unit, U.S. Consulate General, issued a memorandum requesting that the approval of the petitioner's I-140 petition be revoked. The memorandum states:

The U.S. Consulate Guangzhou contends that good and sufficient cause supports revoking this petition. The evidence submitted to the Immigrant Visa Unit illustrates that [the petitioner] has not received extensive international acclaim as required by INA 203(b)(1)(A)(i), nor was [the petitioner] able to show convincingly that his entry into the United States will substantially benefit prospectively the United States, as laid forth in INA 203(b)(1)(A)(iii). Most importantly, investigation by U.S. Consulate Guangzhou's Fraud Prevention Unit (FPU) suggests that certain elements of [the petitioner's] petition are fraudulent.

Although [the petitioner] claims to be a member of the China Fine Artists Association, an FPU staff member called this association and was told that [the petitioner] is not a member. FPU's attempts to verify [the petitioner's] second claimed membership, with the China Calligraphic Artists Association, were also unsuccessful, as no one at the association answered phone calls for over one week. While [the petitioner's] membership in the regional Sichuan Artist Association was confirmed, the Sichuan Artist

Association representative stated that [the petitioner] had not been in contact with them for many years and that, moreover, [the petitioner] is not very famous in their area. If [the petitioner] were, as he claims, famous internationally and nationally, it is unlikely that he would not be well-known in his home province of Sichuan.

[The petitioner's] claims for future employment in the United States are similarly weak. [The petitioner] claims to be Honorary Chairman of the "Zizhou Dufu Memorial Museum," however FPU investigation could find no record of such a museum.

In the first paragraph, the memorandum states that the petitioner has not received extensive "international acclaim" as required by section 203(b)(1)(A) of the Act. We note, however, that pursuant to the statute and corresponding regulations, an alien need not demonstrate international acclaim in order to demonstrate eligibility under this visa classification. Sustained national acclaim is sufficient to demonstrate eligibility as an alien of extraordinary ability.

Regarding the observations related to the China Fine Artists Association and the Sichuan Artist Association, the memorandum issued by the consulate is problematic in that it fails to identify name of the person with whom the officer spoke, the person's job title, when the conversation occurred, or the telephone numbers of the organizations called. The approval of this petition may not be revoked based on inferences or conclusions that are not supported by the record. Observations contained in an investigative report that are conclusory, speculative, equivocal, or irrelevant do not provide good and sufficient cause for the issuance of a notice of intent to revoke the approval of a visa petition and cannot serve as the basis for revocation. *See Matter of Arias*, 19 I&N Dec. 568 (BIA 1988).

In the third paragraph, we find that the petitioner's Honorary Chairmanship for the [REDACTED] Memorial Museum, which is located in China, is irrelevant to a determination regarding whether the petitioner seeks to enter the United States to continue work in the area of extraordinary ability or whether his entry to the United States will substantially benefit prospectively the United States.

Based on the information provided in the October 22, 2003 consular officer's memorandum, the director of the California Service Center issued a Notice of Intent to Revoke the approval of the petition on June 15, 2005. The Notice of Intent to Revoke informed the petitioner of the derogatory information noted by the consular officer. It further stated: "The fact that the [petitioner] misrepresented his membership in the China Fine Artists Association causes all of his submitted evidence to be in doubt." While the statement from the consular officer is not sufficient to clearly establish that the petitioner "misrepresented his membership in the China Fine Artists Association," it is sufficient to raise legitimate questions regarding whether the petitioner holds membership in this association and whether his certificate of membership is authentic. Although the record lacks pertinent details regarding the consular officer's telephone call to the China Fine Artists Association, we do not find that the consulate's telephone call to the China Fine Artists Association should be completely disregarded. Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa 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. *See Matter of Ho*, 19 I&N Dec. at 582,

591-92. The petitioner has not fully resolved this discrepancy and it will be further addressed during our discussion of the petitioner's evidence as it relates to the regulatory criteria at 8 C.F.R. § 204.5(h)(3)(ii).

On July 14, 2005, the Service Center received the petitioner's response to the Notice of Intent to Revoke and it was incorporated into the record of proceeding. In a July 12, 2005 letter accompanying the petitioner's response, counsel stated: "If given more time, [the petitioner] could provide the official membership verification letters to further rebut the Consulate's concerns."

