

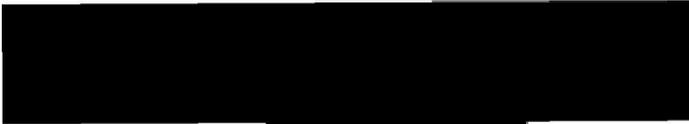


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FILE: [REDACTED]
EAC 06 015 50869

Office: NEBRASKA SERVICE CENTER

Date: **AUG 22 2008**

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

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

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska 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.

On appeal, the petitioner argues that he meets at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3).

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 into 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, 60898-99 (Nov. 29, 1991). As used in this section, the term "extraordinary ability" means a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2). The specific requirements for supporting documents to establish that an alien has sustained national or international acclaim and recognition in his or her field of expertise are set forth in the regulation at 8 C.F.R. § 204.5(h)(3). The relevant criteria will be addressed below. It should be reiterated, however, that the petitioner must show that he has sustained national or international acclaim at the very top level.

This petition, filed on October 3, 2005, seeks to classify the petitioner as an alien with extraordinary ability as a performing artist and opera stage designer. The petitioner submitted a September 20, 2005 letter from [REDACTED] Managing Director, Philadelphia Chinese Opera Society, Inc. (PCOS), stating: "[The petitioner] currently serves as a Chinese Opera Stage Designer and Chinese Opera Performer, the Master of Changing Masks for our company."

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, internationally 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. A petitioner, however, cannot establish eligibility for this classification merely by submitting evidence that simply relates to at least three criteria at 8 C.F.R. § 204.5(h)(3). In determining whether the petitioner meets a specific criterion, the evidence itself must be evaluated in terms of whether it is indicative of or consistent with sustained national or international acclaim. 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). 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 certificate stating that he "was granted the first prize in Stage Design in 1998 China Drama Academy Art Festival." The record reflects that the petitioner was a student at the China Drama Academy from 1994 to 1998. In response to the director's request for evidence, the petitioner submitted a September 1, 2006 letter from [REDACTED], Professor, National Academy of Chinese Theater Arts (NACTA), stating that the "Art Festival of NACTA is held every year" to encourage "art exchange between faculty and students" and that in 1998 "27 individuals and 1 group were granted awards." The petitioner's prize reflects institutional recognition by his alma mater rather than national or international recognition for excellence in the field. The director's decision noted that the "limited scope" of this award did not satisfy this regulatory criterion. Further, we cannot conclude that recognition as one of 28 award recipients in a student art competition is an indication that the petitioner "is one of that small percentage who have risen to the very top of the field of endeavor very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2).

The petitioner also submitted award certificates stating that he won "the outstanding Prize for Apparel Design of 2000" and that he "was granted the second prize in Stage Design in 2001 Central TV Station 'Ximenzi Cup.'" The petitioner has not established that "apparel design" relates to the field of endeavor in which he seeks to continue working in the United States. See section 203(b)(1)(A)(ii) of the Act, 8 U.S.C. § 1153(b)(1)(A)(ii), and 8 C.F.R. § 204.5(h)(5). In addressing these award certificates, the director noted that the record does not include evidence showing the "significance and scope" of the prizes. Nor is there general information about the competitions (such as the award criteria, the area from where participants were drawn, the number of entrants, or the percentage of entrants who earned some type of recognition). We concur with the director's finding that there is no evidence showing that these prizes constitute nationally or internationally recognized prizes for excellence in the petitioner's field.

The petitioner also submitted a certificate from the State Administration of Radio, Film, and Television stating that he "won First Prize of 2002 Golden Eagle Cup, National Stage Design Competition." In response to the director's request for evidence, the petitioner submitted a September 7, 2006 letter from Sun Guiyuan, National First-Class Actor and Director, China Beijing Opera House, stating:

National Golden Eagle Cup Stage Design Award was launched in 2002 to raise the profile of the stage design for performing arts in China, as part of the “Development Strategies of Chinese Arts and Culture Project” initiated by the State Administration of Radio, Film, and Television (SARFT). The National Golden Eagle Cup Stage Design Award was open to all organizations and individuals involved in stage design. The organizing committee received 91 productions in total and offered 28 awards

We cannot ignore the large percentage of awards offered at this government-sponsored arts promotion contest. Further, there is no supporting evidence showing that the recipients of the preceding awards were announced in major media or in some other manner consistent with national or international acclaim at the very top of the field. The plain language of the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(i) specifically requires that the petitioner’s awards be nationally or internationally *recognized* in the field of endeavor and it is his burden to establish every element of this criterion.

