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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

DATE:

**MAY 10 2013**

Office: NEBRASKA 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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg  
Acting Chief, Administrative Appeals Office

**Discussion:** The Director, Nebraska Service Center, denied the employment-based immigrant visa petition on November 15, 2012. The petitioner, who is also the beneficiary, appealed the decision with the Administrative Appeals Office (AAO) on November 29, 2012. The appeal will be dismissed.

The petitioner seeks classification as an “alien of extraordinary ability” in the arts, specifically, as a musician, 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 has not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

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; 8 C.F.R. § 204.5(h)(3). 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)-(x). The petitioner must submit qualifying evidence under at least three of the ten regulatory categories of evidence to establish the basic eligibility requirements.

On appeal, the petitioner submits a statement and a number of documents, including: (1) a document entitled ‘ [REDACTED] ’; (2) a June 6, 2012 letter from [REDACTED]; (3) a document entitled ‘ [REDACTED] ’; (4) documents relating to the 2006 [REDACTED]; (5) a letter from the Branch of the Federal State [REDACTED]; (6) articles, documents and photocopies of compact discs relating to the petitioner’s performances; (7) a document entitled ‘ [REDACTED] ’; and (8) documents relating to the [REDACTED].

In his appellate statement, the petitioner asserts that he meets the nationally or internationally recognized prizes or awards criterion under 8 C.F.R. § 204.5(h)(3)(i), the membership in associations that require outstanding achievements criterion under 8 C.F.R. § 204.5(h)(3)(ii), the published material about the alien criterion under 8 C.F.R. § 204.5(h)(3)(iii), the original contributions of major significance criterion under 8 C.F.R. § 204.5(h)(3)(v), and the display of the alien’s work at artistic exhibitions or showcases criterion under 8 C.F.R. § 204.5(h)(3)(vii).

For the reasons discussed below, the petitioner has not established his eligibility for the exclusive classification sought. Specifically, the petitioner has not submitted qualifying evidence under at least three of the ten regulatory criteria set forth in the regulations at 8 C.F.R. § 204.5(h)(3)(i)-(x). As such, the petitioner has not demonstrated that he is one of the small percentage who are at the very top of the field and he has not sustained national or international acclaim. See 8 C.F.R. §§ 204.5(h) (2), (3). Accordingly, the AAO must dismiss the petitioner’s appeal.

## I. THE LAW

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.

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* 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. 8 C.F.R. § 204.5(h)(2).

The regulation at 8 C.F.R. § 204.5(h)(3) requires that the petitioner demonstrate the alien’s sustained acclaim and the recognition of his or her achievements in the field. Such acclaim must be established either through evidence of a one-time achievement, that is a major, internationally recognized award, or through the submission of qualifying evidence under at least three of the ten categories of evidence listed under the regulations at 8 C.F.R. § 204.5(h)(3)(i)-(x).

In 2010, the U.S. Court of Appeals for the Ninth Circuit reviewed the denial of a petition filed under this classification. *Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010). Although the court upheld the AAO’s decision to deny the petition, the court took issue with the AAO’s evaluation of the evidence submitted to meet a given evidentiary criterion.<sup>1</sup> With respect to the criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (vi), the court concluded that while USCIS may have raised legitimate concerns about the significance of the evidence submitted to meet those two criteria, those concerns should have been raised in a subsequent “final merits determination.” *Kazarian*, 596 F.3d at 1121-22.

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<sup>1</sup> Specifically, the court stated that the AAO had unilaterally imposed novel substantive or evidentiary requirements beyond those set forth in the regulations at 8 C.F.R. § 204.5(h)(3)(iv) and (vi).

The court stated that the AAO's evaluation rested on an improper understanding of the regulations. Instead of parsing the significance of evidence as part of the initial inquiry, the court stated that "the proper procedure is to count the types of evidence provided (which the AAO did)," and if the petitioner failed to submit sufficient evidence, "the proper conclusion is that the applicant has failed to satisfy the regulatory requirement of three types of evidence (as the AAO concluded)." *Kazarian*, 596 F.3d at 1122 (citing to 8 C.F.R. § 204.5(h)(3)).