On August 10, 2005, the director of the California Service Center revoked the approval of the petition stating:

After review, the petitioner has not established that the beneficiary qualifies for the classification sought because: The statement submitted [by counsel] complained the conclusions of the consular officer were speculative but provided no documentary evidence that any of the consular officer's conclusions were unfounded. Although counsel for the beneficiary stated the beneficiary could have "provided substantial evidence, if requested, to overcome the refusal," no such evidence was provided in response to the Intent to Revoke.

The petitioner has not submitted sufficient evidence in rebuttal to the USCIS's notice of Intent to Revoke and has not overcome the grounds for revocation.

On appeal, counsel argued that the consular officer's conclusions were based on vague evidence and that certain conclusions drawn by the consular officer were irrelevant to this petition's validity. Thus, counsel argued that the director did not have "good and sufficient cause" for revocation of the approval of the petition. The AAO concurred with counsel on this issue. However, the AAO noted that the petitioner's appellate submission did not include "official membership verification letters to further rebut the Consulate's concerns," which counsel had previously stated the petitioner "could provide."

After concluding that the June 15, 2005 notice of intent to revoke was issued without "good and sufficient cause," the AAO reviewed the evidence of record and determined that the petitioner had not satisfied any of the regulatory criteria at 8 C.F.R. § 204.5(h)(3). The AAO's February 10, 2006 decision identified numerous deficiencies in the record and found that the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability. The AAO also found that the petitioner had not satisfied the regulation at 8 C.F.R. § 204.5(h)(5).

The AAO's February 10, 2006 decision concluded by stating:

Based on the numerous deficiencies . . . we find that the petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act.

\* \* \*

In view of the foregoing, this matter is remanded to the director for the purpose of advising the petitioner of all of the aforementioned deficiencies in the record. The director should issue a detailed Notice of Intent to Revoke informing the petitioner of these specific deficiencies as they relate to the

appropriate regulatory criteria. The director may request any additional evidence deemed warranted and should allow the petitioner twelve weeks to provide such evidence in support of his position. This twelve-week period is necessary to provide the petitioner with adequate time to submit the "original" versions of his award certificates, his "Certificates of Membership" for the "China Fine Artists Association" (issued "November 1990") and the "China Calligraphic Artists Association" (issued "December 10, 1982"), and the two newspaper articles that he that he allegedly authored . . . . See 8 C.F.R. § 103.2(b)(5).

The regulation at 8 C.F.R. § 103.2(b)(5) states:

Request for an original document. Where a copy of a document is submitted with an application or petition, the Service may at any time require that the original document be submitted for review. If the requested original, other than one issued by the Service, is not submitted within 12 weeks, the petition or application shall be denied or revoked. There shall be no appeal from a denial or revocation based on the failure to submit an original document upon the request of the Service to substantiate a previously submitted copy. Further, an applicant or petitioner may not move to reopen or reconsider the proceeding based on the subsequent availability of the document. An original document submitted pursuant to a Service request shall be returned to the petitioner or applicant when no longer required.

On September 5, 2006, the director issued a new notice of intent to revoke informing the petitioner of the deficiencies in the record as they relate to the appropriate regulatory criteria. Pursuant to the regulation at 8 C.F.R. § 103.2(b)(5), the petitioner was requested to submit the original versions of his award certificates, his certificates of membership, and the two newspaper articles that he that he allegedly authored in *People's Daily* (1998) and *Securities and Investment* (1993).

On November 28, 2006, the Service Center received the petitioner's response to the Notice of Intent to Revoke and it was incorporated into the record of proceeding. This material will be addressed below under the pertinent regulatory criteria. The petitioner failed to comply with the director's request that he submit the originals of his award certificates, certificates of membership, and the two newspaper articles that he that he allegedly authored in *People's Daily* (1998) and *Securities and Investment* (1993).

Regarding the petitioner's failure to submit the requested original documents, the regulation at 8 C.F.R. § 103.2(b)(5) provides: "If the requested original, other than one issued by the Service, is not submitted within 12 weeks, the petition or application shall be denied or revoked." Accordingly, this petition cannot be approved. The remaining grounds for revoking approval of the petition will be addressed below.

