



U.S. Citizenship
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FILE: [REDACTED]
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Office: NEBRASKA SERVICE CENTER

Date: JUN 11 2008

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

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

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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.

Maurya Deadrick
for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as an alien of extraordinary ability. The director determined that the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

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

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

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

(A) Aliens with extraordinary ability. -- An alien is described in this subparagraph if --

(i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,

(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

(iii) the alien's entry into the United States will substantially benefit prospectively the United States.

Citizenship and Immigration Services (CIS) and legacy Immigration and Naturalization Service (INS) have consistently recognized that Congress intended to set a very high standard for individuals seeking immigrant visas as aliens of extraordinary ability. *See* 56 Fed. Reg. 60897, 60898-99 (Nov. 29, 1991). As used in this section, the term "extraordinary ability" means a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2). The specific requirements for supporting documents to establish that an alien has sustained national or international acclaim and recognition in his or her field of expertise are set forth in the regulation at 8 C.F.R. § 204.5(h)(3). The relevant criteria will be addressed below. It should be reiterated, however, that the petitioner must show that he has sustained national or international acclaim at the very top level.

This petition, filed on December 13, 2006, seeks to classify the petitioner as an alien with extraordinary ability as an environmental manager. In a December 11, 2006 letter accompanying the petition, the petitioner states: "I am an extremely experienced environmental manager and have held senior positions in government organizations and private firms throughout my career to date." The record reflects that the petitioner earned a Higher Technician Diploma in Mine Surveying from Trent Polytechnic in 1980 and a Bachelor of Science degree in Surveying for Resource Development from the University of Glamorgan in 1997. According to his

resume and E-2 nonimmigrant visa, the petitioner has been the owner and operator of Ace Petno Carpet Cleaning and Sales in Central Florida since 2004.

The regulation at 8 C.F.R. § 204.5(h)(3) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major, internationally recognized award). Barring the alien's receipt of such an award, the regulation outlines ten criteria, at least three of which must be satisfied for an alien to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability. A petitioner, however, cannot establish eligibility for this classification merely by submitting evidence that simply relates to at least three criteria at 8 C.F.R. § 204.5(h)(3). In determining whether the petitioner meets a specific criterion, the evidence itself must be evaluated in terms of whether it is indicative of or consistent with sustained national or international acclaim. A lower evidentiary standard would not be consistent with the regulatory definition of "extraordinary ability" as "a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). The petitioner has submitted evidence pertaining to the following criteria.

Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.

In order to demonstrate that membership in an association meets this criterion, the petitioner must show that the association requires outstanding achievement as an essential condition for admission to membership. Membership requirements based on employment or activity in a given field, minimum education or experience, proficiency certifications, standardized test scores, grade point average, recommendations by colleagues or current members, or payment of dues, do not satisfy this criterion as such requirements do not constitute outstanding achievements. Further, the overall prestige of a given association is not determinative; the issue here is membership requirements rather than the association's overall reputation.

The petitioner submitted his Mine Surveyor's Certificate issued in 1981 by the United Kingdom's Health and Safety Executive (HSE). In response to the director's request for evidence, the petitioner submitted information from the HSE's internet site stating:

39. The Mine Surveyor's Certificate of Qualification and the Mine Surveyor's Certificate are the only qualifications approved by the HSE for the position of surveyor at a mine.

Academic achievement

40. All applicants should hold a suitable United Kingdom academic qualification. At present acceptable qualifications are:

- a degree in mine surveying, or surveying of mineral resources, or a pass in the final examination of the Royal Institution of Chartered Surveyors (Minerals); or
- a BTEC, Higher National Diploma (HND) or Higher National Certificate (HNC) in mine surveying or mineral surveying.

41. All applicants should have passed the approved Practical Examination in Mine Surveying (now administered by the Institute of Materials, Minerals and Mining).

