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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

**U.S. Citizenship
and Immigration
Services**

B2



DATE: DEC 15 2011 Office: VERMONT SERVICE CENTER FILE:

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:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the employment-based immigrant visa petition. The Administrative Appeals Office (AAO) dismissed a subsequent appeal and reaffirmed that decision on motion. The matter is now before the AAO again on a second motion to reopen.¹ The motion will be dismissed, the previous decision of the AAO will be affirmed, and the petition will remain denied. The AAO will also enter a separate administrative finding of willful material misrepresentation.

The petitioner seeks classification as an “alien of extraordinary ability” as an artist pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A). The director determined that the petitioner had not established the requisite extraordinary ability through extensive documentation and sustained national or international acclaim. The AAO upheld the director’s determination on appeal and reaffirmed its appellate decision on motion. The AAO’s December 30, 2008 and October 29, 2009 decisions are incorporated here by reference.

I. Derogatory information and finding of willful material misrepresentation

On November 3, 2011, in accordance with the regulation at 8 C.F.R. § 103.2(b)(16)(i), the AAO issued a notice advising the petitioner of derogatory information indicating that she submitted false documents in support of her petition. The notice also informed the petitioner of additional inconsistencies and deficiencies pertaining to the documentary evidence she submitted. The notice specifically observed that the petitioner signed the Form I-140, thereby certifying under penalty of perjury that “this petition and the evidence submitted with it are all true and correct.” The AAO’s notice of derogatory information stated:

1. You submitted a June 3, 2005 letter allegedly issued by [REDACTED], Manager of Cultural Department, Chinese American Association of the United States of America. [REDACTED] letter lists an address in both California and New York. An online business search of the records of the California Secretary of State indicates a status of “suspended” for the Chinese American Association of the United States of America. See <http://kepler.sos.ca.gov/cbs.aspx>, accessed on September 30, 2011, copy incorporated into the record of proceeding and attached to this notice. Further, a search of the “Corporation and Business Entity Database” of the New York State (NYS) Department of State, Division of Corporations indicates that “No business entities were found” for the “Chinese American Association of the United States of America.” See http://appext9.dos.state.ny.us/corp_public/CORPSEARCH.ENTITY_SEARCH_ENTR_Y, accessed on September 30, 2011, copies incorporated into the record of proceeding and attached to this notice. As there is no reliable evidence confirming that the Chinese American Association of the United States of America was active in 2005, you must submit competent and objective documentary evidence demonstrating the existence of this organization in California or New York in 2005.
2. You submitted a June 8, 2005 letter from [REDACTED], Director of International Exchange, “U.S. Education, Science & Cultural Foundation, A Non-profit

¹ The petitioner’s Form I-290B, Notice of Appeal or Motion, indicates that she was “filing a motion to reopen a decision.” Moreover, in her cover letter and in the title of her brief, the petitioner states that it was a motion to reopen.

Organization,” New York. A search of the “Corporation and Business Entity Database” of the NYS Department of State, Division of Corporations indicates that “No business entities were found” for the “U.S. Education, Science & Cultural Foundation.” See http://appext9.dos.state.ny.us/corp_public/CORPSEARCH.ENTITY_SEARCH_ENTRY, accessed on September 30, 2011, copy incorporated into the record of proceeding and attached to this notice. Further, an online search of the Internal Revenue Service’s *Publication 78, Cumulative List of Organizations described in Section 170(c) of the Internal Revenue Code of 1986*, does not list the U.S. Education, Science & Cultural Foundation among the organizations eligible to receive tax-deductible charitable contributions.² See <http://www.irs.gov/app/pub-78/>, accessed on September 30, 2011, copy incorporated into the record of proceeding and attached to this notice. As there is no reliable evidence confirming the existence of the U.S. Education, Science & Cultural Foundation, you must submit competent and objective documentary evidence demonstrating the existence of this organization in New York in 2005.

