

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529-2090
MAIL STOP 2090



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

B2

FILE:

[REDACTED]
LIN 06 274 50924

Office: NEBRASKA SERVICE CENTER

Date: NOV 25 2008

IN RE:

Petitioner:
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:

[REDACTED]
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.

J. Grissom
John F. Grissom, Acting 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 that the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability. The director also determined the petitioner had not submitted clear evidence that he would continue to work in his area of expertise in the United States.

On appeal, counsel argues that the petitioner meets at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3) and that he “will . . . continue his career in the U.S. as a performing artist.”

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 (USCIS) 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 August 29, 2006, seeks to classify the petitioner as an alien with extraordinary ability as a performing artist and comedian. 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.¹

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

In an August 28, 2006 letter accompanying the petition, counsel states:

[The petitioner's] first national award came with his Xiangsheng performance of "Ultimate Honor" at the First National Xiangsheng Invitational Contest in May 1984. Two years later, he won two national major Xiangsheng awards for his performance in "Aversion of Meetings" in the National Xiangsheng Invitational Contest sponsored by China Central Television Station. They are the "Excellent Acting Award" and the "Excellent Script Award," which made him a first class national actor instantly. Since then, he has consistently won national awards in Xiangsheng such as Third Performance Prize for "Shackles for Arms" in Second National Xiangsheng Invitational Contest for Dalian Xinhai Cup sponsored by the China Central Television Station in 1998.

Without documentary evidence to support the preceding claims, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaighbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1, 3 n.2 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). The record does not include primary evidence of these awards or evidence showing that they are nationally or internationally recognized. A petition must be filed with any initial evidence required by the regulation. 8 C.F.R. § 103.2(b)(1). The nonexistence or other unavailability of primary evidence creates a presumption of ineligibility. 8 C.F.R. § 103.2(b)(2)(i).

On appeal, the petitioner submits a June 6, 2007 letter from the China Quiyi Artists Association stating:

The China Quiyi Artists Association and the Art Department of Ministry of Culture of the People's Republic of China co-hosted the First National Cross Talk Contest in May 1984. There were about 500 competitors from all over the country. Some of them were senior artists, new stars and outstanding performers. The organization of the contest only had two kinds of prizes. One was the "ceremonial prize" for works and the other was the "ceremonial prize" for performance. The reason they named ceremonial prizes for this contest was that they really cherished and wanted to memorize

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

the initial union for all the great cross talk comedians from all over the country. The meeting is a historical one in the life of the Chinese Quyi history.

In this contest, [the petitioner] performed the cross talk created by him, named "Infinite Glory." The fantastic performance put out by him not only gained the audiences' great appreciation but won the unanimous recognition in the contest. At last, he was awarded both ceremonial prizes works and for performance. Mr. [REDACTED] was the only one who won the both prizes in the contest.

The above statement serves as a certification for [the petitioner] who has participated in the First National Cross Talk Contest in May, 1984.

The preceding letter does not include a name, address, telephone number, or any other information through which its author may be contacted. As such, we cannot assign any weight to this letter. Thus, the letter does not overcome the unavailability of primary evidence of the preceding prizes. 8 C.F.R. § 103.2(b)(2)(i).

Aside from claiming the preceding prizes, the petitioner submitted the following:

1. Award Certificate stating that the petitioner's sketch comedy program was recognized as "the Most Exquisite Program of the Fifth National Quyi Festival" (July 2005).
2. Certificate stating that the petitioner's sketch comedy performance "won the First Class Award of the 'YI LI BEI (Cup)' in the category of My Favorite Chinese Festival Show Program" (March 1998).
3. Certificate stating that the petitioner received the "First Class Award of 'Chun Lan Bei (Cup)' competition" for his sketch comedy performance in the China Central Television Chinese New Year Gala (March 1997).
4. Certificate stating that the petitioner's sketch comedy program won the "First Class Award in the 1996 'Chun Lan Bei (Cup)'" at the China Central Television Chinese New Year Gala (March 1996).
5. Award Certificate stating that the petitioner's short drama performance "won the Peony Award of the Second National Quyi Festival" (October 1995).
6. Certificate stating that the petitioner's sketch comedy program "won the Gold Award in the 95' Chinese New Year Gala in the category of short drama" (March 1995).
7. Certificate from the State Council of the People's Republic of China stating that the petitioner was granted a "State Special Subsidy" for his contribution to the "country's cultural and artistic undertakings" (October 2004).
8. Certificate issued by Councilman Francisco Alonso recognizing the petitioner as an "Honorary Citizen" of the City of Monterey Park, California (November 1999).
9. "Certification of Professional Title" issued by the State Administration of Radio, Film and Television stating that the "human resource department of the administration verified that [the petitioner] is qualified for first class actor" (January 1, 2002).