Practical experience

42. Applicants should have a minimum of 80 weeks certified experience in surveying at mines, as follows:

- a. surveying work on the surface and underground at a working mine, relative to the determination of the spatial position of mine workings, or surface features; and of this a minimum of 60 weeks should be work underground, of which 40 weeks should be at mines in the United Kingdom;
- b. engineering survey work at a mine relating to the design and installation of mining equipment and systems;

and includes any period carrying out such work as part of a training programme. Not more than 16 weeks of the overall experience should be related to experience under subparagraph (b).

The petitioner submitted a Diploma-Certificate certifying him as a Professional Associate of the Royal Institution of Chartered Surveyors (RICS). In response to the director's request for evidence, the petitioner submitted information from the RICS's internet site discussing three graduate routes to membership. For example, Graduate Route Option 1 requires no relevant prior experience and an RICS accredited degree with 24 months of structured training. Graduate Route Option 2 requires at least five years of relevant experience and an RICS accredited degree with 12 months of structured training. Lastly, Graduate Route Option 3 requires at least ten years of relevant experience and an RICS accredited degree. In addition to the preceding requirements, individuals must submit their Assessment of Professional Competence (APC) records and complete a final assessment interview. On appeal, the petitioner states: "It should be made clear that it is not a requirement to be a member of the RICS to practice as a surveyor in the UK and . . . only those professionals at the very top of their field are allowed entry into this exclusive organization." The preceding information submitted by the petitioner indicates that admission to membership in the RICS is contingent upon an accredited degree, training, work experience (or some combination of those three), submission of one's APC records, and completion of a final assessment interview. We cannot conclude that fulfillment of such standards constitutes outstanding achievements. Further, there is no evidence to support the petitioner's assertion that "only those professionals at the very top of their field are allowed entry into this exclusive organization." Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

The petitioner submitted a certificate from the Institute of Environmental Management (IEM) stating that he was "admitted as an Associate Member." In response to the director's request for evidence, the petitioner submitted literature from the Institute of Environmental Management and Assessment (IEMA) stating:

There are currently two routes to Associate Membership:

- Associate Certificate Course

- Associate Membership Open Book Assessment

The Associate Certificate Course provides the opportunity for individuals to receive formal training across a broad range of issues relating to environmental management and assessment and achieve professional recognition for successful completion. . . .

The Open Book Assessment provides the opportunity for individuals who believe they already have a good standard of knowledge and understanding to demonstrate this.

The petitioner submitted a Certificate of Registration from the IEMA stating that he was “registered as an Environmental Auditor.” In response to the director’s request for evidence, the petitioner submitted material from an IEMA auditor registration application package listing the minimum requirements for qualification. These minimum requirements include a secondary education, 5 days training carrying out environmental audits and Environmental Management System audits or 25 days environmental auditing (on-the-job training), and completion of the appropriate number of environmental auditing workdays.

The petitioner submitted a certificate from Lloyd’s Register Quality Assurance (LRQA) Training Services stating that he “successfully completed the LRQA ISO 9000:2000 Series Auditor/Lead Auditor Training Course.” In response to the director’s request for evidence, the petitioner submitted general information about the training course from Lloyd’s Register’s internet site. This information states: “The course teaches you how to conduct a professional management system audit in an interactive way, using interactive exercises and case studies.”

The petitioner submitted his National General Certificate in Occupational Safety and Health. In response to the director’s request for evidence, the petitioner submitted general information from the National Examination Board in Occupational Safety and Health’s internet site stating:

The NEBOSH National General Certificate in Occupational Safety and Health is a qualification designed to help those with health and safety responsibilities, for example, managers, supervisors and employee representatives, to carry out their duties at work and more effectively and to protect the organisations for which they work.

It is the most widely held health and safety qualification in the UK with nearly 100,000 people having gained the award since it was launched in 1989.

The petitioner’s Mine Surveyor’s Certificate, Diploma-Certificate certifying him as a Professional Associate of the RICS, Associate Membership in the IEM, Environmental Auditor registration certificate from the IEMA, certificate of completion from the LRQA Training Services Auditor/Lead Auditor Training Course, and National General Certificate in Occupational Safety and Health reflect his fulfillment of minimum standards of education, experience, and proficiency rather than outstanding achievements. According to the documentation submitted by the petitioner, the preceding certifications, memberships, and training courses represent standard requirements for entry into the petitioner’s specialty and his continuing professional development. None of the documentation submitted by the petitioner shows that that the preceding

organizations require outstanding achievements of their members, as judged by recognized national or international experts in the petitioner's field or an allied one.