Thus, *Kazarian* sets forth a two-part approach where the evidence is first counted and then considered in the context of a final merits determination. In this case, the AAO affirms the director's finding that the petitioner has not satisfied the antecedent regulatory requirement of presenting at least three types of evidence under the regulations at 8 C.F.R. § 204.5(h)(3)(i)-(x), and he has not demonstrated that he is one of the small percentage who are at the very top of the field or has achieved sustained national or international acclaim. *See* 8 C.F.R. §§ 204.5(h) (2), (3).

## II. ANALYSIS

### A. Translation of Foreign Language Documents

On appeal, the petitioner asserts that "[f]or some reason, all the Russian documents were completely ignored by the adjudicator [the director] in spite of [the petitioner's] numerous references to them, in spite of their legal validity, in spite of their proper translation etc. They have never been even mentioned by the adjudicator [the director] in [the] correspondence and in the decision letter, save for the [redacted] membership, as if they never existed."

The foreign language documents in the record have no evidentiary value, because they have not been properly translated pursuant to the regulation at 8 C.F.R. § 103.2(b)(3). As such, the director did not consider them and the AAO will not consider them. Specifically, under the regulation at 8 C.F.R. § 103.2(b)(3), "[a]ny document containing foreign language submitted to USCIS shall be accompanied by a full English language translation which 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." In this case, the petitioner has submitted foreign language documents purported to be: (1) a June 6, 2012 letter from [redacted] (2) a document from the [redacted]

Company; (3) a June 24, 2005 diploma issued by the [redacted] (4) a document relating to the petitioner's [redacted] membership; (5) the petitioner's birth certificate; (6) an article entitled [redacted]; and (7) certificates of authorship relating to [redacted] compositions.

None of the foreign language documents are accompanied by a complete English translation or a certification of translation. The foreign language documents submitted on appeal contain the following statement: "I, [redacted] dtscharging [sic] [redacted] duties as a notary in Moscow, certify the truth of this copy with the original document in which there were no erasures, no postscripts, no crossed out words and no other corrections nor

peculiarities.” Some foreign language documents submitted to the director contain a similar statement: “I, [REDACTED] a notary in Moscow, certify the truth of this copy with the original document in which there were no erasures, no postscripts, no crossed out words and no other corrections nor peculiarities.” One foreign language document submitted to the director contains the statement: “[t]ranslation from Russian into English has been made by [REDACTED]” These statements, however, do not constitute the translator’s certification that the translations are complete and accurate, and that he or she is competent to translate from the foreign language into English. See 8 C.F.R. § 103.2(b)(3).

In all three requests for evidence (RFE), dated November 1, 2011, October 4, 2012, and October 18, 2012, respectively, the director informed the petitioner that “[a] review of the record shows that the petitioner has submitted several documents which are in a language other than English. If the petitioner would like USCIS to consider the information within these documents, the petitioner needs to submit English language translations . . . . The translator must certify that the translations are accurate and complete, and that he or she is competent to translate from the foreign language into English.” In response to the RFEs, the petitioner failed to provide the requested English translations or a certificate of translation.

Accordingly, the foreign language documents the petitioner submitted have no evidentiary value, the director did not consider them and the AAO will not consider them.

#### B. Evidentiary Criteria<sup>2</sup>

Under the regulation at 8 C.F.R. § 204.5(h)(3), the petitioner can establish sustained national or international acclaim and that his achievements have been recognized in the field of endeavor by presenting evidence of a one-time achievement that is a major, internationally recognized award. In this case, the petitioner has not asserted or shown through his evidence that he is the recipient of a major, internationally recognized award at a level similar to that of the Nobel Prize. Indeed, in his appellate statement, the petitioner states, he is “not a receiver of a one-time major internationally recognized award, such as Nobel award etc.” As such, the petitioner must present at least three of the ten types of evidence under the regulations at 8 C.F.R. § 204.5(h)(3)(i)-(x) to meet the basic eligibility requirements.

*Documentation of the alien’s receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.* 8 C.F.R. § 204.5(h)(3)(i).

The petitioner asserts that he meets this criterion. The evidence in the record shows that the petitioner was (1) the winner of the March 2006 round and the runner up of the May 2006 round of the Song of the Year Song and Lyric Competition; (2) the recipient of award certificates issued by the [REDACTED] Australia; (3) the second prize winner in solo piano of the 2003 International Competition of Young Performers; (4) the recipient of a [REDACTED]

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<sup>2</sup> The petitioner does not claim that he meets the regulatory categories of evidence not discussed in this decision.