3. You submitted a March 1, 2002 “World Peace Award Art Competition Award Notice” from the World Peace Award Art Competition Committee, University of Houston, stating: “You are one of the award recipients for the First World Peace Award Competition! . . . We have received more than 1000 pieces works [sic] from all over the world, such as the United States, Canada, France, Italy, China, Japan, etc.” In addition, you submitted an “Outstanding Award” certificate dated May 7, 2002, and program material reflecting that the exhibition and award ceremony occurred in May 2002. Your evidence also included a March 16, 2005 letter from [REDACTED] Co-Chairman of the World Peace Award Art Competition Committee, Asian American Studies Center, University of Houston, stating that you participated in this competition in 2001 and won one of five outstanding prizes as selected from the 8,700 participants. [REDACTED] letter contradicts the other evidence regarding the year (2001 versus 2002) and the number of entrants (8,700 versus 1,000). As you submitted conflicting information regarding your World Peace Award Art Competition award, you must submit competent and objective documentary evidence from the Asian American Studies Center at the University of Houston verifying your receipt of the preceding “Outstanding Award” certificate.
4. You submitted a certificate allegedly issued by the Golden Ox Art Gallery on September 17, 2003 stating that it acquired your painting “Golden Fish.” The certificate bears a seal stating: “Golden Ox Art Corp. Corporate Seal 1994 New York.” A search of the “Corporation and Business Entity Database” of the NYS Department of State, Division of Corporations indicates that Golden Ox Art Corp. is an inactive business that dissolved on September 23, 1998. See http://appext9.dos.state.ny.us/corp_public/CORPSEARCH.ENTITY_SEARCH_ENTRY, accessed on September 30, 2011, copy incorporated into the record of proceeding and attached to this notice. As the

² IRS *Publication 78* provides a “Cumulative List of 501(c)(3) Organizations.” See <http://www.irs.gov/taxstats/charitablestats/article/0,,id=97186,00.html>, accessed on September 30, 2011, copy incorporated into the record of proceeding and attached to this notice.

Golden Ox Art Corp. did not exist in 2003, the September 17, 2003 certificate you submitted is a falsification.

5. You submitted a Certificate of Award allegedly presented to you by the World Art Center on September 26, 2003. The certificate bears a seal stating: "World Art Center, Inc. Corporate Seal 1999 New York." You also submitted a certificate stating that you participated in the Charity Bazaar for Tsunami Victims in Southeast Asia. The latter certificate is dated January 21, 2005 and lists the World Art Center as a Co-Sponsor of the charity bazaar. A search of the "Corporation and Business Entity Database" of the NYS Department of State, Division of Corporations indicates that the World Art Center, Inc. is an inactive business that dissolved on June 26, 2002. See http://appext9.dos.state.ny.us/corp_public/CORPSEARCH.ENTITY_SEARCH_ENTRY, accessed on September 27, 2011, copy incorporated into the record of proceeding and attached to this notice. As the World Art Center did not exist in 2003 or 2005, the September 26, 2003 Certificate of Award and the January 21, 2005 charity bazaar certificate you submitted are falsifications.
6. You submitted a Certificate of Appointment from the International Association of Artists with Disabilities dated November 25, 2004. The certificate bears a seal stating: "International Disability Artists Association Not For Profit Corporate Seal 2002 New York." An online search of the Internal Revenue Service's *Publication 78, Cumulative List of Organizations described in Section 170(c) of the Internal Revenue Code of 1986*, does not list the "International Association of Artists with Disabilities" or the "International Disability Artists Association" among the organizations eligible to receive tax-deductible charitable contributions. See <http://www.irs.gov/app/pub-78/>, accessed on September 30, 2011, copy incorporated into the record of proceeding and attached to this notice. As there is no reliable evidence confirming that the IRS recognizes the "International Association of Artists with Disabilities" or the "International Disability Artists Association" as charitable organizations, you must submit competent and objective documentary evidence demonstrating that at least one of those entities existed in New York in 2004.
7. You submitted a July 16, 2005 letter from [REDACTED], Chairman, World Culture Alliance, New York. [REDACTED] letter bears a raised seal stating: "World Culture Alliance Corporate Seal 2000 New York." A search of the "Corporation and Business Entity Database" of the NYS Department of State, Division of Corporations indicates that "No business entities were found" for "World Culture Alliance." See http://appext9.dos.state.ny.us/corp_public/CORPSEARCH.ENTITY_SEARCH_ENTRY, accessed on October 3, 2011, copies incorporated into the record of proceeding and attached to this notice. Further, an online search of the Internal Revenue Service's *Publication 78, Cumulative List of Organizations described in Section 170(c) of the Internal Revenue Code of 1986*, does not list the World Culture Alliance among the organizations eligible to receive tax-deductible charitable contributions. See <http://www.irs.gov/app/pub-78/>, accessed on October 3, 2011, copies incorporated into the record of proceeding and attached to this notice. As there is no reliable evidence confirming the existence of the World Culture Alliance, you must submit competent and objective documentary evidence demonstrating the existence of this organization in New York in 2005.