Pursuant to 8 C.F.R. § 103.2(b)(3), any document containing foreign language submitted to USCIS 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. Regarding items 2 through 7, the English language translations accompanying these certificates were not certified by the translator as required by the regulation at 8 C.F.R. § 103.2(b)(3).²

With regard to item 5, the petitioner's response to the director's request for evidence included a July 1, 1999 document entitled "Regulations for China Quyi Peony Award." These regulations state that the award will be "given once a year" and that the results of the award evaluation will be announced at the "ceremony of the China Quyi Peony Award." The petitioner's October 17, 1995 certificate states that his short drama performance "won the Peony Award of the Second National Quyi Festival" and bears the seal of the Pingdingshan City Government. The petitioner has not established that the ceremony of the China Quyi Peony Award and the Second National Quyi Festival are the same event. Further, the regulations submitted by the petitioner do not mention a "short drama" award category. On appeal, the petitioner submits a document entitled "The 'Peony Prize' – Highest Prize in Chinese Quyi Performing Arts" stating that the "annual Peony Prize is awarded in the People's Congress Hall" in Beijing. In this instance, the petitioner has not established that the regulations he submitted relate to his Peony Award of the Second National Quyi Festival held in Pingdingshan City.

In regard to items 1 through 6, 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 this case, the petitioner has not submitted evidence showing that his awards commanded national or international recognition beyond the presenting organizations consistent with sustained national or international acclaim. The record also lacks evidence establishing the significance and magnitude of the preceding competitions. Further, there is no supporting evidence showing that the recipients of the preceding honors were announced in major media or in some other manner consistent with national or international acclaim. Regarding item 7, the petitioner has not submitted evidence establishing that his governmental subsidy is tantamount to a nationally or internationally recognized prize or award for excellence in his field.

In response to the director's request for evidence, the petitioner submitted a March 3, 2007 Excellence Award and Honorable Performing Artist medal from the New York Chinese Community Association Alliance. The petitioner received these awards 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. 45, 49 (Regl. Commr. 1971). Accordingly, the AAO will not consider these awards in this proceeding. Nevertheless, the preceding awards, along with the Certificate naming the petitioner as an "Honorary Citizen" of the City of Monterey Park (item 8), reflect local recognition rather than national or international recognition.

With regard to item 9, the petitioner has not established that his Certification of Professional Title for first class actor constitutes a nationally or internationally recognized prize or award for excellence in his field rather than proof of his professional qualifications and employment status as determined by the government.

On appeal, the petitioner submits information printed from the *New York Times* movies database indicating that *Huo Hu* (a.k.a. *Sparkling Fox*), a film in which he played a main character, received a "Special Mention" at the 1994 Berlin International Film Festival. The petitioner's appellate submission also includes

² The translation documents contain a signature line for [REDACTED], the translator, but the signature line was blank.

information from CCTV.com stating that *Huo Hu* won an Honorable “Golden Panda” Award at the “Montreal International Movie Festival in France” in 1994. The record, however, does not include evidence showing that these awards were presented to the petitioner or identifying the film category that was being honored (such as best director or best screenplay). Further, there is no primary evidence from the organizers of the preceding festivals naming the petitioner as an award winner.

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 Chinese Quyi Artists Association (CQAA) issued on July 5, 2006. In response to the director's request for evidence, the petitioner submitted a document entitled “Charter of the China Quyi Artist Association.” Section 24 of this document states:

All those who are citizens of the People's Republic of China, like the association rules and have achieved great success can apply for membership. A resume and 2 references who are the CQAA members and recommended by the local Quyi association or central government agencies, or the army controlled culture department. Then the association's board entrusts the secretary general office to approve the application before he/she can become a member of the CQAA.

The charter document does not define specific achievements that constitute “great success.” Success in one's field is not necessarily tantamount to outstanding achievements. According to the charter document, an individual's success can be demonstrated through one's resume, two member references, and recommendation by the local Quyi association. The limited information presented here is not sufficient to demonstrate the CQAA requires outstanding achievements of its members, as judged by recognized national or international experts in the petitioner's field or an allied one.

In light of the above, 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 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.³

The petitioner submitted a May 9, 2005 article in *Shenyang Daily*, but the author of the material was not identified as required by the plain language of this regulatory criterion. The petitioner also submitted an article in the January 2002 issue of *China Radio, Film and Television* and an article in the July-August 1997 issue of *Humorous King*. In response to the director's request for evidence, the petitioner submitted information printed from the internet sites of the organizations that published *China Radio, Film and Television* and *Humorous King*. This material describes *China Radio, Film and Television* as "the most authoritative and directive publication in the industry" and *Humorous King* as "the mostly known and authoritative humor art magazine in China." The self-serving information posted on their internet sites is not sufficient to demonstrate that the preceding magazines qualify as major trade publications or some other form of major media. For example, there is no evidence (such as circulation statistics) showing that these publications have significant national or international distribution.