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

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

We withdraw the director's finding that the petitioner meets this regulatory criterion.

The petitioner submitted letters of support from his former superiors at the Coal Authority and Rolls-Royce Marine.

[REDACTED], Head of Estates and Environmental Projects, the Coal Authority, United Kingdom, states:

The Coal Authority is a government body formed in 1994 on privatization of the UK coal industry. The Authority has a number of statutory functions including regulation of the privatized industry, providing mining information and the management of the environmental legacy resulting from centuries of coal mining.

* * *

Given [the petitioner's] knowledge of the Coal Industry and associated environmental impacts, he was selected to carry out two separate functions for the Authority:

- Property and Historic Liability Management - to manage the Authority's Surface and Underground Estates and liabilities associated with past coal mining for Northern England and Scotland
- Environmental Policy - to advise and act as Secretary to the Environment Group which determines environmental policy for the Authority.

* * *

In 1994 the Authority established an Environment Group, chaired by a Board Member, primarily to offer advice and guidance on matters of environmental policy. [The petitioner] acted as Secretary and advisor to the Group since its inauguration. In order for the Authority to carry out its duties without causing adverse environmental impact, [the petitioner] developed an Environmental Policy Framework to set out the good practice expected from Employees, Consultants and Contractors. [The petitioner] was also Chairman to the Environmental Working Group which determined the more detailed aspects of the Authority's Environmental Policy in order to advise the Environment Group.

The development of the environmental policy and procedures was a significant work programme in which [the petitioner] played a pivotal role.

* * *

The original Environmental Policy Documentation of the Authority was developed under [the petitioner's] leadership and consisted of three separate elements:

- An Environmental Policy Statement
- A Code of Practice
- Annual Environmental Objectives.

Following a major restructuring of the organization, [the petitioner] heavily revised the code of practice to reflect the new structure and duties and the three elements were 'repackaged' into a single reference document to better suit the needs of the users. Again [the petitioner] led this work which still remains as the cornerstone of the Coal Authority's Environmental Policy. . . . As well as being the reference for best practice and legal compliance, the document forms part of the Coal Authority standard contract documentation and all consultants and contractors are bound by its terms.

* * *

In order to effectively perform its duties the Coal Authority is reliant on developing sound working relationships with key external parties from both the public and private sectors. As a new organization it was critical for the Authority to quickly establish quality professional relationships and to win the trust and confidence of these parties.

[The petitioner] played a key role in achieving this goal in his dealings with officers of the Environment Agency and Scottish Environmental Protection Agency (SEPA) at Local, Regional and National levels, Officers and Members of all Coalfield Local Authorities, Members of the Public and many other stakeholders. He was responsible for Charing Regional Meetings with Environment Agency Officers and was also a Member of the National Minewater Committee with both the Environment Agency and the Scottish Environmental Protection Agency. [The petitioner] was invited by SEPA to address a national conference for the launch of their Policy Document "Improving Scotland's Water."

Chief Executive, the Coal Authority, United Kingdom, states:

[The petitioner] joined the Coal Authority in September 1994. I took up the position of Chief Executive of the Authority in September 1997. . . . From a proverbial blank sheet of paper, the Authority compiled an environmental series of procedures and policies, which set it at the forefront of good practice in regulating its work, as the owner of the unworked coal resources of the UK, and the residuary body for the liabilities of past mining by British Coal.

To oversee this work, a Committee of the Board, “the Environment Group,” was established, chaired by one of the non-executive Members of the Board, and with [the petitioner] as its secretary. The task of formulating the individual documents within the policy fell largely to [the petitioner], as did the arrangement of environmental training, at the appropriate levels, for all staff of the Authority. This was performed at two fundamentally different levels, firstly for work conducted at outside locations on our behalf, by consultants and contractors, and secondly encouraging good practice in environmental matters, in the internal administration of the organisation.