In response to the director’s request for evidence, the petitioner submitted a certificate from the New York City Department of Cultural Affairs, the Lincoln Center for the Performing Arts Inc., and the Chinese-American Arts Council Inc. of New York dated 2005 stating that he received a “Most Outstanding Asian Artist Award.” A September 19, 2005 letter from Alan Chow, Executive Director, Chinese-American Arts Council Inc., New York, states that his organization sponsors “numerous groups from China, Taiwan, and South East Asia to entertain various ethnic groups in the Tri-state area.” Mr. [REDACTED]’s letter does not state that the petitioner was a recipient of the Most Outstanding Asian Artist Award or specify the date when the petitioner received the award. The director’s decision stated that this award was “local or regional” in scope and that there was “no evidence which indicates this award was granted prior to the filing date of the instant petition.” We concur with the director’s observations. A petitioner must establish eligibility at the time of filing. 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm. 1971). Even if the petitioner were to show that he had received this award as of October 3, 2005, there is no evidence establishing that the award constitutes a nationally or internationally recognized award for excellence in the performing arts.

On appeal, the petitioner submits a Certificate of Recognition from the Secretary of State of New Jersey expressing appreciation for the petitioner’s performance at the New Jersey Cultural Festival on October 22, 2006. The petitioner also submits a photograph showing him with the Secretary of State of New Jersey and a November 20, 2006 letter from her thanking him for his participation in the festival. The petitioner’s Certificate of Recognition was presented to him 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)(1), (12); *Matter of Katigbak*, 14 I&N Dec. at 49. Accordingly, the AAO will not consider this certificate in this proceeding. Nevertheless, this evidence reflects local recognition for participation in the festival rather than a nationally or internationally recognized award for excellence in the field.

In light of the above, 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. Further, 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 submitted his membership credential for the China Industrial Design Association and general information about the association, but there is no evidence (such as membership bylaws or official admission requirements) showing that it requires outstanding achievements of its members, as judged by recognized national or international experts in the petitioner's field or an allied one. As such, the petitioner has not established that he meets this criterion.

Published material 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 level from a local publication or broadcast, or from a publication printed in a language that the vast majority of the country's 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.¹

The petitioner submitted a February 8, 2005 article in *The Daily Pennsylvanian*, entitled "Area students ring in Chinese New Year," but the article was not primarily about him and included only a single sentence identifying him in a caption below his photograph. The plain language of this regulatory criterion requires that the published material be "about the alien." The petitioner also submitted a photograph of him appearing in the February 11, 2005 issue of *The Triangle* (Philadelphia), but he was not mentioned by name in the caption underneath the photograph or in the accompanying article. Further, there is no evidence showing that the preceding publications qualify as major media.

The petitioner submitted a captioned photograph of him and two other individuals in the May 26, 2005 New York edition of *World Journal*. The petitioner also submitted a May 26, 2005 article in the New York edition of *Sing Tao Daily* and a May 26, 2005 article in the New York edition of *Ming Pao Daily* promoting his upcoming performance at Public School 10 in Brooklyn. The petitioner's initial submission also included an April 27, 2005 article in *World Journal*, but the accompanying English language translation was incomplete

¹ 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, for instance, cannot serve to spread an individual's reputation outside of that county.

and there is no indication that the article was primarily about the petitioner. The record also includes a July 22, 2005 article about the petitioner in *The Duowei Times*, but the author of the material was not identified as required by the plain language of this regulatory criterion. The petitioner also submitted a May 4, 2005 article in *World Journal*, an April 23, 2005 article in *Ming Pao Daily*, and a February 8, 2005 article in *Sing Tao Philadelphia*, but none of these articles were primarily about the petitioner. Further, the authors of the preceding articles were not identified as required by the plain language of this regulatory criterion. Finally, 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 preceding articles were accompanied by only partial English language translations and the individual translations were not certified by the translator as required by 8 C.F.R. § 103.2(b)(3).

There is no evidence (such as circulation statistics) showing that the preceding articles submitted by the petitioner were printed in professional or major trade publications or some other form of major media. While the petitioner's response to the director's request for evidence included general information about the newspapers *World Journal*, *Sing Tao Daily*, *Ming Pao Daily*, and *The Duowei Times*, we note that these Chinese language newspapers are published regionally. For example, the material submitted by the petitioner from *The Duowei Times*'s internet site states: "The paper has been tailored in six different versions for New York, New Jersey, Philadelphia, Washington, D.C., Georgia, and Los Angeles." The petitioner has not established that the sections in which his articles appeared were nationally or internationally circulated rather than regionally circulated. Regional coverage or coverage in a publication read by only a small ethnic segment of a country's total population is not evidence of national or international acclaim.

