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FILE: [REDACTED]
LIN 03 077 51591

Office: NEBRASKA SERVICE CENTER

Date:

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

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

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

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

Robert P. Wiemann, Director
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 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 business. The director determined the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

On appeal, the petitioner submits a discussion letter and additional evidence. He asserts that "to avoid misunderstandings," he has completed the appeal himself, "without using any help from an immigration lawyer." Subsequently, however, this office received a change of address from counsel, who appears to still be representing the petitioner. As the petitioner has not specifically stated that counsel no longer represents him, we will send a copy of this decision to counsel.

Section 203(b) of the Act states, in pertinent part, that:

(1) Priority Workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with Extraordinary Ability. -- An alien is described in this subparagraph if --

- (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the alien's entry to the United States will substantially benefit prospectively the United States.

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 seeks to classify the petitioner as an alien with extraordinary ability as a management consultant. The regulation at 8 C.F.R. § 204.5(h)(3) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major, international recognized award). Barring the alien's receipt of such an award, the regulation outlines ten criteria, at least three of which must be satisfied

for an alien to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability. The petitioner has submitted evidence that, he claims, meets 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.

Initially, counsel asserted that the petitioner meets this criterion based on scholarships, fellowships, inclusion in various biographic publications, listings in professional reference guides and recognition from various associations.

The petitioner submitted a Spanish-language document purportedly verifying his academic scholarships from the 1960's. The petitioner submitted a certificate from the U.S. government recognizing the petitioner's completion of a year of graduate work at the University of California, Berkeley, under the [REDACTED] Fellowship Program. The petitioner's transcript suggests that the petitioner participated in this fellowship during the 1979-1980 academic year. In 1989, the Association for Overseas Technical Scholarship of Japan certified that the petitioner had completed a "program for Argentine entrepreneurs." The director did not discuss these accomplishments; however, they are not awards or prizes for excellence in the field. Moreover, competition for scholarships is limited to other students. Experienced experts in the field are not seeking scholarships. Similarly, experienced experts do not compete for fellowships. Thus, they cannot establish that a petitioner is one of the very few at the top of his field.

Also in 1989, the World University Roundtable awarded the petitioner an honorary Cultural Doctorate in Business Administration "in recognition of distinguished achievement within the principles and purposes of the World University." The director also failed to discuss this recognition and the petitioner does not raise it again on appeal. The record contains no evidence as to the significance of this award, such as selection criteria, the caliber of the judges, how many are selected in a given year, etc. The record lacks evidence of national or international media coverage of the selections.²

[REDACTED] Vice President of Teaching and Research at Belgrano University, asserts that the petitioner served on the faculty at that university since March 1982. In 1997, the university awarded the petitioner a second prize award that recognizes the professional achievements of professors at the university. The director did not discuss this award and, on appeal, the petitioner reasserts that this award is significant. A university award limited to the faculty of a single university cannot be considered a nationally recognized award to which all members of the field aspire.

In 1995, the International Biographic Centre selected the petitioner as "Man of the Year" in recognition of his services to reengineering. In response to the director's request for additional evidence, counsel asserted that the center had published over one million biographies. Finally, the petitioner submitted certificates confirming his inclusion in several biographical directories published by the American Biographical Institute and the International Biographical Centre. The director concluded that such a large number of biographies suggested

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

² The World University's website, www.worlduniversity.org, reflects that anyone interested in a cultural doctorate should submit a resume and a donation of at least \$275. While the site asserts that requiring a financial donation does not diminish the recognition and merely demonstrates the applicant's dedication to the organization's ideals, the required payment raises questions of the award's legitimacy.

that inclusion was not an award for excellence in the petitioner's field. On appeal, the petitioner asserts that the biographies published are a small percentage of the world population.

First, the record contains no evidence as to the nomination and selection processes for "Man of the Year." Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972). The assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). Thus, we cannot conclude that this selection is significant.³ Second, the inclusion of the petitioner's brief biography in a directory is not an award or prize as commonly defined. At best, such evidence relates to published material about the petitioner and will be discussed below pursuant to 8 C.F.R. § 204.5(h)(iii).