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.*

We note here that the plain language of this criterion requires "nationally or internationally recognized" prizes or awards for excellence in the field. The burden is on the petitioner to demonstrate the level of recognition and achievement associated with his awards.

The petitioner initially submitted the following:

1. Certificate stating that the petitioner earned a special government subsidy for his achievements in calligraphy in 1992.
2. Undated certificate issued in English stating that the petitioner's "arts of Paints & calligraphies achieve a lot [sic]" and that he earned the title of "The world well-known artistic person"
3. "Certificate of Honor" stating that the petitioner's painting and calligraphy works were "published by 20<sup>th</sup> Century China Famous Painters and Calligraphers" and that he earned the title "Century Outstanding Artist of China" (1999)
4. "Certificate of Excellent Performance" issued by the Xin-Shenzhou Gallery (location unknown) stating that it obtained the petitioner's "Collection of Painting and Calligraphy" (1999)
5. "Certificate of Award" stating that the petitioner participated in the "6<sup>th</sup> National Fine Art Exhibition" and that his work "Jiang Shan Duo Jiao" won "the Golden Award" (October 1994)
6. "Certificate of Award" stating that the petitioner participated in the "Young Artists' Work Exhibition of Progressing China" and that his work "E Mei Tian Xia Xu" won "the First Prize" (October 1995)
7. "Certificate of Award" stating that the petitioner participated in the "'Patriot Cup' National Calligraphy Exhibition" and that his work "Libai Poem Qingpingdiao" won "the First Prize" (1988)
8. "Certificate of Honor" indicating that the petitioner donated his calligraphy work to an unknown area in China stricken by poverty (1999)
9. "Certificate of Award" stating that the petitioner's "work has been selected into the book *The Artistic Work Collection of China Painters and Calligraphers*" and that it won "the Best Work Award" (1999)

Pursuant to 8 C.F.R. § 103.2(b)(3), any document containing foreign language submitted to 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 each of the petitioner's award certificates were not certified as required by the regulation.

On September 6, 2001, the director issued a request for evidence stating:

The significance of the [petitioner's] national/international awards has not been established . . . . Submit evidence to establish the origination, purpose, significance and scope of each award, as well as the criteria used to nominate and judge the participants and award winners. Also, include evidence that identifies previous winners of each award for the past three to five years.

The petitioner's response, received on November 29, 2001, did not adequately respond to the director's request. The petitioner submitted a personal statement regarding his awards dated October 16, 2001, but evidence "establishing the origination, purpose, significance and scope of each award, as well as the criteria used to nominate and judge the participants and award winners" was not submitted. The petitioner also failed to submit evidence identifying the "winners of each award" for the requested three to five-year period.

In regard to item 5, the petitioner stated:

In August 1994, I participated the Sixth National Fine Art Exhibition along with other artists from twenty-nine provinces. There were more than 2,400 paints and calligraphic works exhibiting in the China Arts Gallery in Beijing. My Chinese painting, Beauty of the Rivers and Mountains, was awarded the Golden Medal.

In regard to item 6, the petitioner stated: "In May 1995, in the National Young Artists Exhibition in Shenzhen, 278 works were exhibited. I was awarded Medal for Young Artists." We find it interesting that the petitioner, born in 1953 and age 41 at the time of this exhibition, would have participated in an exhibition reserved for "Young" artists. The director's September 5, 2006 notice of intent to revoke informed the petitioner of this discrepancy, but the petitioner did not respond to the director's observations. As stated previously, doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *See Matter of Ho*, 19 I&N Dec. at 582, 591.

Regarding the petitioner's claims as they relate to items 5 and 6, we find no evidence to support the petitioner's assertions. 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)). We also note that the dates listed on these award certificates do not correspond to the dates listed in the petitioner's October 16, 2001 letter. It is incumbent upon the petitioner, however, to resolve any inconsistencies in the record by independent and objective evidence. *See Matter of Ho*, 19 I&N Dec. at 582, 591-92. The record includes no such evidence.

The petitioner's November 29, 2001 response to the director's request for evidence also included a brief, five-sentence biographical sketch about the petitioner appearing on page 103 of *A Chinese-English Dictionary of Contemporary Chinese Artists & Calligraphers*. Interestingly, the only award mentioned in the petitioner's biographical sketch is a "first prize in Sichuan Art Exhibition." This award, however, reflects provincial recognition rather than national or international recognition.