In response to the director's request for evidence, the petitioner submitted a November 18, 2005 article in *The Duowei Times* discussing performances by the PCOS at Longwood Gardens in Pennsylvania, a June 1, 2006 article about the petitioner in *World Journal*, a June 10, 2006 article discussing a Chinese Opera workshop organized by ██████████, an October 24, 2006 article in the Local News section of *World Journal* discussing New Jersey's Statewide Cultural Festival, and a May 31, 2006 article in *Ming Pao Daily* (New York). The petitioner's response also included articles in *Sing Tao Daily* dated May 31, 2006 (New York edition), June 10, 2006 (New York edition), and July 21, 2006 (Philadelphia edition). The petitioner also submitted a photograph of him in the May 26, 2006 issue of *China News Weekend* and articles in the September 7 and 14, 2006 issues of the *St. Louis Chinese American News*. The preceding articles were published 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)(1), (12); *Matter of Katigbak*, 14 I&N Dec. at 49. Accordingly, the AAO will not consider these articles in this proceeding.

The petitioner submitted video footage of a face changing performance he gave for Sino Television, a local Chinese language station in New York. The petitioner identifies this footage as a "press release" for "TV Channel 25." The video footage was unaccompanied by a certified English language translation as required by this regulatory criterion and the regulation at 8 C.F.R. § 103.2(b)(3). In response to the director's request for evidence, the petitioner submitted a video of his interview for Sino Television's "Dialogue" program and video of a show he performed at Swarthmore College that aired on WYBE Public Television in Philadelphia (Channel 35). There is no evidence showing that the preceding video footage was broadcast by major media outlets, that the footage aired nationally or internationally, or that it was otherwise distributed in a manner

consistent with sustained national or international acclaim. Further, the date that the video footage was broadcast was not provided as required by the plain language of this regulatory criterion.

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

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 recommendation.

states:

[The petitioner] . . . mastered one of the unique Chinese opera techniques, the changing of the masks. Only a handful of artists in China can perform this style and as with traditional styles it is in danger of distinction [sic]. We believe [the petitioner] is the only person in the region who has mastered this style. [The petitioner's] performances of the changing masks have always been the highlight of any events and have been well received by audiences old and young. The community has long waited for such authentic presentation of one our oldest traditions. [The petitioner's] performances also serve to build bridges between people of different ethnicities, since they can overcome the language barrier and enjoyed by all.

g, Professor, Hunter College of the City University of New York, states:

[The petitioner] is a performer of an [sic] unique stage skill – “Face-Changing” which is on the verge of losing its tradition. When he first came to see me, through an introduction, he duly demonstrated his exceptional skill.

* * *

Very fortunately, [the petitioner] has learned the art of “Face-Changing” from an old master of Sichuan theatre. Due to the conservative view of the feudalistic society, most teachers are reluctant to pass on this “Secret Skill.” This is why in China, only a small number of performers have learned this seldom seen art.

* * *

I believe that [the petitioner] will definitely serve the cause of extending the understanding and deepening the appreciation of Chinese culture in America, where we are becoming increasingly aware of many faceted nature of art in the world's many cultures.

Artistic Director, Circus Center, San Francisco, states:

With his rare talent, [the petitioner] fortunately had the chance to study face-changing with the face changing master, a traditional Chinese art what was secretly passed down to only apprentice by

master. The number of people with access to this skill is very limited and the performances are rare. From costumes to make-up, the performers have to make everything themselves. They usually have their own compartment backstage to keep the technique secret. Besides his talent, [the petitioner's] expertise in design and Peking opera performance help him master the art of national treasure, face-changing. As a master of himself, [the petitioner] added some new faces to the face-changing.

[The petitioner] has given over thirty performances in U.S. in last year. Whenever he goes, we won the audiences. As far as I know, he is the only face-changing performing artist in U.S. and he brought this unique art form to many Americans.

Director, Second Troupe of China Peking Opera Theater, and Director, Channel 11, China Central Television, states:

I have known [the petitioner] for over 10 years. He is an outstanding performing artist as well as an excellent stage designer. [The petitioner], with other colleagues, has been doing the stage design for many large scale art events. . . . His stage art designs are unique. His stage art design works with us have always won the critical acclaim. His works won the audiences as well won many awards.