Also in 1997, the petitioner received a \$2,500 Humphrey Fellowship Alumni Mini-Grant based on the potential for positive societal impact of his proposal. While the director did not mention this grant, grants simply fund the grantee's work. Obviously the past achievements of the grant applicant are considered in grant proposals. Nevertheless, a grant is principally designed to fund future work, and not to honor or recognize past achievement.

In 1997, 1998 and 2000, the Argentina Chapter received a Bronze Award from the Institute of Industrial Engineers (IIE). The petitioner is listed as the president of the Chapter on these awards. The director concluded that the petitioner did not personally win the awards. On appeal, the petitioner asserts that he is submitting personal awards from the IIE as exhibit 25. Exhibit 25, however, is a copy of the plaque expressing appreciation for the petitioner's service as president of the Argentine Chapter. It is not an award or prize. The petitioner's role as president will be considered below.

Finally, throughout the proceedings, counsel and the petitioner have attempted to include the petitioner's memberships under this criterion in addition to the following criterion. Memberships, regardless of how exclusive they may be, are not awards or prizes and are best considered below pursuant to 8 C.F.R. § 20.45(h)(3)(ii).

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.

Initially, counsel asserted that the petitioner was a member of the Argentine Academy of Engineering. Counsel asserts that there is "a very thorough [sic] screening process" for admission, equating admission to "a Nobel Prize at a local level." The petitioner submitted a press release on his own website discussing his induction into the Argentine Academy of Engineering and a letter in Spanish from the academy without an English translation. The regulation at 8 C.F.R. § 103.2(b)(3) provides:

Any document containing foreign language submitted to [Citizenship and Immigration Services (CIS)] shall be accompanied by a full English language translation which the translator has

³ The center's website, www.internationalbiographicalcentre.com, makes no mention of any awards issued by the center. Rather, it appears primarily to be a publishing company. It can be expected that if the company issued nationally or internationally recognized awards, such information would be included on its website.

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 light of this regulation, the Spanish-language letter from the academy is not sufficient evidence of the petitioner's induction into the academy.

In response to the director's request for additional evidence, counsel asserts that the website of the academy, www.acadning.org.ar, lists all the members and that the petitioner is listed as member 107. It is the petitioner's burden to establish his memberships. Nevertheless, we did review the site, which is entirely in Spanish. After this review, we were only able to locate a list of 73 "academicos," none of whom are the petitioner. We were unable to discover a link to a second page of this list. Moreover, as the site is in Spanish, we are unable to confirm the petitioner's claims that membership in the academy is exclusive. On appeal, the petitioner asserts that the academy has only 40 members. The petitioner submits no new evidence establishing his membership in the academy or evidence of its membership requirements. Thus, the petitioner has not established his membership in this purportedly elite academy.

The petitioner submitted a copy of the plaque awarded to him in recognition of his service as President of the Argentina Chapter of the Institute of Industrial Engineers from 1978-1983. The requirements for general membership, not whether the petitioner has played a leading role for the association, are what are relevant for this criterion according to the plain language of 8 C.F.R. § 204.5(h)(3)(ii). The petitioner's role for the association is better considered below pursuant to 8 C.F.R. § 204.5(h)(3)(viii), relating to leading or critical roles. The record contains no evidence that the IIE requires outstanding achievements of its general membership.

The petitioner submitted a Certificate from the International Who's Who of Professionals welcoming him to membership. Inclusion in biographical directories is not a membership regardless of the use of the word by the directory. Rather, the inclusions will be considered below pursuant to 8 C.F.R. § 204.5(h)(3)(iii), relating to published material about the alien.

The petitioner is also a senior member of the Society of Manufacturing Engineers (SME) and its Computer and Automated Systems Association (CASA). Finally, the petitioner submitted evidence of his membership in the Consejo Profesional de Ingenieria Industrial, the Association of MBA Executives, the European Academy for Advanced Research in Marketing, the American Production and Inventory Control Society, the American Production and Inventory Control Society (APICS), the Society of the Advancement of Management (SAM), the American Economic Review, the American Society for Quality Control and the Stanford Alumni Association. The petitioner submitted a card from the International Council for Small Business, but it does not bear his name. The director concluded that the petitioner had not established that these associations require outstanding achievements as management consultants for membership.