With regard to your submission of false certificates as indicated in items 4 and 5 above, it appears you have sought to obtain a visa by willful misrepresentation of a material fact. Regarding the falsified certificates and the other derogatory information identified in items 1 – 7 above, it is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). 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. *Id.* at 591. Because you have submitted false documents misrepresenting your achievements, we cannot accord any of your other claims any weight.

Pursuant to the regulation at 8 C.F.R. § 103.2(b)(16)(i), the petitioner was afforded 15 days (plus 3 days for mailing) in which to submit evidence to overcome the derogatory information cited above. The petitioner failed to respond to the AAO's notice.

Section 204(b) of the Act states, in pertinent part, that:

After an investigation of the facts in each case . . . the [Secretary of Homeland Security] shall, if he determines that the facts stated in the petition are true and that the alien . . . in behalf of whom the petition is made is an immediate relative specified in section 201(b) or is eligible for preference under subsection (a) or (b) of section 203, approve the petition

According to section 204(b) of the Act, U.S. Citizenship and Immigration Services (USCIS) has the authority to issue a determination regarding whether the facts stated in a petition filed pursuant to section 203(b) of the Act are true. In this matter, the record shows that the petitioner submitted false documents, a finding that the petitioner does not challenge despite being advised of the derogatory information in the AAO's November 3, 2011 notice.

Section 212(a)(6)(C) of the Act provides:

Misrepresentation. – (i) In general. – Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

As outlined by the Board of Immigration Appeals (BIA), a material misrepresentation requires that the alien willfully make a material misstatement to a government official for the purpose of obtaining an immigration benefit to which one is not entitled. *Matter of Kai Hing Hui*, 15 I&N Dec. 288, 289-90 (BIA 1975). The term "willfully" means knowing and intentionally, as distinguished from accidentally, inadvertently, or in an honest belief that the facts are otherwise. See *Matter of Tijam*, 22 I&N Dec. 408, 425 (BIA 1998); *Matter of Healy and Goodchild*, 17

I&N Dec. 22, 28 (BIA 1979). To be considered material, the misrepresentation must be one which “tends to shut off a line of inquiry which is relevant to the alien’s eligibility, and which might well have resulted in a proper determination that he be excluded.” *Matter of Ng*, 17 I&N Dec. 536, 537 (BIA 1980).

Accordingly, for an immigration officer to find a willful and material misrepresentation in visa petition proceedings, he or she must determine: 1) that the petitioner or beneficiary made a false representation to an authorized official of the United States government; 2) that the misrepresentation was willfully made; and 3) that the fact misrepresented was material. *See Matter of M-*, 6 I&N Dec. 149 (BIA 1954); *Matter of L-L-*, 9 I&N Dec. 324 (BIA 1961); *Matter of Kai Hing Hui*, 15 I&N Dec. at 288.