[The petitioner's] face-changing performance is unparalleled [sic]. Face-changing in Sichuan Opera is international renown. [The petitioner] added some distinctive features of Beijing Opera to the unique Sichuan Opera face-changing. Not only the Peking Opera tunes but also the typical Peking Opera can be found in [the petitioner's] face-changing performance. Beside the typical Sichuan [the petitioner] also added more faces to the face-changing such as the faces of [redacted] in Peking Opera.

is a young performer with great performing and design talent. I believe he will make even great contribution in his future performing career.

[redacted]'s letter states that the petitioner added distinctive features to his Sichuan Opera face-changing routine (such as Peking Opera faces), but there is no supporting evidence showing that these creative additions were original artistic contributions of major significance in the field.

[redacted], President and Artistic Director, Stageline International, Inc., New Jersey, states:

[The petitioner] is . . . one of the few face-changing masters in the world, probably the only face-changing master in United States. Face-changing is a traditional Chinese art that was secretly passed down to only apprentice by master. The number of people with access to this skill is very limited and the performances are rare. Since his arrival, [the petitioner] has given over thirty performances in United States. It is him who brought face-changing, a China national treasure, to the American audiences and performing arts.

[redacted], President, Shanxi Mingzhu Art Training School, China, states:

I had the chance to see [the petitioner's] face-changing performance and I was totally amazed by his brilliant performances. He is really unique. With his talent and expertise in stage art design, [the petitioner] combined the Sichuan Opera mask, custom, and Peking Opera arts, and created his unique style of face design and face-changing. The audience fall [sic] in love with his vivid performance on stage. There is [sic] very few face-changing artists, and I believe that [the petitioner's] new creation based on his stage art design has brought the face-changing art to a new level. He is a very outstanding performing artist.

President, NYJPW Chinese American Arts and Culture Association, New York, states:

[The petitioner's] artistic special skill is "Face Changing" which is very different than the traditional Chinese opera performing. This kind of performance is on the verge of losing its tradition. Artist can change the painted face with traditional Chinese Opera characters within a very short time. It combines the traditional Si Chuan Opera and mixes with Chinese Opera.

[The petitioner's] creation of the mixture of Si Chuan and Beijing Opera has added much more interesting and amusing to the traditional p[re]sentation. This type of performance has not easy to be learned and taught therefore the limited skill to make [the petitioner's] talent more significant being indented [sic]. Because of his special ability and extraordinary expertise in Face-Changing, [the petitioner] became the one artist who performs this technique among [sic] many other Chinese Opera performers.

NYJPW was honored [sic] to invite [the petitioner] to perform Face-Changing at the Festival of Arts for Plainsboro Public Library, September 17, 2005. [The petitioner] performed in a very short time and capable [sic] changed all different type of the characters in Chinese Opera.

* * *

Having performing many cities in U.S. and China, [the petitioner] has made tremendous contribution to the development of Face-Changing Chinese Opera. His total devotion to international cultural exchange has made him a very distinguished artistic performer.

Artists such as [the petitioner] who possesses the extraordinary ability in the Si Chuan and Chinese Opera are tremendous culture assets to the United States and will not doubt [sic] continue to contribute greatly to the artistic and cultural diversity of our country through his creative work.

Head of Circus Study, National Institute of Circus Arts, Prahran, Australia, states:

I have known [the petitioner] for 20 years. I have seen his physical training and performing in China and outside of China. His particular Beijing Opera style, Martial Arts and movement Style won his reputation in China and Overseas. His skill would bring a great deal of benefit to Western style physical performing. In Particular USA and Australia.

I have known that [the petitioner's] newly developed face changing performing manipulation skills would bring a great influence in western style drama, performance, physical theatre and perhaps the filming industry.

's letter discusses his opinions regarding future benefits associated with the petitioner's work rather than addressing how the petitioner's "newly developed" face changing skills have already impacted the performing arts or "the filming industry." A petitioner cannot file a petition under this classification based on the expectation of future eligibility. *See Matter of Katigbak*, 14 I&N Dec. at 49.

Executive Director, Asian Business Chamber of Commerce, Philadelphia, states:

We have been the festival organizer to the PECO [Philadelphia Electric Company] Asian Festival at Philadelphia's Penn's Landing.