Distinguished Fellowship from 2011 through 2014; and (5) the recipient of a [REDACTED] offered by the [REDACTED]

Based on the evidence in the record, the petitioner has failed to show that he meets this criterion. First, the petitioner's 2006 achievements at the [REDACTED] do not constitute nationally or internationally recognized prizes or awards for excellence in the field of endeavor. On appeal, the petitioner claims, [REDACTED] is an international competition with a large jury, consisting of famous and respectable music promoters, performers and producers. It receives entrances from all around the world and only one song is declared to be the 'winner.'" The award certificate similarly states, [REDACTED] receives entries from all over the world and only one song from each category achieves 'winner' status." The record also contains a document entitled "Judging Panel," that provides "a partial list of the judges in the current contest."

The evidence in the record, however, fails to establish that the competition's monthly winner or runner up award constitutes a nationally or internationally recognized prize or award for excellence. The mere facts that a competition is open to musicians from different countries and uses people who work in the music industry as judges do not render the competition's monthly award a nationally or internationally recognized prize or award for excellence. At issue is not whether the pool of competitors was national or international but whether the field of endeavor recognizes the award at the national or international level. Moreover, the petitioner has failed to provide evidence relating to the competitiveness or prestige of the competition. Specifically, the record contains no evidence relating to the number of musicians who entered the competition in the March 2006 or May 2006 round of the competition, or the criteria under which the petitioner was chosen to be the winner in March 2006 or the runner up in May 2006. Finally, the only evidence in the record relating to the significance of the competition came from the petitioner's statement and the organizers of the competition. Such self-promotional evidence has minimal evidentiary value. *See Braga v. Poulos*, No. CV 06-5105 SJO 10 (C.D. Cal. July 6, 2007), *aff'd*, 2009 WL 604888 (9th Cir. 2009) (concluding that the AAO did not have to rely on self-serving assertions on the cover of a magazine as to the magazine's status as major media). The petitioner has not supported the self-promotional evidence with more independent evidence, such as, but not limited to, independent journalistic coverage of the 2006 [REDACTED] in nationally or internationally circulated publications.

Second, the petitioner's award certificates issued by the [REDACTED] Australia, do not constitute nationally or internationally recognized prizes or awards for excellence in the field of endeavor. Indeed, the petitioner concedes in his appellate statement that these constitute "regional" awards, and that he had not submitted them "to claim their international validity." In addition, two of the certificates are incomplete, because they fail to indicate the year(s) in which the certificates were issued.

Third, the petitioner has not shown that his second prize in solo piano at the [REDACTED] constitutes a nationally or internationally recognized prize or award for excellence in the field of endeavor. The petitioner states in his appellate statement, "[t]he

competition at which [he] was given an award was an international competition with an international jury, who gave [him] that prize and thus it is valid.” As noted, the mere facts that a competition is open to musicians from different countries and uses judges of different nationalities do not render the competition’s prize a nationally or internationally recognized prize or award for excellence. Moreover, as its name suggests and as discussed in the director’s November 15, 2012 decision, the competition is limited in scope to young musicians. Indeed, the petitioner concedes on appeal that the competition was open only to musicians who were 29 years old or younger. While an age-limited competition may enjoy national or international recognition, it is the petitioner’s burden to document that the distinction he received enjoys recognition beyond the organizing entity. The petitioner has not provided sufficient evidence showing that being the recipient of second prize in solo piano at this particular age-restricted contest constitutes a nationally or internationally recognized prize or award for excellence. The petitioner has provided no evidence relating to the competitiveness or prestige of the competition, such as, but not limited to, the number of musicians who competed in his award category, the qualifications of judges who awarded him his second prize or independent journalistic coverage of the 2003 competition.

Fourth, the petitioner has not shown that his [redacted] constitutes a nationally or internationally recognized prize or award for excellence in the field of endeavor. According to a September 24, 2012 letter from [redacted], Professor of Piano and Collaborative Piano at the [redacted] the university “offered [the petitioner] the most prestigious fellowship that the [redacted] has to give, the [redacted]” An October 19, 2012 letter from [redacted] Director of Graduate Studies and Professor of Piano at the [redacted] similarly states that the petitioner was “offered [the university’s] highest award, the [redacted]” The letter further states, this “Fellowship is offered to only the very best performers, whether domestic or international, each year and [the petitioner] immediately rose to the top of [the] list as one of the most distinguished auditionees [the university has] ever heard.” The record also contains a March 5, 2011 email from Professor [redacted] stating that the “[redacted] committee met last Tuesday and selected this year’s [redacted] winners.” The petitioner also submitted printed material stating that a committee selects fellowship winners from students that the faculty members nominate for the fellowship, suggesting competition is limited to other students at that university.