First, the petitioner submitted certificates from the World Art Center, Inc. and the Golden Ox Art Corporation to USCIS which are false. A misrepresentation can be made to a government official in an oral interview, on the face of a written application or petition, or by submitting evidence containing false information. INS Genco Op. No. 91-39, 1991 WL 1185150 (April 30, 1991). Here, the petitioner’s submission of false certificates from these dissolved corporations in support of the Form I-140 petition constitutes a false representation to a government official.

Second, the AAO finds that the petitioner willfully made the misrepresentation. The petitioner signed the Form I-140 petition, certifying under penalty of perjury that the petition and the submitted evidence are all true and correct. *See* section 287(b) of the Act, 8 U.S.C. § 1357(b); *see also* 8 C.F.R. § 103.2(a)(2). More specifically, the signature portion of the Form I-140, at part 8, requires the petitioner to make the following affirmation: “I certify, under penalty of perjury under the laws of the United States of America, that this petition and the evidence submitted with it are all true and correct.” On the basis of this affirmation, made under penalty of perjury, the AAO finds that the petitioner willfully and knowingly made the misrepresentations.

Third, the evidence is material to the petitioner’s eligibility. To be considered material, a false statement must be shown to have been predictably capable of affecting the decision of the decision-making body. *Kungys v. U.S.*, 485 U.S. 759 (1988). In the context of a visa petition, a misrepresented fact is material if the misrepresentation cut off a line of inquiry which is relevant to the eligibility criteria and that inquiry might well have resulted in the denial of the visa petition. *See Matter of Ng*, 17 I&N Dec. at 537. In the present matter, the false certificates submitted by the petitioner relate to her eligibility for the regulatory criteria at 8 C.F.R. §§ 204.5(h)(3)(i) and (vii). Accordingly, the AAO concludes that the misrepresentations were material to the petitioner’s eligibility.

By filing the instant petition and submitting false certificates, the petitioner has sought to procure a benefit provided under the Act through willful misrepresentation of a material fact. Because the petitioner has failed to provide competent independent and objective evidence to overcome, fully and persuasively, our finding that she submitted falsified documentation, the AAO affirms its finding that the petitioner has willfully misrepresented a material fact. This finding of willful

material misrepresentation shall be considered in any future proceeding where admissibility is an issue.³

II. Motion to reopen

A motion to reopen must state the new facts to be proved in the reopened proceeding and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). In order to properly file a motion, the regulation at 8 C.F.R. § 103.5(a)(1)(iii) requires that the motion must be “[a]ccompanied by a statement about whether or not the validity of the unfavorable decision has been or is the subject of any judicial proceeding and, if so, the court, nature, date, and status or result of the proceeding.” Furthermore, the regulation at 8 C.F.R. § 103.5(a)(4) requires that “[a] motion that does not meet applicable requirements shall be dismissed. In this instance, the petitioner failed to submit a statement about whether or not the validity of the decision of the AAO has been or is subject of any judicial proceeding. As such, the motion must be dismissed pursuant to the regulation at 8 C.F.R. § 103.5(a)(4).

Even if the petitioner had filed a motion that meets the regulatory requirements at 8 C.F.R. § 103.5(a)(4), the AAO would dismiss the motion on the merits. Congress set a very high benchmark for aliens of extraordinary ability by requiring through the statute that the petitioner demonstrate the alien’s “sustained national or international acclaim” and present “extensive documentation” of the alien’s achievements. *See* section 203(b)(1)(A)(i) of the Act and 8 C.F.R. § 204.5(h)(3). U.S. 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* H.R. 723 101st Cong., 2d Sess. 59 (1990); 56 Fed. Reg. 60897, 60898-99 (Nov. 29, 1991). The term “extraordinary ability” refers only to those individuals in that small percentage who have risen to the very top of the field of endeavor. *Id.* and 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) states that an alien can establish sustained national or international acclaim through evidence of a one-time achievement of a major, internationally recognized award. Absent the receipt of such an award, the regulation outlines ten categories of specific objective evidence. 8 C.F.R. § 204.5(h)(3)(i) through (x). The petitioner must submit qualifying evidence under at least three of the ten regulatory categories of evidence to establish the basic eligibility requirements.