* * *

I've had the pleasure to work with the Philadelphia Chinese Opera Society during this season. I am thoroughly impressed by the quality of the Beijing opera performance of the group, particularly, [the petitioner], who performed the Beijing opera piece – "Changing Faces." I thought so highly of [the petitioner], that his performance was not only debut at the Asian Festival but he performed during the PECO 20th Anniversary kickoff Event. Everyone at both events was in awe with [the petitioner's] performance. We received so many positive comments and feedback from attendees as well as the fellow performers regarding the quality of his performance.

The Committee works diligently throughout the year in search of performers, vendors, and other organizations to collaborate in producing events that raise cultural awareness. We are proud to have the Philadelphia Chinese Opera Troupe and particularly, [the petitioner] to be part of our team in showcasing the high level of artistic talent in the Asian community this region has to offer.

Director, Philadelphia Folklore Project, states:

[The petitioner] is, is to my knowledge, the only changing face master currently in the United States to have learned and practiced this tradition as it was passed down within a family. This is a tremendously important matter. He alone preserves a distinct regional and family traditional art here in the United States. While a few other artists may have learned from movies, they cannot begin to approach the skill and complexity of the form as [the petitioner] knows it. It is an extraordinary opportunity to have [the petitioner] here, enriching the community with his artistry.

The art form in which he works, changing face traditions, is rarely seen and practiced here in the United States.

We are deeply privileged to have [the petitioner] here. Folk and traditional arts are not always measured by the same conventions as “mainstream” or “classical” forms. Instead, the significance of an artist, and of a tradition, can lie in their rarity, in the skill level of the artist, and in their mastery of a distinct and local tradition. [The petitioner], though young, is an exceptional artist, and from a rare and literally endangered tradition.

The preceding letters of recommendation discuss the petitioner’s talent as a performer, the uniqueness of his stage craft, and the rarity of his face changing skills, but they fail to demonstrate that he has made original contributions of major significance in his field. The letters include no substantive discussion as to which of the petitioner’s specific artistic achievements rise to the level of original contributions of major significance in the field. According to the regulation at 8 C.F.R. § 204.5(h)(3)(v), an alien’s contributions must be not only original but of major significance. We must presume that the phrase “major significance” is not superfluous and, thus, that it has some meaning. While the petitioner’s artistic talent is admired for its uniqueness by those offering letters of support, there is no evidence demonstrating that his work has had major significance in the field. For example, the record does not indicate the extent of the petitioner’s influence on other performers nationally or internationally, nor does it show that the field has somehow changed as a result of his work.

In this case, the letters of recommendation submitted by the petitioner are not sufficient to meet this criterion. These letters, while not without weight, cannot form the cornerstone of a successful extraordinary ability claim. CIS may, in its discretion, use as advisory opinion statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Commr. 1988). However, CIS is ultimately responsible for making the final determination regarding an alien’s eligibility for the benefit sought. *Id.* The submission of letters of support from the petitioner’s personal contacts is not presumptive evidence of eligibility; CIS may evaluate the content of those letters as to whether they support the alien’s eligibility. *See id.* at 795. Thus, the content of the writers’ statements and how they became aware of the petitioner’s reputation are important considerations. Even when written by independent experts, letters solicited by an alien in support of an immigration petition are of less weight than preexisting, independent evidence of original contributions of major significance that one would expect of a performer or stage designer who has sustained national or international acclaim. Without extensive documentation showing that the petitioner’s work has been unusually influential in the performing arts, has attracted significant attention for its impact at the national or international level, or has otherwise risen to the level of original contributions of major significance in the field, we cannot conclude that he meets this criterion.

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

In addressing this regulatory criterion, the director’s decision stated: “The petitioner provided an invitation letter which indicates he was invited to attend the Oriental Decorative Arts Exhibition at the Parson’s School of Design in New York City in the year 1999. However, the record contains no evidence of the significance of this venue or the exhibition.” The director concluded that there was no evidence demonstrating that the petitioner’s participation in this event was “consistent with or indicative of national or international acclaim.” We concur with the director’s observations for this regulatory criterion. On appeal, the petitioner does not challenge the director’s findings.

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 a casting list showing that he was a costume designer for the China Nanjing Little Red Flower Art Troupe. The petitioner also submitted casting lists showing that he was a stage designer for the Beijing Opera House of Beijing, Beijing Opera House of Nanjing, and the China Beijing Opera Academy. The casting lists submitted by the petitioner were not fully translated into English and were not certified by the translator as required by 8 C.F.R. § 103.2(b)(3). Nevertheless, there is no evidence showing that the preceding institutions have distinguished reputations. Further, with regard to the petitioner's role as a stage designer, the letter from [REDACTED] states: "[The petitioner], with other colleagues, has been doing the stage design for many large scale art events." The record, however, includes no evidence demonstrating how the petitioner's role differentiated him his "other colleagues" who handled stage design for the preceding institutions, let alone the artistic directors and headlining performers. As such, the petitioner has not established that his role for these institutions was leading or critical.