On appeal, the petitioner focuses mostly on the relationship between industrial engineering and management consulting and fails to discuss the membership requirements of the above associations other than the Argentine Academy of Engineering discussed above. The petitioner also submits his credentials from the Alliance of Professional Consultants (APC) and evidence of his membership in the American Institute of Industrial Engineers, the American Management Association, the World Trade Center, Denver, and the American Purchasing Society.

None of the new documentation establishes that any of the associations for which the petitioner has documented membership require outstanding achievements of their members. The record does not establish that the associations are anything more than professional associations that require little more than experience in the profession and payment of membership fees.

Finally, the petitioner submits evidence of his position on the "Comision Directiva" of the Asociacion de Becarios Fulbright en la Argentina." This position does not appear to be a membership and will be considered below pursuant to 8 C.F.R. § 204.5(h)(3)(iv), relating to judging the work of others.

Published materials about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.

Counsel asserted that the petitioner meets this criterion through his inclusion in various biographic publications, directories and professional reference guides. Counsel also asserted that numerous newspaper and magazine articles are about the petitioner and can serve to meet this criterion.

The petitioner submitted an alumni newsletter listing the petitioner's career information since completing his 1980 fellowship, certificates attesting to his inclusion in biographical directories, and numerous foreign-language pamphlets and articles with no translations or explanations of the publications. In his request for additional evidence, the director requested translations of any published materials about the petitioner. The petitioner did not comply with this request in his response and the director appears to have concluded that the petitioner no longer claimed to meet this criterion. On appeal, the petitioner asserts that the amount of published material about him was too much to translate and was submitted "to give some examples." He further asserts that some of the published material is in English.

The petitioner provides a list of Spanish-language newspaper and magazine articles as well as other materials. The plain language of the regulation, 8 C.F.R. § 204.5(h)(3)(iii), requires that the petitioner submit translations of foreign language materials. Assuming the materials are as numerous as claimed by the petitioner, he could have selected a representative sample to have translated. Moreover, it is also the petitioner's burden to establish that the published materials appeared in major media or major trade publications. The petitioner has submitted no evidence regarding the circulation of the Spanish-language publications.

On appeal, the petitioner also submits a letter in Spanish purporting to confirm the petitioner's participation in a radio interview. As quoted above, the regulation at 8 C.F.R. § 103.2(b)(3) requires a certified, full English language translation of any foreign language document. The petitioner does not submit a translation of the letter, certified or otherwise. Thus, we cannot consider it.

Most of the English-language materials appear to be the petitioner's inclusion in the Academy of Management's Membership Directory, the American Economic Association Telephone Directory of Members, the AOTS List of Members, Standard and Poor's Executives, Biographical Listing of Members of the American Economic Association, the Stanford Alumni Directory, and the Directory of Certified Manufacturing Engineers and Technologists. It is not enough that one's name appears in print. Inclusion in a list of members or professionals is not published material *about* the petitioner anymore than a listing in the general telephone book. The petitioner's memberships themselves have already been considered above.

The petitioner also notes information about him as it appears on his own personal website, www.biasca.com.⁴ Anyone can purchase a website domain; owning a website is not indicative of national acclaim. The petitioner also submits a brief article and a review of one of his books in *Team*, which appears to be an internal newsletter for employees of Tompkins International Associates. An internal company newsletter is not published material in the major media or a trade publication.

Finally, the remaining English-language materials on which the petitioner relies are the inclusion in the biographical dictionaries. Appearing as one of thousands, or even hundreds of other successful individuals in a frequently published directory is not evidence of national acclaim.

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.

Counsel asserted that the petitioner meets this criterion through his duties as a professor, a consultant, and President of the Fulbright Association in Argentina. The petitioner submits several letters confirming that he has taught at several universities and institutes in Argentina. The director did not discuss this criterion. On appeal, the petitioner reiterates that he has worked as a professor, an educational administrator, and a consultant. He also argues that his professional memberships meet this criterion.

Judging one's students is inherent to the position of instructor, teacher or professor. We cannot conclude that every instructor, teacher or professor has sustained national or international acclaim. Grading one's students is simply not indicative of or uniquely consistent with national acclaim. Similarly, managerial positions typically involve some type of evaluation of one's subordinates. Thus, while we will consider the petitioner's role as Vice-Dean of Belgrano University below pursuant to 8 C.F.R. § 204.5(h)(3)(viii), it is not evidence relating to this criterion. It is also an inherent duty of management consultants to provide evaluation services. Once again, we cannot conclude that every management consultant has sustained national or international acclaim.