In addition to the preceding deficiencies, we note that several of the photocopies of the award certificates submitted by the petitioner were either illegible or missing certain sections. Therefore, the director's September 5, 2006 notice of intent to revoke instructed the petitioner to submit the original versions of the preceding award certificates. Pursuant to the regulation at 8 C.F.R. § 103.2(b)(5), the petitioner's failure to comply with the director's request constitutes grounds for revoking approval of the petition.

In response to the director's September 5, 2006 notice of intent to revoke, the petitioner submitted photocopies of further award certificates, but the English language translations accompanying each of the petitioner's new award certificates were not certified as required by the regulation at 8 C.F.R. § 103.2(b)(3). Further, no original documents were submitted. Absent independent and objective evidence overcoming the doubts regarding the award certificates initially submitted by the petitioner, we cannot accept the new award certificate photocopies as authentic without first examining the original versions of these documents. See *Matter of Ho*, 19 I&N Dec. at 582, 591. As stated previously, the regulation at 8 C.F.R. § 103.2(b)(5) allows CIS to request the originals of any photocopies submitted.

In this case, there is no evidence of contemporaneous publicity surrounding the petitioner's awards or evidence showing that they command a substantial level of recognition. We note here that section 203(b)(1)(A)(i) of the Act requires extensive documentation of sustained national or international acclaim. Pursuant to the statute, the petitioner must provide adequate evidence showing that the certificates presented under this criterion enjoy significant national or international stature. The record, however, includes no such evidence. Thus, the petitioner has not established that he meets 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.*

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 initially submitted partially illegible photocopies of what are alleged to be his certificates of membership for the China Fine Artists Association (issued "November 1990") and the China Calligraphic Artists Association (issued "December 10, 1982"). In a June 19, 2000 letter accompanying the petition, counsel specifically states:

[The petitioner] is a member of the China Fine Artists Association. China Fine Artists Association is an art Association of the highest academic level and authority in the fine art field in China.

\* \* \*

[The petitioner] is a member of the China Calligraphic Artists Association. China Calligraphic Artists Association is an art Association of the highest academic level and authority in calligraphy in China.

On September 6, 2001, the director issued a request for evidence instructing the petitioner to submit, among other things, “the minimum requirements and criteria used to apply for membership” in the preceding associations.

The petitioner’s November 29, 2001 response included a document entitled “A Brief Introduction of (International) China Calligrapher’s Association” and a second document entitled “A Brief Introduction of (International) China Artists Association.” Astonishingly, the regulations for each of these associations are completely identical and both associations are registered at the same Hong Kong address.

It has not been established that the “International China Calligraphers Association” of Hong Kong and the “China Calligraphic Artists Association” are one in the same. Similarly, it has not been established that the “International China Artists Association” of Hong Kong and the “China Fine Artists Association” are one in the same.

The petitioner failed to submit evidence of the membership bylaws or the official admission requirements for the “China Fine Artists Association” or the “China Calligraphic Artists Association.” There is no indication that admission to membership in these organizations required outstanding achievement or that the petitioner was evaluated by national or international experts in consideration of his admission to membership.

In addressing the November 1990 “China Fine Artists Association” certificate of membership and the December 10, 1982 “China Calligraphic Artists Association” certificate of membership, the AAO’s February 10, 2006 decision stated:

Regarding the petitioner’s membership in the China Fine Artists Association, the consular officer’s memorandum stated that “a staff member called this association and was told that [the petitioner] is not a member.” For this reason, the director should instruct the petitioner to provide evidence directly from both the “China Fine Artists Association” and the “China Calligraphic Artists Association” verifying the petitioner’s membership status and the duration of his membership in their organizations. We should emphasize here that we are not requesting the petitioner to submit membership verification letters from the “International China Calligraphers Association” of Hong Kong or the “International China Artists Association” of Hong Kong.

On appeal, counsel asserts that “the official membership verification letters had already been in the petition.” The record, however, includes no such letters. Illegible photocopies of the petitioner’s membership certificates are not “official membership verification letters.” The assertions of counsel do not constitute evidence. *Matter of Obaighena*, 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).