In response to the director's request for evidence, the petitioner submitted a February 27, 2007 article in the "Local News" section of *World Journal*, a Chinese language publication printed in Rockville, Maryland. This article was published subsequent to the petition's filing date. As discussed, 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. at 49. Accordingly, the AAO will not consider this article in this proceeding. Nevertheless, there is no evidence showing that this newspaper qualifies as a form of major media. Further, the article is not primarily about the petitioner. The plain language of this regulatory criterion, however, requires the published material to be "about the alien." Finally, the English language translation of the article submitted by the petitioner was not a full translation as required by the regulation at 8 C.F.R. § 103.2(b)(3).

In light of the above, 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.

The petitioner submitted a May 2005 Letter of Appointment stating: "The China Central Television is hereby to appoint [the petitioner] to be the judge for the final [sic] round of the CCTV short drama competition. This document also serves as the letter of appointment." The petitioner also submitted a December 2005 Letter of Appointment stating: "Hereby to appoint [the petitioner] to be the judge for the final round of the 'LI BAI BEI (Cup)' 2005 Beijing Xiangsheng & Short Drama competition. This document also serves as the letter of appointment." The English language translations accompanying these appointment letters were not

³ 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.

certified by the translator as required by the regulation at 8 C.F.R. § 103.2(b)(3).⁴ Accordingly, the AAO cannot assign any weight to this evidence.

On appeal, the petitioner submits a November 16, 2005 “invitation letter” issued to him by the organizers of the “Libai Cup’ 2005 Beijing Xiangsheng and Comic Skits Invitational Contest.” The invitation letter states:

[W]e, the organization committee sincerely invite you to be a judge on the professional committee for the finals stage and an honorary guest at the award ceremony. . . . We hope you will accept our invitation . . . to support “Libai Cup’ 2005 Beijing Xiangsheng and Comic Skits Invitational Contest.” The time is from December 20 to December 30, 2005.

The preceding letter does not include a name, address, telephone number, or any other information through which its author may be contacted. As such, we cannot assign any weight to this letter.

Even if we were to consider the preceding invitation letter and the two appointment letters, the plain language of this regulatory criterion requires “[e]vidence of the alien’s participation . . . as a judge of the work of others in the same or an allied field of specification.” The petitioner’s receipt of an appointment letter or an invitation letter does not constitute evidence of his actual “participation.” There is no evidence showing the specific acts judged by the petitioner, the names of those he evaluated, or documentation of his assessments.

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 a March 26, 2007 letter responding to the director’s request for evidence, counsel states:

[The petitioner] worked for Liaoning Provincial Quyi Performing Arts Troupe for about 10 years as a Xiangsheng, sketch comedy performer. . . . From September 2000 to August 2006, [the petitioner] was employed as an [sic] performing artist by the China Broadcasting Arts Group, the state-owned, highest level performing arts group in the country.

The petitioner submits no documentation from the Liaoning Provincial Quyi Performing Arts Troupe to confirm his dates of employment or clarify his role with the troupe. As discussed, the unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. at 533, 534 n.2; *Matter of Laureano*, 19 I&N Dec. at 1, 3 n.2; *Matter of Ramirez-Sanchez*, 17 I&N Dec. at 503, 506. There is no evidence establishing that this troupe had a distinguished reputation during the petitioner’s tenure or that he performed in a leading or critical role for the troupe.

On appeal, the petitioner submits a June 6, 2007 letter from the China Broadcasting Performing Arts Troupe, but the letter does not include a name, address, telephone number, or any other information through which its author may be contacted. As such, we cannot assign any weight to this letter. The February 27, 2007 article in

⁴ Both translation documents contain a signature line for the translator, but the signature line was blank.

the “Local News” section of *World Journal* discusses a performance given by the troupe at the Strathmore Music Center in Maryland, but the accompanying English language translation of the article was not a full translation as required by the regulation 8 C.F.R. § 103.2(b)(3). Nevertheless, this local news article is not sufficient to demonstrate that the China Broadcasting Performing Arts Troupe has a distinguished reputation in the United States or China.

The petitioner’s evidence fails to demonstrate how his role differentiated him from the scores of other performers in his troupes, let alone their senior leadership. For example, there is no evidence showing that the petitioner’s name frequently received top billing or that the popularity of his troupes increased when he was known to be performing. Thus, the petitioner has not established that he was responsible for the preceding organizations’ success or standing to a degree consistent with the meaning of “leading or critical role” and indicative of sustained national or international acclaim.

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.