The petitioner states in his appellate statement, “[o]ut of more than 550 applications submitted, only three people received this award [fellowship] and only one for each instrument.” The petitioner, however, has provided no evidence supporting his claim that there were 550 applications considered for the fellowship. Going on record without supporting documentary evidence is not sufficient for the purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Assoc. Comm’r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg’l Comm’r 1972)). Indeed, neither Professor [redacted] nor Professor [redacted]’s letter mentions the number of applications the university received for the fellowship in 2011. Moreover, the petitioner has provided no evidence showing that the fellowship is recognized beyond the university that offered it through objective or independent evidence, such as, but not limited to, media coverage of the fellowship selections. Further, the petitioner has not demonstrated that the fellowship is an

award or prize recognizing excellence in the field rather than financial support for further training in the field for promising students.

Fifth, the petitioner has not shown that his [REDACTED] offered by the [REDACTED] constitutes a nationally or internationally recognized prize or award for excellence in the field of endeavor. The petitioner has provided no information relating to the nomination or selection process, the criteria under which he was chosen for the scholarship, or the qualifications of the individual who awarded the petitioner his scholarship. The petitioner has also failed to provide evidence showing that the fellowship is recognized beyond the university that offered it through objective or independent evidence, such as, but not limited to, media coverage of the scholarship selection. Further, the petitioner has not demonstrated that the scholarship is an award or prize recognizing excellence in the field rather than a means of financing further training in the field.

Finally, as discussed, the petitioner has not shown that the foreign language document purported to be a June 24, 2005 diploma issued by the [REDACTED] has been properly translated pursuant to the requirements under the regulation at 8 C.F.R. § 103.2(b)(3). As such, this foreign language document has no evidentiary value and will not be considered.

In short, the petitioner has not presented documentation of his receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. The petitioner has not met this criterion. *See* 8 C.F.R. § 204.5(h)(3)(i).

*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. 8 C.F.R. § 204.5(h)(3)(ii).*

The petitioner asserts that he meets this criterion. The evidence in the record includes: (1) a foreign language document entitled "Agreement for Management of the Authors' Property Rights on a Collective Basis"; and (2) an online printout entitled "[REDACTED]". The petitioner has also provided an undated and unsigned statement, stating that he "was granted membership in [REDACTED] – the biggest and the most respectable professional organization of authors in Russia. It is a union, which unites all the authors, be they scientists or musicians."

The petitioner has failed to show that he meets this criterion. First, the petitioner has failed to provide sufficient evidence showing that he is a member of [REDACTED]. Specifically, as discussed, the foreign language document that the petitioner has submitted to show his [REDACTED] membership has not been properly translated pursuant to the requirements under the regulation at 8 C.F.R. § 103.2(b)(3). As such, this foreign language document, entitled "Agreement for Management of the Authors' Property Rights on a Collective Basis," has no evidentiary value and will not be considered.

Second, the petitioner has provided no evidence showing that the [REDACTED] requires outstanding achievements of its members, as judged by recognized national or international experts in their

fields. Although the petitioner claimed in his undated and unsigned statements that [REDACTED] “[m]embers are people, who made major contribution in their field of occupation” and that he was granted [REDACTED] membership “after publication of the original work in a major nation-wide informational media (federal radio or TV channels, major magazines),” the petitioner has provided no evidence in support of his claims. Going on record without supporting documentary evidence is not sufficient for the purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165. The online printout entitled [REDACTED] provides that [REDACTED]’s principal functions “are collection, distribution and payment of Authors’ remunerations for different kinds of use or musical works,” and that it “represents interests of nearly all Russian Authors and more than 2 million of foreign rightowners [sic].” The online printout, however, makes no mention that [REDACTED] requires outstanding achievements from its members, or that such achievements must be judged by recognized national or international experts, as required by the plain language of the criterion.