We agree with counsel’s statement on appeal that such “official membership verification letters” represent “more reliable sources to verify the [petitioner’s] membership.” Therefore, the director should instruct the petitioner to submit such letters not only to demonstrate eligibility under this criterion but also to demonstrate that the petitioner did not misrepresent his membership in the China

Fine Artists Association and the China Calligraphic Artists Association. Such letters should be issued on association letterhead and include the name of the verifying official, his or her job title, the exact address of the association in China, the petitioner's specific membership information, the duration of his membership, and a telephone number for contacting each association.

The director's September 5, 2006 notice of intent to revoke instructed the petitioner to submit "his original Certificate . . . of Membership in the China Fine Artist Association" and the originals of his remaining certificates of membership. Pursuant to the regulation at 8 C.F.R. § 103.2(b)(5), the petitioner's failure to comply with the director's request constitutes grounds for revoking approval of the petition. Further, the petitioner has not submitted independent and objective evidence to overcome the doubts raised by the consular officer regarding the authenticity of the November 1990 "China Fine Artists Association" certificate of membership. See *Matter of Ho*, 19 I&N Dec. at 582, 591-92.

Contrary to the instructions in AAO's February 10, 2006 decision, the director also requested that the petitioner submit membership verification letters from "International China Calligraphers Association" of Hong Kong and the "International China Artists Association" of Hong Kong rather than the "China Fine Artists Association" and the "China Calligraphic Artists Association." Nevertheless, the petitioner failed to submit the requested documents.

The petitioner's response to the director's September 5, 2006 notice of intent to revoke included photocopies of what are alleged to be his membership credentials for the "World Chinese Artists' Association" (dated October 2003) and for the "Attist [sic] Association of China" (dated July 21, 2006). Because the "Attist [sic] Association of China" credential misspells the word "Artist" and the World Chinese Artists' Association credential photocopy includes a visible alteration of its expiration date, we cannot accept either document as authentic without first examining the originals. As stated previously, the regulation at 8 C.F.R. § 103.2(b)(5) allows CIS to request the originals of any photocopies submitted. Nevertheless, the preceding credentials were allegedly issued to the petitioner 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). Accordingly, the AAO will not consider these credentials in this proceeding.

In this case, the evidence submitted by the petitioner is not adequate to demonstrate that he holds membership in an association requiring outstanding achievement or that he was evaluated by national or international experts in consideration of his admission to membership. Thus, the petitioner has not established that he meets this criterion.

*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 or from a publication in a language that most of the population cannot comprehend. 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.<sup>1</sup>

The petitioner submitted various articles originating from newspapers published in China. These articles were accompanied by incomplete English language translations consisting of only a few brief sentences. The summary translations accompanying these articles were not individually certified or accompanied by a full English language translation as required by the regulation at 8 C.F.R. § 103.2(b)(3). Without complete translations, it cannot be determined if the petitioner himself was the primary subject of the published material.

The petitioner also submitted material from publications such as *A Chinese-English Dictionary of Contemporary Chinese Artists & Calligraphers* and *World Cultural Celebrity Dictionary*. The editors of these publications do not single out the petitioner as superior to the hundreds of other artists featured in those same volumes. Books of this size, with such a limited portion devoted to the petitioner, appear to be more of a comprehensive directory than a special form of recognition limited to an elite few. We cannot conclude that the petitioner's limited entry into such sizable tomes would constitute qualifying published material about the petitioner and his work.

In response to the director's September 5, 2006 notice of intent to revoke, the petitioner submitted an article entitled "Reflections on 'The Painting King,' [the petitioner]." The title and date of the publication in which this article appeared have not been identified as required by this criterion.

The petitioner also submitted an article entitled "Famous Chinese Landscape Painter – [the petitioner]." The author, date, and title of the publication in which this article appeared have not been identified as required by this criterion. Further, the English language translation accompanying this article was not certified as required by the regulation at 8 C.F.R. § 103.2(b)(3).