In the decisions of the AAO dismissing the petitioner’s original appeal and reaffirming that decision on motion, the AAO found that the petitioner failed to establish that she meets at least three of the regulatory categories of evidence pursuant to the regulation at 8 C.F.R.

³ It is important to note that while it may present the opportunity to enter an administrative finding of willful material misrepresentation, the immigrant visa petition is not the appropriate forum for finding an alien inadmissible. *See Matter of O*, 8 I&N Dec. 295 (BIA 1959). Instead, the alien may be found inadmissible at a later date when she subsequently applies for admission into the United States or applies for adjustment of status to permanent resident status. *See* sections 212(a) and 245(a) of the Act, 8 U.S.C. §§ 1182(a) and 1255(a).

§ 204.5(h)(3).⁴ The AAO specifically and thoroughly discussed the petitioner's evidence and determined that the petitioner failed to establish eligibility for the awards criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(i), the membership criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(ii), the published material criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(iii), the judging criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(iv), the original contributions of major significance criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(v), the authorship of scholarly articles criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(vi), the display criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(vii), the leading or critical role criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(viii), and the high salary criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(ix). In fact, the AAO found that the petitioner failed to establish eligibility for any of the criteria pursuant to the regulation at 8 C.F.R. § 204.5(h)(3).

On motion, the petitioner responds to the AAO's most recent decision by repeating many of the earlier arguments that she made on appeal and in support of her previous motion. The petitioner also resubmits copies of documentary evidence submitted at the time of filing the petition, on appeal, and in support of her previous motion.

The AAO's appellate decision dated December 30, 2008 informed the petitioner that the record did not contain certified English language translations as required by the regulation at 8 C.F.R. § 103.2(b)(3). In support of her subsequent motion, the petitioner submitted a September 5, 2008 "Certificate of Accuracy" signed by [REDACTED] affirming a familiarity with English and Chinese and that the "above translation from the annexed document in the Chinese language" is true and complete. The AAO's October 29, 2009 decision specifically noted that the certificate did not identify the translation (singular in the certification) being certified "above" or anywhere else on the certificate.⁵ The submission of a translation certification that does not specifically identify the document or documents it purportedly accompanies does not meet the requirements of the regulation at 8 C.F.R. § 103.2(b)(3), which requires that 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. The petitioner's present motion includes multiple certified English translations dated November 16, 2009 that were submitted with documentary evidence not previously accompanied by such translations. Once again, however, these "Certificate[s] of Accuracy" signed by [REDACTED] do not specifically identify the translation being certified "above" or anywhere else on the translator's certificates. Even if the AAO were to accept the Certificates of Accuracy submitted on motion, which it does not, the petitioner failed to explain why properly certified English language translations were previously unavailable and could not have been submitted earlier. The petitioner has been afforded numerous different opportunities to submit proper English language translations: at the time of filing the

⁴ The petitioner does not claim to meet or submit evidence relating to the categories of evidence not discussed in this decision.

⁵ The record contains similar attestations from [REDACTED] dated June 9, 2009, [REDACTED] dated March 21, 2005 and [REDACTED] dated July 16, 2002, but these documents also reference a single unidentified translation and cannot be considered a certification of all of the translations submitted initially and subsequently.

petition, in response to the director's notice of intent to deny, at the time filing the appeal, and in support of her previous motion. For instance, the AAO specifically informed the petitioner of the deficient English language translations in its appellate decision dated December 30, 2008. The petitioner, however, failed to comply with the requirements of 8 C.F.R. § 103.2(b)(3) in her motion filed subsequent to the AAO's dismissal of her appeal. Where a petitioner has been put on notice of a deficiency in the evidence and has been given an opportunity to respond to that deficiency, the AAO will not accept evidence offered for the first time with a subsequent filing. *See Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); *see also Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988). If the petitioner had wanted the certified English language translations to be considered, she should have submitted the correct documents in the first filing after the AAO raised those concerns. *See id.*