Third, the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(ii) requires evidence of membership in qualifying associations, in the plural, consistent with the statutory requirement for extensive documentation. See section 203(b)(1)(A)(i) of the Act. As such, even if the petitioner’s claimed membership in [REDACTED] qualifies as evidence of membership in one qualifying association, it is insufficient to show his membership in qualifying associations, in the plural.

In short, the petitioner has not presented documentation of his 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. The petitioner has not met this criterion. See 8 C.F.R. § 204.5(h)(3)(ii).

*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. 8 C.F.R. § 204.5(h)(3)(iii).*

The petitioner asserts that he meets this criterion. The evidence in the record includes: (1) an undated article from an unspecified publication entitled [REDACTED]; (2) an undated article from an unspecified publication entitled [REDACTED]; (3) a January 28, 2010 themercury.com.au article entitled [REDACTED] and (4) an undated article from an unspecified publication entitled [REDACTED].

The petitioner has not shown that he meets this criterion for the following reasons. First, with the exception of the January 28, 2010 article, the petitioner has provided no evidence showing the publication(s) in which the remaining three articles were published. Although the petitioner claims in his appellate statement that they were all published in the Australian newspaper [REDACTED] he has provided insufficient evidence in support of his claim. Going on record without supporting documentary evidence is not sufficient for the purposes of meeting the burden of proof in these

proceedings. *Matter of Soffici*, 22 I&N Dec. at 165. Assuming *arguendo* that all four articles were published in [REDACTED] the petitioner has provided no evidence establishing that [REDACTED] is a professional or a major trade publication or constitutes other major media, as required by the plain language of the criterion.

Second, the petitioner asserts that his recordings, broadcast in Russia and Australia, constitute published material. The petitioner, however, has not provided sufficient evidence showing that his recording meets this criterion, which specifically requires the petitioner to “include the title, date, and author of the [published] material, and any necessary translation.” As the petitioner’s recording lacks the required information, it does not meet the plain language requirement of the criterion. In addition, although in his appellate statement, the petitioner has listed a number of website addresses purported to relate to the companies and/or stations that broadcast his recording but did not submit hardcopies of the website pages. It is the petitioner’s burden to submit the necessary evidence rather a list of websites where relevant information might be located. 8 C.F.R. § 103.2(b)(1).

Finally, as discussed, the foreign language documents that the petitioner has submitted to show he meets this criterion – including documents purportedly from the [REDACTED]

[REDACTED] – have not been properly translated pursuant to the requirements under the regulation at 8 C.F.R. § 103.2(b)(3). As such, the foreign language documents have no evidentiary value and will not be considered.

In short, the petitioner has not presented published material about him in professional or major trade publications or other major media, relating to his work in the field for which classification is sought. The petitioner has not met this criterion. *See* 8 C.F.R. § 204.5(h)(3)(iii).

*Evidence of the alien’s original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.* 8 C.F.R. § 204.5(h)(3)(v).

The petitioner asserts that he meets this criterion. The petitioner stated in an undated and unsigned statement that he is “the founder of a completely new music style.” The style, called ‘ [REDACTED] ’ “sees the instruments of heavy music (drum kit, electric distorted guitar) as conventional orchestra instrument, equal in their role to violins, cellos ect.” The petitioner also states that he is “the first and the only pianist, who incorporated visual component into interpretation of classical music.” As supporting evidence, the petitioner points to a document purportedly from the [REDACTED] documents relating to [REDACTED] the inclusion of his composition in the compact disc ‘ [REDACTED] ’ and a newspaper article review of the petitioner’s performance.

The petitioner has failed to show that he meets this criterion. First, the petitioner’s supporting evidence includes foreign language documents. As discussed, the foreign language documents – including a document purportedly from the [REDACTED]

and documents purported to be certificates of authorship relating to compositions – have not been properly translated pursuant to the requirements under the regulation at 8 C.F.R. § 103.2(b)(3). As such, they have no evidentiary value and will not be considered.