In addressing the petitioner's evidence, the director's January 16, 2007 notice of revocation stated that "no evidence was presented, other than the petitioner's own statement, that any of the . . . papers and periodicals are major media and have significant national or international distribution." We concur with the director's observation. 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. at 158, 165 (citing *Matter of Treasure Craft of California*, 14 I&N Dec. at 190. Further, as required by section 203(b)(1)(A)(i) of the Act and the regulation at 8 C.F.R. § 204.5(h)(3), the petitioner must demonstrate that his national or international acclaim has been sustained. The record, however, includes no evidence showing that the petitioner has been the subject of published material subsequent to 1997. Thus, the petitioner has not established that he 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.*

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<sup>1</sup> 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.

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. The weight given to evidence submitted to fulfill the criterion at 8 C.F.R. § 204.5(h)(3)(iv), therefore, depends on the extent to which such evidence demonstrates, reflects, or is consistent with sustained national or international acclaim at the very top of the alien’s field of endeavor. A lower evidentiary standard would not be consistent with the regulatory definition of “extraordinary ability” as “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). For example, serving as a judge for a national competition involving professional artists is of far greater probative value than serving as a judge for a local competition involving amateur artists.

The petitioner submitted a “Certificate of Appointment” allegedly issued by the International Artists Union naming him as “the Expert Judge of the Expert Committee of Sino-Korea Culture and Art of the International Fine Artists Association.”

The petitioner submitted a second “Certificate of Appointment” naming him as an “Expert Number [sic] of the Organization Committee of China Buddhism Culture and Art Exhibition.”

The plain language of the criterion at 8 C.F.R. § 204.5(h)(3)(iv), however, 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 these organizations. For example, the record lacks information regarding the nature of the petitioner’s duties in these appointments, the types of artistic evaluations he performed, the names of individuals he evaluated, and their level of artistic expertise (i.e.- novice, amateur, or professional). We cannot ignore that section 203(b)(1)(A)(i) of the Act requires “extensive documentation” of sustained national or international acclaim. Without evidence showing that the petitioner’s activities involved evaluating established professional artists at the national or international level, we cannot conclude he meets this criterion.

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

The petitioner submitted photocopies of two newspaper articles that he allegedly authored in *People’s Daily* (1998) and *Securities and Investment* (1993). In response to the director’s September 5, 2006 notice of intent to revoke, the petitioner submitted another article by him allegedly published in *Renming Daily* on June 23, 1988. These articles were not accompanied by full English language translations as required by the regulation at 8 C.F.R. § 103.2(b)(3). Further, the record includes no indication that these articles are “scholarly” in nature, nor any evidence that they are widely viewed as significantly influential. In addition to the preceding deficiencies, it was noted that photocopied portions of the articles from *People’s Daily* (1998) and *Securities and Investment* (1993) were partially illegible or incomplete. Therefore, the director’s September 5, 2006 notice of intent to revoke instructed the petitioner to submit the original versions of these two newspaper articles. Pursuant to the regulation at 8 C.F.R. § 103.2(b)(5), the petitioner’s failure to comply with the director’s request constitutes grounds for revoking approval of the petition.

In light of the above, the petitioner has not established that he meets this criterion.

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

The petitioner submitted art brochures from the China Art Festival and the Sichuan Fine Art Gallery. These brochures were not accompanied by full English language translations as required by the regulation at 8 C.F.R. § 103.2(b)(3).

The petitioner submitted a fill-in-the-blank invitation letter allegedly inviting him to participate in the "Exhibition in Memory of Baishi Qi'a 110<sup>th</sup> Anniversary" in June 1999. The petitioner submitted another fill-in-the-blank invitation letter allegedly inviting him to participate in the "Exhibition of China Culture and Art Research Institute" in April 1999. The record, however, includes no evidence showing that the petitioner actually attended these exhibitions and displayed his artwork.

The petitioner also submitted award certificates (which have already been discussed under the criterion at 8 C.F.R. § 204.5(h)(3)(i)) relating to additional exhibitions. It has not been established, however, that participation in these competitive exhibitions was limited to only experienced artists of national or international repute.

In response to the director's September 5, 2006 notice of intent to revoke, the petitioner submitted what is alleged to be an art exhibition brochure from an event held in Tokyo from December 18, 2003 to January 18, 2004. The preceding event occurred 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. at 45. Accordingly, the AAO will not consider this exhibit in this proceeding.