With regard to the published material criterion at 8 C.F.R. § 204.5(h)(3)(iii), the petitioner's latest motion included information posted on the *Friends of Fine Artists* magazine's website describing *Chinese Anthology of Fine Arts* (referred to in prior AAO decisions as *Complete Works of Modern Chinese Arts*). There is no documentation (such as circulation evidence) showing that *Chinese Anthology of Fine Arts* qualifies as a professional or major trade publication or some other form of major media. Further, the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(iii) requires that the published material be "about the alien." The evidence submitted by the petitioner reflects that *Chinese Anthology of Fine Arts* included images of the work of scores of other artists. Pages 50 and 178 of include only a brief sentence or two about the petitioner and her work. Nothing in the publication singles out the petitioner's work from that of the numerous other artists.

Another issue noted in the AAO's December 30, 2008 and October 29, 2009 decisions relates to the petitioner's earlier submission of a March 1, 2002 "Award Notice" from the World Peace Award Art Competition Committee, University of Houston, stating: "You are one of the award recipients for the First World Peace Award Competition! . . . We have received more than 1000 pieces works [*sic*] from all over the world, such as the United States, Canada, France, Italy, China, Japan, etc." In addition, the petitioner submitted an award ceremony invitation, an "Outstanding Award" certificate dated May 7, 2002, and program material reflecting that the exhibition and award ceremony occurred in May 2002. The petitioner's evidence also included a March 16, 2005 letter from [REDACTED] Co-Chairman of the World Peace Award Art Competition Committee, Asian American Studies Center, University of Houston, stating that the petitioner competed in this competition in 2001 and won one of five outstanding prizes as selected from the 8,700 participants. As noted by the AAO in both of its previous decisions, [REDACTED] letter contradicts the other evidence regarding the year (2001 versus 2002) and the number of entrants (8,700 versus 1,000). The AAO further noted that it is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. at 591-92. 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. *Id.* at 591. Despite being afforded multiple opportunities, the petitioner has repeatedly failed to address the inconsistencies in the record regarding the World Peace Award Art Competition. The

petitioner has again failed to overcome these inconsistencies in the present motion. Accordingly, doubts remain regarding the reliability and sufficiency of the petitioner's evidence.

As previously discussed, a motion to reopen must state the new facts to be provided and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). Based on the plain meaning of "new," a new fact is found to be evidence that was not available and could not have been discovered or presented in the previous proceeding.

The petitioner's present motion has failed to state any new facts and is not supported by affidavits or other evidence demonstrating that she has sustained national or international acclaim at the very top of the field. Instead, the petitioner restates many of the same arguments she made on appeal and in her first motion filed after AAO's appellate decision. A review of the documentation submitted in support of the petitioner's present motion reveals no fact that could be considered "new" pursuant to the regulation at 8 C.F.R. § 103.5(a)(2). In addition, the petitioner failed to explain why the evidence discussed above was previously unavailable and could not have been submitted earlier. The petitioner has been afforded multiple opportunities to submit proper English language translations and documentation establishing that she has been the subject of published material in major media. Motions for the reopening of immigration proceedings are disfavored for the same reasons as are petitions for rehearing and motions for a new trial on the basis of newly discovered evidence. *INS v. Doherty*, 502 U.S. 314, 323 (1992)(citing *INS v. Abudu*, 485 U.S. 94 (1988)). A party seeking to reopen a proceeding bears a "heavy burden." *INS v. Abudu*, 485 U.S. at 110. With the current motion, the petitioner has not met that burden. Accordingly, the motion to reopen will be dismissed.

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.

ORDER: The motion to reopen is dismissed, the decision of the AAO dated October 29, 2009 is affirmed, and the petition remains denied.

FURTHER ORDER: The AAO finds that the petitioner knowingly submitted false documents in an effort to mislead USCIS on elements material to her eligibility for a benefit sought under the immigration laws of the United States.