Second, the petitioner has not provided sufficient evidence showing that the style or the incorporation of visual components into the interpretation of classic music constitutes an original contribution, such that he is the first person or one of the first people to have achieved these two tasks. Although Professor stated in her September 24, 2012 letter that the petitioner has a “unique artistic voice” when he plays the piano, she made no reference to either the style or incorporation of a visual component, or that the petitioner is the first person or one of the first people to have achieved these tasks. Similarly, although Professor stated in his October 19, 2012 letter that the petitioner “is indeed a very talented, even multi-talented individual,” he made no mention of anything that the petitioner has done that constitutes an original contribution in music. Indeed, other than the petitioner’s self-serving assertions, he has provided no evidence that anything he has done as a musician is original. Going on record without supporting documentary evidence is not sufficient for the purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165. Moreover, vague, solicited letters from colleagues that do not specifically identify contributions or provide specific examples of how those contributions influenced the field are insufficient. *Kazarian v. USCIS*, 580 F.3d 1030, 1036 (9<sup>th</sup> Cir. 2009) *aff’d in part* 596 F.3d 1115 (9<sup>th</sup> Cir. 2010).<sup>3</sup>

Third, the petitioner has not provided sufficient evidence showing that the style or the incorporation of visual component into interpretation of classic music constitutes a contribution of major significance in music. The petitioner states in his appellate statement that “in arts it is not so simple to determine, whether a contribution in [sic] significant, major or not. Something, which some consider to be significant, may seem insignificant to others. Art is very subjective.” The issue is not whether USCIS subjectively views the petitioner’s work as being worthy of major significance, but whether the petitioner has demonstrated his impact on the field such that USCIS can objectively evaluate his claim to have already made a contribution of major significance. The petitioner has not documented his influence or impact in his field.

In short, the petitioner has not presented evidence of his original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. The petitioner has not met this criterion. See 8 C.F.R. § 204.5(h)(3)(v).

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<sup>3</sup> In 2010, the *Kazarian* court reiterated that the AAO’s conclusion that “letters from physics professors attesting to [the alien’s] contributions in the field” were insufficient was “consistent with the relevant regulatory language.” 596 F.3d at 1122.

*Evidence of the display of the alien's work in the field at artistic exhibitions or showcases.*  
8 C.F.R. § 204.5(h)(3)(vii).

In his November 15, 2012 decision, the director concluded that the petitioner meets this criterion. Based on the evidence in the record, the AAO affirms the director's favorable finding as relating to this criterion. In short, the petitioner has presented evidence of the display of his compositions at artistic exhibitions or showcases. The petitioner has met this criterion. See 8 C.F.R. § 204.5(h)(3)(vii).

### C. Summary

The petitioner has failed to satisfy the antecedent regulatory requirement of presenting three types of evidence in the field of endeavor, as required under the regulation at 8 C.F.R. § 204.5(h)(3).

### III. CONCLUSION

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim and is one of the small percentage who have risen to the very top of the field of endeavor.

Had the petitioner submitted the requisite evidence under at least three evidentiary categories, in accordance with the *Kazarian* opinion, the next step would be a final merits determination that considers all of the evidence in the context of whether or not the petitioner has demonstrated: (1) 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," and (2) "that the alien has sustained national or international acclaim and that his [] achievements have been recognized in the field of expertise." 8 C.F.R. § 204.5(h)(2) and (3); see also *Kazarian*, 596 F.3d at 1119-20. While the AAO concludes that the evidence is not indicative of a level of expertise consistent with the small percentage at the very top of the field or sustained national or international acclaim, the AAO need not explain that conclusion in a final merits determination.<sup>4</sup> Rather, the proper conclusion is that the petitioner has failed to satisfy the antecedent regulatory requirement of presenting three types of evidence. *Kazarian*, 596 F.3d at 1122.

The petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

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<sup>4</sup> The AAO maintains *de novo* review of all questions of fact and law. See *Soltane v. Dep't of Justice*, 381 F.3d 143, 145 (3d Cir. 2004). In any future proceeding, the AAO maintains the jurisdiction to conduct a final merits determination as the office that made the last decision in this matter. 8 C.F.R. § 103.5(a)(1)(ii); see also INA §§ 103(a)(1), 204(b); DHS Delegation Number 0150.1 (effective March 1, 2003); 8 C.F.R. § 2.1 (2003); 8 C.F.R. § 103.1(f)(3)(iii) (2003); *Matter of Aurelio*, 19 I&N Dec. 458, 460 (BIA 1987) (holding that legacy INS, now USCIS, is the sole authority with the jurisdiction to decide visa petitions).

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.