The preceding letters discuss the petitioner’s activities for the Coal Authority, but there is no evidence showing that specific work attributable to him had a substantial impact beyond his employer and its projects such that it can be considered original contributions of major significance in the field.

[redacted], Director of Health, Safety, Environment & Quality (HSE&Q), Rolls-Royce Naval Marine, a subsidiary of Rolls-Royce Group plc, United Kingdom, states:

[The petitioner] started working for Rolls-Royce in the position of Environment Manager for the Naval Marine business in 2001.

* * *

As part of his terms of employment with Rolls-Royce his probationary period ended after a three month period following a Career Development Review. The review was carried out by myself and as a result of [the petitioner’s] success he was promoted to Head of Environment for Naval Marine answering personally to the Director.

The main accountabilities for the [petitioner’s] role were as follows:

- To lead the deployment of ISO14001 across the different sites in the business
- To integrate the Health & Safety and Environmental Management systems across the business
- To formulate and guide company policy on environmental issues in the business as appropriate

* * *

The UK’s Environment Agency requested that Rolls-Royce prepare a study demonstrating that the current operations were safe and that the previously disposed material did not present a health hazard.

* * *

During the period 2001 to 2004 [the petitioner] project managed this study to a successful conclusion. This allowed the continued safe disposal of nuclear waste and ensured continued operation at the Nuclear Manufacturing Site at Derby.

[The petitioner's] key achievements in relation to this project were as follows:

- Critically assessing each phase of the project and developing appropriate strategies.
- Presenting proposals to Rolls-Royce Executive Members and then implementing that policy on behalf of the company
- Acting as “Intelligent Client” for Rolls-Royce
- Procuring consultants and contractors to carry out site investigation and the production of a Regulation 15 Report in accordance with the Waste Management Licensing Regulations
- The development of close working professional relationships with appropriate Regulatory Authorities
- Building a trusting relationship with local residents by holding numerous public meetings and displays
- The development of a strategy to cease disposal at the quarry and obtain all necessary rights to use an alternative repository expressly constructed to receive nuclear waste, in the North of England.
- The development and implementation of a scheme to restore the site and implement measures to prevent any potential future problems.
- The successful Re-authorization of the Nuclear Site License to allow continued operations at the Nuclear Manufacturing Site.

* * *

The following are the key areas where [the petitioner] formulated and implemented company policy in the field of Environmental Management:

- Carried out a benchmarking exercise to establish the effectiveness of the Company's existing Environmental Management System to reveal areas where improvements could be made.
- Developed a program to steer the Business towards a more environmentally sustainable approach.
- Project managed the implementation of this robust program, which included measures to comprehensively identify all significant impacts generated by the business and ensure that control measures were adequate.
- Ensured that this review and ensuing program centered on promoting the concept of continual improvement.
- Successfully used this argument at Executive level to ensure that the concept of continual improvement of environmental performance is now a fundamental business requirement of Naval Marine.
- The findings of the Review were also incorporated into the formal Management Review for the Company, which [the petitioner] presented to the Naval Marine Health Safety and Environment Board in November 2001. . . .
- Developed new HS&E Policy Statement

Developed challenging Environmental Objectives and Targets for Naval Marine and subsequently obtained Board Approval.

- These Objectives are supported by a series of Targets, which [The petitioner] specifically structured to address the areas identified for improvement in his Review and to encourage the Business towards sustainability.

* * *

Although [the petitioner] joined Rolls-Royce in an environmental capacity, it quickly became apparent to me that he was keen to deliver major system improvements

This program is best illustrated by using the Naval Marine Health Safety and Environmental Management System Manual. This comprehensive, original work has made a significant contribution to the environmental policy and performance of Rolls-Royce. As author of this Manual, [the petitioner] ensured major system and practical improvements to the whole of our organization. [The petitioner] also integrated the principles of this document into a comprehensive training program in order to raise awareness of its requirements amongst all employees to ensure a robust implementation. Another key issue in relation to this manual relates to its integration with our Quality Management System. This was a major step forward in developing a joined up approach to Health, Safety, Environment and Quality, which has lead to greater efficiencies in our systems management.