The petitioner submitted a certificate from the State Council of the People’s Republic of China stating that he was granted a “State Special Subsidy.” As discussed, the English language translation accompanying this certificate was not certified by the translator as required by the regulation at 8 C.F.R. § 103.2(b)(3).⁵ Further, the certificate did not specify the amount of the petitioner’s subsidy. The petitioner’s appellate submission includes the June 6, 2007 letter from the China Broadcasting Performing Arts Troupe stating that his salary increased “from 300,000 RMB to 500,000 RMB per year,” but the letter does not include a name, address, telephone number, or any other information through which its author may be contacted. Further, there is no evidence (such as payroll records) showing the date when the petitioner’s salary increase was implemented. As discussed, 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. at 49. Nevertheless, the plain language of this regulatory criterion requires the petitioner to submit evidence showing that he has commanded 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. There is no indication that the petitioner has earned a level of compensation that places him among the highest paid performing artists in the United States or China.

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.

The petitioner submitted documentation showing that he performed in films such as *Huo Hu*, but there is no evidence of box office receipts or video sales showing that his films were commercial successes. On appeal, the petitioner submits information printed from CCTV.com ranking the petitioner third among “comedians with the highest marketable value in China.” The English language translation of this document was not a full

The translation document contains a signature line for [REDACTED] the translator, but the signature line was blank.

translation as required by the regulation 8 C.F.R. § 103.2(b)(3). Further, the date of the ranking was not provided. The petitioner also submits information printed from ChinaNews.com indicating that a television program in which he acted, *A Northeastern Family*, had “the Number 1 Reception Rate Among TV Comedies.” The date of this ranking was not provided. Further, there is no evidence showing that the success of this television series was primarily attributable to the petitioner or that he received, for example, a large percentage of royalties from broadcasts of the show. With regard to the petitioner’s stage performances, this criterion calls for commercial successes in the form of “sales” or “receipts,” simply submitting promotional material or recommendation letters indicating that his performances took place cannot meet the plain language of this criterion. The record does not include 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, we concur with the director’s finding that the petitioner has failed to demonstrate receipt of a major, internationally recognized award, or that he meets at least three of the criteria at 8 C.F.R. § 204.5(h)(3).

Beyond the regulatory criteria at 8 C.F.R. § 204.5(h)(3), the petitioner submitted five recommendation letters praising his talent and summarizing his achievements. The English language translations accompanying two of these letters were not certified by the translator as required by the regulation at 8 C.F.R. § 103.2(b)(3).⁶ The recommendation letters recount the petitioner’s achievements, including his awards, but such achievements have already been addressed under the preceding regulatory criteria at 8 C.F.R. § 204.5(h)(3). These letters, while not without weight, cannot form the cornerstone of a successful extraordinary ability claim. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Commr. 1988). However, USCIS is ultimately responsible for making the final determination regarding an alien’s eligibility for the benefit sought. *Id.* The submission of recommendation letters from the petitioner’s personal contacts is not presumptive evidence of eligibility; USCIS 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 achievements and recognition that one would expect of a performing artist who has sustained national or international acclaim at the very top of the field.

While recommendation letters can provide useful information about an alien’s qualifications or help in assigning weight to certain evidence, such letters are not a substitute for objective evidence of the alien’s achievements and recognition as required by the statute and regulations. The nonexistence of required evidence creates a

⁶ The English language translations accompanying the recommendation letters from [REDACTED] and [REDACTED] both contain a signature line for the translator, but the signature line was blank.

presumption of ineligibility. 8 C.F.R. § 103.2(b)(2)(i). Further, the classification sought requires “extensive documentation” of sustained national or international acclaim. See section 203(b)(1)(A)(i) of the Act, 8 U.S.C. § 1153(b)(1)(A)(i), and 8 C.F.R. § 204.5(h)(3). The commentary for the proposed regulations implementing the statute provides that the “intent of Congress that a very high standard be set for aliens of extraordinary ability is reflected in this regulation by requiring the petitioner to present more extensive documentation than that required” for lesser classifications. 56 Fed. Reg. 30703, 30704 (July 5, 1991). Primary evidence of achievements and recognition is of far greater probative value than opinion statements.

The director also found that the petitioner had not submitted clear evidence that he would continue to work in his area of expertise in the United States. We note here that Part 6 of the Form I-140 petition, “Basic information about the proposed employment,” was left blank. On appeal, counsel states:

[T]he petitioner is not required to have job offer to prove that he will continue to work in his area of expertise. The recent reception that he received in his Chinese New Year Tour in the United States convincingly shows that has [sic] commanded a tremendous popularity among Chinese speaking Americans. He will have no problem to continue his career in the US as a performing artist.

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 does not include such evidence. As stated previously, the unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. at 533, 534 n.2; *Matter of Laureano*, 19 I&N Dec. at 1, 3 n.2; *Matter of Ramirez-Sanchez*, 17 I&N Dec. at 503, 506. The petitioner has not submitted “clear evidence” establishing that he will continue working as a performing artist in the United States.

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. Nor is there clear evidence that the petitioner will continue work in his area of expertise in the United States. 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 petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.