The petitioner further asserts:

CONEAU is an independent Committee, that belongs to the Argentine Ministry of Education and partially funded by international organizations, that determines if educational programs in Argentine universities are authorized. I was one of the judges of some MBA (Master of Business Administration) programs during year 2000. Exhibit 52.

The petitioner's appeal does not include an exhibit labeled "52," however there are two letters between exhibit 51 and exhibit 53. The first letter is from the Director of the Graduate School at the Instituto Tecnológico de Buenos Aires asserting that in 1998, 1999, 2000, and 2001, the petitioner taught a Mergers and Acquisitions course as part of the MBA program at that institution. The second letter is from the MBA Director at the Universidad Nacional de la Patagonia San Juan Bosco and affirms that the petitioner taught a top management course in Business Policy in 2001. Neither letter makes any reference to CONEAU or a national MBA judging committee on which the petitioner might have served.

⁴ In addition to noting that the website bears the petitioner's name, an inquiry at www.register.com confirms that the petitioner owns this website.

The petitioner also lists, once again, all of his professional memberships. The statutory requirement for "extensive documentation" and the regulatory requirement that an alien meet at least three criteria causes us to disfavor arguments that documentation clearly relating to one criteria must also be considered as evidence to meet other criteria to which the documentation does not clearly relate. Thus, the mere fact that the petitioner was a member of professional associations, already considered above, and served as an officer, which will be considered below pursuant to 8 C.F.R. § 204.5(h)(3)(viii), is not persuasive evidence to meet this criterion.

The petitioner asserts that the Argentine Council "is the ultimate judge for matters related to ethics in the profession and acts as a judge in professional conflicts" as well as responsible for awarding prizes in the field. The petitioner references exhibit 30, which is a Spanish-language certificate from Consejo Profesional de Ingenieria Industrial. The petitioner did not submit a certified translation of this certificate as required by 8 C.F.R. § 103.2(b)(3), quoted above. It does not establish that the petitioner's membership with this association involved the type of judging claimed by the petitioner on appeal. Simply going on record without supporting documentary evidence is not sufficient for the purpose of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

The petitioner further asserts that as an alumnus of the [REDACTED] Fellowship and the Fulbright Scholarship, he "had to judge professional or professors seeking for grants, scholarships and fellowships." The petitioner submitted no evidence of his membership of an evaluating committee for the [REDACTED] Fellowship. As evidence of serving on the Fulbright Commission in Argentina, the petitioner submitted the above mentioned list of "Comision Directiva" from www.fulbright.org.ar listing the petitioner as "Vocal Titular 3°." The petitioner failed, however, to submit any official materials from the organization (including full and certified translations) confirming that this commission is responsible for judging scholarship applicants.

Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.

[REDACTED] Executive Vice President of Valuation Research, asserts that the firm for which the petitioner works is an affiliate of Valuation Research and that the petitioner "creatively and thoroughly executed several major valuation assignments for us in Argentina including the Philip Morris/Kraft acquisition of Nabisco." [REDACTED] of Tompkins Associates asserts that the petitioner is an "international affiliate" of that company and provides general praise of the petitioner's professional abilities. Anthony Venuti, Vice President of Camp Dresser & McKee, Inc., asserts that he has known the petitioner professional for 25 years and expresses his admiration for the petitioner's ability to manage and implement manufacturing projects. Dr. [REDACTED] President of Bolland & Co., asserts that the petitioner assisted "in restructuring our family owned petroleum services company" in 1992. The petitioner also submitted his current and past business cards.

The director concluded that the petitioner had not identified specific contributions or established that the field considered such contributions to be of major significance. On appeal, the petitioner discusses his consulting accomplishments and resubmits a list of the companies for which has performed consulting services and testimonial letters. In addition, the petitioner once again attempts to include evidence relating to other criteria, such as awards and memberships. As discussed above, the petitioner has not demonstrated the significance of the evidence relating to those criteria. Moreover, as also discussed above, while there may be situations where awards or prizes for specific contributions can be considered under this criterion, evidence relating to one criterion need not necessarily be considered under a criteria to which it does not directly relate.