* * *

Overall, [the petitioner] contributed a great deal during his period with Rolls-Royce, developing and guiding business policy far beyond his original terms of employment. The principles of the policy documentation he developed are still in use today and continue to be deployed as best practice throughout Rolls-Royce Worldwide.

The record, however, does not include evidence from Rolls-Royce Group plc to support [redacted]'s assertion that the policies developed by the petitioner have been “deployed as best practice throughout Rolls-Royce Worldwide.” There is no evidence establishing that the petitioner’s work has had a substantial impact beyond the UK-based Naval Marine Business Units of Rolls-Royce such that his work can be considered original business-related contributions of major significance in the environmental management field.

The preceding letters discuss the petitioner’s job responsibilities, work experience, and involvement with various projects, but they fail to demonstrate that he has made original contributions of major significance in field. According to the regulation at 8 C.F.R. § 204.5(h)(3)(v), an alien’s contributions must be not only original but of major significance. We must presume that the phrase “major significance” is not superfluous and, thus, that it has some meaning. While the petitioner is a skilled environmental manager and surveyor who earned the admiration of his past employers, there is no evidence showing the extent of his influence on others in his field nationally or internationally, or that the field has somehow changed as a result of his work.

The petitioner also submitted advisory opinions from [redacted] Professor of Business Administration, Concordia University, and [redacted], Professor of Industrial and Manufacturing

Engineering, New Jersey Institute of Technology. Neither of these individuals claims to be an expert in environmental management or surveying, nor do they state that they were aware of the petitioner's reputation in the field prior to their receipt of a request from the Foundation for International Services, Inc. to evaluate his qualifications. Nevertheless, their opinion letters do not specify exactly what the petitioner's original contributions in the field of environmental management were, and do not provide an explanation indicating how any such contributions were of major significance to his field.

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

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

The petitioner submitted evidence showing that he authored articles for a newsletter issued by the Environment Group at the Coal Authority entitled *The Environment* (1997 to 2000). The petitioner also submitted evidence showing that he prepared environmental policy documents for the Coal Authority and the UK-based Naval Marine Business Units of Rolls-Royce. The record, however, does not establish that the published material authored by the petitioner was scholarly in nature. Nor is there evidence (such as circulation statistics) showing that the publications in which his articles were printed qualified as professional or major trade publications or some other form of major media. In this case, the petitioner has not submitted evidence establishing that his articles and policy documents were frequently cited by others in his field, and that they appeared in major publications in a manner consistent with sustained national or international acclaim. As such, the petitioner has not established that he meets this criterion.

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

We withdraw the director's finding that the petitioner meets this regulatory criterion.

In order to establish that he performed a leading or critical role for an organization or establishment with a distinguished reputation, the petitioner must establish the nature of his role within the entire organization or

establishment and the reputation of the organization or establishment. Many of the letters discussed previously included information relevant to this regulatory criterion.

The letter from [REDACTED] states:

I have been requested by the Foundation for International Services to offer an opinion whether [the petitioner] . . . qualifies as an extraordinary person in his field of Environmental Management I am in no position to authenticate any of the documents provided to me by the Foundation.

* * *

The petitioner's employment where he progressed rapidly to the higher ranks of management and executive roles during the 18 years he spent with "The National Coal Board," a Government organization in the United Kingdom, shows his performance in a leading role in an important governmental agency.

The record includes no evidence showing that the National Coal Board had a distinguished reputation during the petitioner's employment or that the petitioner performed in a leading or critical role for that organization. For example, there is no evidence distinguishing the importance of petitioner's role from that of other surveyors or departmental managers employed by the National Coal Board, let alone its more senior executives.