With regard to the petitioner's role for the PCOS, [REDACTED] states:

PCOS has recently awarded a grant from Dance Advance, a prestigious award funded by the Pew Charitable Trusts, for the production of dance drama "The Legend of the White Snake" based on the Beijing opera by the same title. [The petitioner] will be our stage designer as well as a performer in the role of the Mask Magician for this production.

[The petitioner] is considered as an accomplished stage art designer and outstanding performer for Chinese Opera performances. PCOS continues to provide quality programming to the Chinese American community as well as the general public. Our goal is to reach a wider audience and educate our young so that the treasure of Chinese opera can be shared by many and preserved and carried on. [The petitioner] will no doubt be a valuable asset to our organization. In addition to stage designing, he will participate in our regular activities which include regular workshops, demonstrations, public performances and so on.

The letter from [REDACTED] states that the petitioner will work as a stage designer and performer, but it does not state that his role for the PCOS was leading or critical. Nor is there evidence demonstrating how the petitioner's role differentiated him from the other performers and designers employed by the PCOS, let alone its artistic management. For example, there is no evidence showing that the petitioner's name frequently received top billing or that the popularity of the opera company increased when the petitioner was known to be performing. As such, the petitioner has not established that he was responsible for PCOS's success or standing to a degree consistent with the meaning of "leading or critical role" and indicative of sustained national

or international acclaim at the very top of his field. Further, there is no supporting evidence showing that the PCOS has a distinguished reputation.

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

Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.

There is no evidence (such as payroll records or income tax forms) showing the petitioner's actual earnings for any specific period of time predating the filing of the petition. In response to the director's request for evidence, the petitioner submitted his October 12, 2006 agreement with the PCOS stating that the organization "will compensate him at least \$1000 per performance, and \$250 per workshop." The petitioner executed the preceding agreement 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)(1), (12); *Matter of Katigbak*, 14 I&N Dec. at 49. Accordingly, the AAO will not consider this agreement in this proceeding. Nevertheless, the plain language of this criterion requires the petitioner to submit evidence of a high salary "in relation to others in the field." The petitioner offers no basis for comparison showing that his compensation was significantly high in relation to others in his field.

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

Evidence of commercial successes in the performing arts, as shown by box office receipts or record, cassette, compact disk, or video sales.

In response to the director's request for evidence, the petitioner submitted evidence that he was among several artists whose performances were included in a digital video disc (DVD) produced by the NYJPW Chinese American Arts and Culture Association in 2005. There is no evidence showing that this DVD featuring the petitioner's performance had a high national or international sales volume or that the petitioner received significant royalties for his involvement.

The petitioner also asserts that he was "the Stage Designer of the Beijing Opera play – 'The Red Maid' in the Beijing Opera House of Nanjing." He further states: "The two and a half hour performance was made into a comic book and published with 500,000 copies in 1999." The petitioner submitted the book's cover page, a cast list identifying him as stage designer, and selected pages from the book.² This documentation was not fully translated into English and was not certified by the translator as required by 8 C.F.R. § 103.2(b)(3). Nevertheless, there is no evidence showing that this book had a high national or international "sales" volume or that the petitioner received significant royalties for his involvement. Further, the petitioner has not established that his stage design work was primarily responsible for the book's alleged commercial success.

The petitioner also submitted documentation of various stage performances in which he participated. This regulatory criterion calls for commercial successes in the form of "sales" or "receipts"; simply submitting event programs, promotional material, videos, or photographs from the petitioner's stage performances cannot meet the

² One of the pages indicates that 500,000 copies were issued in the first printing.

plain language of this criterion. The record includes no evidence of documented “sales” or “receipts” showing that the petitioner achieved commercial successes in the performing arts in a manner consistent with sustained national or international acclaim at the very top of his field. For example, there is no indication that the petitioner’s performances in China or the United States consistently drew record crowds, were regular sell-out performances, or resulted in greater audiences than other similar performances that did not feature the petitioner.

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

In this case, the petitioner has failed to demonstrate receipt of a major, internationally recognized award, or that he meets at least three of the regulatory 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 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.