The petitioner's personal assertions of his contributions to various companies have little evidentiary value. As stated above, the petitioner's personal assertions must be supported by documentary evidence. Moreover, the petitioner's assertions that these contributions are established through inclusion in the books he has authored are insufficient. The books are not in English and it is not within our area of expertise to evaluate the content of these books. Rather, it is the petitioner's burden to establish the significance of the information in these books through evidence of their distribution and sales volume in comparison with other books in the field. As will be discussed in more detail below, the petitioner has not submitted such evidence.

The letters discussed above confirm that the petitioner has successfully performed consulting duties for the authors of those letters. The letters fail to explain how the petitioner has contributed to the fields of engineering or management consulting as a whole. The record lacks letters from independent experts in the field confirming the petitioner's influence on and recognition in the field or evidence that his books have been unusually successful or even successful at all.

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

Counsel asserted that the petitioner meets this criterion through authorship of several books, booklets, notebooks, economic investigations, videos, and articles. The petitioner submitted numerous copies of covers and title pages for Spanish-language books and original booklets as well as Spanish-language articles authored by the petitioner. The director concluded that the petitioner met this criterion and the evidence supports that conclusion.

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

Counsel asserted that the petitioner's conference presentations and publication history serve to meet this criterion. In his request for additional evidence, the director noted that, according to its plain language, this criterion applies to "artistic" exhibitions or showcases. The director did not address this criterion in his final decision. As the criterion, according to the plain language of 8 C.F.R. § 204.5(h)(3)(vii), does not apply to the petitioner's field, we find that the director's failure to discuss this criterion was reasonable.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.

Counsel asserted that the petitioner meets this criterion based on his roles as a professor and consultant. [REDACTED] Vice President of Teaching and Research at Belgrano University, asserts that the petitioner served as Vice-Dean in the School of Technology during the 1986-1987 academic school year. [REDACTED] Director of the Management and Human Resources Department at Universidad Argentina de la Empresa (UADE), asserts that the petitioner is a full professor, "the highest rank in our University." Jorge Tersoglio, Director of the Graduate School at Instituto Tecnológico de Buenos Aires (ITBA), confirms that the petitioner successfully taught courses at the institute from 1998 to 2001. Oscar Bottaro, MBA Director at the Universidad Nacional de la Patagonia San Juan Bosco, confirms that the petitioner taught a top management course there in 2001. Dr. [REDACTED] Professor of Production and Operations Management at San Diego State University, asserts that the petitioner holds the "honorary" position of "coordinator/representative for all South American Countries" at APICS. As stated above, the petitioner also served as President of the IIE in Argentina.

The director failed to discuss this criterion. The relevant considerations for this criterion are the nature of the position the petitioner was hired or elected to fill and the reputation of the organization. While not all of the above evidence is persuasive, the petitioner's position with the IIE Argentina, which won several bronze awards from the main organization, serves to meet 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 claims for the first time to meet this criterion on appeal. He acknowledges that he has no pay stubs or invoices to establish his remuneration, but instead relies on the nature of his positions, awards, associations, and authorship, all evidence we have considered above under the relevant criteria. Once again, we will not consider this evidence under a criterion to which it does not directly relate. The evidence required under this criterion is evidence of the petitioner's actual remuneration and evidence comparing it to the highest salaries in the field. The petitioner has not submitted such evidence.

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

The petitioner also claims to meet this criterion for the first time on appeal, relying on the sales of his books. This criterion clearly applies to aliens in the field of the performing arts, which is not the petitioner's field. Moreover, we have already acknowledged that the petitioner's publication history serves to meet 8 C.F.R. § 204.5(h)(3)(vi). Even if we considered the evidence as comparable evidence to meet this criterion under 8 C.F.R. § 204.5(h)(4), the evidence is not persuasive. First, some of the evidence appears to relate to book sales after the date of filing. The petitioner must establish eligibility as of that date. See 8 C.F.R. § 103.2(b)(12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg. Comm. 1971). Moreover, much of the evidence is in Spanish and included on charts with little explanation. Finally, the evidence does not compare the petitioner's book sales with those of others in his field.

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 has risen to the very top of the field of endeavor.

Review of the record, however, does not establish that the petitioner has distinguished himself as a management consultant 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 indicates that the petitioner shows talent as a management consultant, but is not persuasive that the petitioner's achievements set him significantly above almost all others in his field. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.