The record adequately demonstrates that the Coal Authority had a distinguished reputation during the petitioner's employment, but the record does not establish that he performed in a leading or critical role for **the organization**. There is no evidence demonstrating how the petitioner's role as Operations Manager differentiated him from others in the agency holding similar positions or its more senior management (such as the Head of Estates and Environmental Projects or the Chief Executive). With regard to the petitioner's role as secretary for the Coal Authority's Environment Group, the letter from [REDACTED] states that the petitioner played a "pivotal role" in the development of the **environmental policy** and procedures. The April 1997 issue of *The Environment*, however, specifically mentions [REDACTED], Environment Group Chairman, as the "Authority Board Member with special responsibility for environmental matters." Further, with regard to the Coal Authority's minewater remediation program, [REDACTED]'s resume states that he "[I]ed the formation of the strategy from a 'clean sheet of paper' in 1994 to form the long term programme to address the legacy of pollution from abandoned coal mines throughout the UK."

With regard to the petitioner's role for Rolls-Royce plc, [REDACTED] states:

I have been requested by the Foundation for International Services, Inc. to write an opinion letter concerning the qualifications of [the petitioner]

* * *

The key point I would wish to add on behalf of [the petitioner's] petition is this: Rolls-Royce plc has been repeatedly recognized with awards for excellence in environmental management. This point is well documented with publicly available information. [The petitioner] served as Environmental Manager, the global head of environmental responsibility for one of Rolls-Royce's major divisions

during the period when they either prepared for or were recognized for multiple awards. Seen in context of his distinguished career, I can only conclude that [the petitioner] has risen to the top of his field.

letter lists several internet links to the Rolls-Royce plc internet site reflecting that the parent company earned recognition for its environmental efforts and policies. However, none of the internet material cited in [redacted]'s letter specifically discusses the UK-based Naval Marine Business Units of Rolls-Royce where the petitioner worked. While the record adequately demonstrates that Rolls-Royce Group plc has a distinguished reputation, there is no evidence demonstrating that the petitioner's UK-based Naval Marine Business Unit had a distinguished reputation during his employment.

Regarding the position held by the petitioner at Rolls-Royce Naval Marine, there is no evidence demonstrating how his role as Environment Manager differentiated him from others in the company holding similar positions or more senior management (such as Andy Gordon, Director – HSE&Q). As to the existence of more senior managerial positions at Rolls-Royce, Andy Gordon states:

It was recognized that [the petitioner] had the ability to attain higher positions within the organization including Head of HSE&Q for Naval Marine in North America and Head of Environment for the whole of Rolls-Royce Worldwide. He was also identified as a candidate for Director of HSE&Q for Naval Marine, subject to obtaining a wider experience of the business and extending his Environmental knowledge to cover Health Safety and Quality.

With regard to the petitioner's positions with the National Coal Board, the Coal Authority, and Rolls-Royce plc, the evidence submitted by him is not adequate to demonstrate that he was responsible for his employers' success or standing to a degree consistent with the meaning of "leading or critical role" and indicative of sustained national or international acclaim. As such, the petitioner has not established that he meets this criterion.

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

The petitioner submitted a pay statement from Rolls-Royce plc indicating that he earned a salary of £43,750.00 in 2003. The petitioner also submitted statistics from the "RICS and MacDonald & Company Salary and Benefits Survey" (2005) reflecting that environmental professionals working in the "property sector" earned an "average salary" of £25,231 in 2003. The petitioner's use of "average" salary statistics for environmental professionals working in the "property sector" is not an appropriate basis for comparison for two reasons. First, the petitioner must submit evidence showing that his salary is significantly high in relation to that of other environmental managers in the field in general rather than in relation to that of environmental professionals in the "property sector." Second, the petitioner must submit salary data demonstrating that his compensation places him in that small percentage who have risen to the very top of the field rather than simply above "average" in his field. See 8 C.F.R. § 204.5(h)(2).

On appeal, the petitioner submits a letter from [redacted], President, Rolls-Royce, Naval Marine Inc., North America, stating that he interviewed the petitioner in July 2002 for a position with the company in Boston to develop "a combined Health, Safety, Environment & Quality Management System." Mr.