It must be stressed that an artist does not satisfy this criterion simply by arranging for his or her work to be displayed or sold. We find no evidence demonstrating that the petitioner's creations have been displayed at significant national venues. Nor is there any indication that the petitioner's works have been featured along side those of artists who enjoy national or international reputations. Furthermore, the petitioner has not demonstrated his regular participation in shows or exhibitions at exclusive venues devoted largely to the display of his work alone. The evidence presented by the petitioner is not sufficient to show that his exhibitions enjoy a national reputation or that participation in his exhibitions was a privilege extended to only top national or international artists.

In light of the above, the petitioner has not established that he meets this criterion.

*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 he performed a leading or critical role for an organization or establishment with a distinguished reputation, the petitioner must establish the nature of his role within the entire organization or establishment and the reputation of the organization or establishment.

The petitioner submitted various fill-in-the-blank certificates and letters naming him “Senior Honorary Academician” of the Xin-Shenzhou Gallery of Singapore, “Senior Artist” of the Xin-Shenzhou Gallery of Singapore, Director of the Sichuan Province of the Organization Committee of China Buddhism Culture Art Exhibition, “Senior Artistic Consultant” of China Zhong Yuan Painting and Calligraphy Institute, “Senior Artist” of the China Art Research Institute, and Director of the China New Century Painting and Calligraphy Institute. We note here that the fill-in-the-blank letter from the China New Century Painting and Calligraphy Institute includes a visible alteration of its date of issue. As stated previously, it is incumbent upon the 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. *See Matter of Ho*, 19 I&N Dec. at 582, 591-92.

The aforementioned documents include no address, phone number, or any other information regarding how these organizations may be contacted. Further, the majority of the documents were unaccompanied by full English language translations as required by the regulation at 8 C.F.R. § 103.2(b)(3). Nevertheless, it has not been shown that any of these organizations have earned a distinguished reputation at the national or international level. Nor has the petitioner submitted evidence detailing the dates of his service for each organization, his specific responsibilities for each organization, and his individual importance to each organization’s overall success. Thus, 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 this case, we concur with the director’s finding that the petitioner has failed to demonstrate his receipt of a major internationally recognized award, or that he 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.

The director’s January 16, 2007 notice of revocation concluded by stating:

Doubts as to the genuineness of the petitioner’s documents were first raised by the U.S. Embassy in Guangzhou. The petitioner was informed of these doubts in the Intents to Revoke dated June 15, 2005, and September 5, 2006, and the Revocation dated August 10, 2005. The most recent Intent to Revoke, dated September 5, 2006, specifically stated the only way for these deficiencies to be resolved was with the submission of original documents. The petitioner not only failed to provide any original documents, he did not provide accurate translations of photocopied documents. These facts have done nothing to dispel those doubts.

After review, the petitioner has not established that [he] qualifies for the classification sought because first, no original documents were submitted as requested. Second, not all of requested evidence was provided, and third, even if all the documentation was taken at face value, even though it is highly suspect, the [petitioner] still does not meet the evidentiary criteria or regulatory requirement[s] for this classification.

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 a national or international level. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A)(i) of the Act and the approval of the petition must be revoked. Pursuant to *Matter of Ho*, 19 I&N Dec. at 582, 590, the director's realization that a petition was incorrectly approved is good and sufficient cause for the issuance of a notice of intent to revoke an immigrant petition.

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 includes what is alleged to be the petitioner's "plans to establish the China International Dufu Poem, Calligraphy and Painting Institute in Los Angeles." These documents, however, were not accompanied by full English language translations as required by the regulation at 8 C.F.R. § 103.2(b)(3). Without complete English language translations, it cannot be determined exactly how the petitioner intends to continue his work in the United States. In response to the director's request for evidence, the petitioner submitted an October 16, 2001 letter that devotes two sentences to how the petitioner will continue working in his area of expertise, but this letter lacks sufficient detail and does not represent "clear evidence" of the petitioner's employment intentions in the United States.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The burden remains with the petitioner in revocation proceedings to establish eligibility for the benefit sought under the immigration laws. *Matter of Cheung*, 12 I&N Dec. 715 (BIA 1968), affirmed in *Matter of Estime*, 19 I&N at 450, and *Matter of Ho*, 19 I&N Dec. at 582, 590. Here, the petitioner has not sustained that burden.

**ORDER:** The director's decision is affirmed and the approval of the petition remains revoked.