██████████'s letter further states that he offered the petitioner the position "with an annual salary of \$120,000." The plain language of this regulatory criterion, however, requires the petitioner to submit evidence showing that he has commanded a high salary "in relation to others in the field." The petitioner offers no basis for comparison showing that his proposed compensation in the United States was significantly high in relation to others in his field.

In light of the above, there is no evidence that the petitioner has earned a level of compensation that places him among the highest paid environmental managers in the United States, the United Kingdom, or any other country. As such, the petitioner has not established that he meets this criterion.

In this case, the petitioner has failed to demonstrate his receipt of a major, internationally recognized award, or that he meets at least three of the criteria at 8 C.F.R. § 204.5(h)(3). Nor has the petitioner submitted evidence showing that his national or international acclaim as an environmental manager has been sustained. See section 203(b)(1)(A)(i) of the Act, 8 U.S.C. § 1153(b)(1)(A)(i), and 8 C.F.R. § 204.5(h)(3). Specifically, the record includes no evidence of his nationally or internationally acclaimed achievements and recognition in the environmental management field subsequent to 2004 when he relocated to the United States.

Beyond the decision of the director, the regulation at 8 C.F.R. § 204.5(h)(5) requires "clear evidence that the alien is coming to the United States to continue work in the area of expertise. Such evidence may include letter(s) from prospective employer(s), evidence of prearranged commitments such as contracts, or a statement from the beneficiary detailing plans on how he or she intends to continue his or her work in the United States." The letter of support from ██████████ states: "I would have no hesitation in considering [the petitioner] for a suitable profession position in the United States, which could fully utilize his skills at some time in the future." Further, the letter submitted on appeal from ██████████ states that Rolls-Royce, Naval Marine Inc., North America, offered the petitioner a position in Boston in 2002. The record, however, reflects that the petitioner declined Rolls-Royce's job offer. As such, there is no clear evidence establishing that the petitioner intends to work in environmental management in the United States.

In his December 11, 2006 letter accompanying the petition, the petitioner states:

During 2003 I implemented a plan to procure a small business in Central Florida in order to obtain an E2 Visa. All of the paperwork was approved by the London U.S. Embassy and my family and I successfully relocated in 2004.

This lifestyle change has been most successful and our most notable achievements in this regard are organizing a successful transition for ourselves and consolidating a business to the extent where gross sales have now doubled.

The record reflects that the petitioner's area of expertise is environmental management rather than operating a local carpet cleaning business. The petitioner has not established that his ownership and operation of Ace Petno Carpet Cleaning and Sales in Central Florida constitutes clear evidence that he will continue work in his area of expertise in the United States.

On appeal, the petitioner requests oral argument stating:

My particular field of experience is of a specialist nature and it is clear that I have failed to explain my position adequately. For these reasons, I would also be willing to present an Oral Argument to the AAO, where I can clarify how the evidence specifically relates to me, explain in detail the way the evidence overlaps for each individual criterion and show all original documentation.

The regulations provide that the requesting party must adequately explain in writing why oral argument is necessary. CIS has the sole authority to grant or deny a request for oral argument and will grant argument only in cases involving unique factors or issues of law that cannot be adequately addressed in writing. *See* 8 C.F.R. § 103.3(b). In this instance, the petitioner has not identified unique factors or issues of law to be resolved. Moreover, the written record of proceedings fully represents the facts and issues in this matter. Consequently, the request for oral argument is denied.

Review of the record does not establish that the petitioner has distinguished himself to such an extent that he may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of his field. The evidence is not persuasive that the petitioner's achievements set him significantly above almost all others in his field at the national or international level. Nor is there clear evidence that the petitioner will continue work in the United States in his area of expertise. 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 AAO maintains plenary power to review each appeal on a *de novo* basis. 5 U.S.C. § 557(b) ("On appeal from or review of the initial decision, the agency has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule."); *see also Janka v. U.S. Dept. of Transp., NTSB*, 925 F.2d 1147, 1149 (9th Cir. 1991). The AAO's *de novo* authority has been long recognized by the federal courts. *See, e.g., Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989).

The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is dismissed.