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U.S. Citizenship
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FILE: [Redacted] Office: NEBRASKA SERVICE CENTER Date: **MAR 21 2008**
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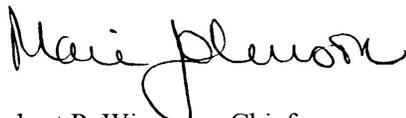
IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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:
[Redacted]

INSTRUCTIONS:

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


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Texas 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, counsel submits a brief and additional evidence. For the reasons discussed below, we uphold the director's decision. Much of counsel's brief relates to the validity of Ibero-American management as a field. Our decision, however, rests on the determination that the petitioner has not submitted the required initial evidence, such as *complete* translations of at least a selection of published material pursuant to 8 C.F.R. § 204.5(h)(3)(iii) and 8 C.F.R. § 103.2(b)(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, 60898-9 (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 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. As noted by counsel, in a decision on a petition filed previously by the petitioner, the AAO concluded that the petitioner submitted sufficient evidence to meet two of the regulatory criteria: authorship of scholarly articles pursuant to 8 C.F.R. § 204.5(h)(3)(vi) and performing in a leading or critical role for an organization or establishment with a distinguished reputation pursuant to 8 C.F.R. § 204.5(h)(3)(viii). Thus, the petitioner need only establish that he meets one additional criterion. While the petitioner purports to be submitting new evidence, the petitioner has not submitted the evidence found lacking in our previous decision.

The remaining criteria claimed by the petitioner follow.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 fellowships and recognition from various associations.

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 Hubert H. Humphrey Fellowship Program. While President Jimmy Carter's signature appears on the certificate, it remains that the certificate only documents the completion of a fellowship for graduate work. Similarly, the petitioner submitted a 1989 Certificate of Completion of the Program for Argentine Entrepreneurs from the Association for Overseas Technical Scholarships (AOTS), Japan. While these certificates may demonstrate high academic achievement, 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.

In 1997, Belgrano University, where the petitioner had worked since 1982, awarded the petitioner a "Second Award" that recognizes the professional achievements of professors at the university. 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.

Finally, the petitioner initially attempted to include his 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). Moreover, as will be discussed in more detail below, the petitioner's most exclusive memberships are in the field of engineering, not his current field of management consulting.

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

For the reasons discussed above, the petitioner has not established that he meets this criterion.

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

On appeal, counsel asserts that the director's determination that the petitioner had not established that his membership requires more than experience and the payment dues is "an insult." Counsel asserts that the AAO previously found that the petitioner had not established that he meets this criterion because a relevant website was in Spanish. Counsel notes that the website is now bilingual. As noted in the same decision by the AAO on which counsel relies, however, it is the petitioner's burden to submit the relevant evidence into the record. Section 291 of the Act. Moreover, as the website was in Spanish, the AAO did not evaluate the content of the information on that website. Thus, the mere fact that the information is now available in English does not create a presumption that the evidence is sufficient. Rather, its content would need to be evaluated.

The petitioner submitted a letter from [REDACTED] President of the Pan American Academy (API) of Engineering, asserting that the petitioner has been a Charter Member of API since 2002. He further asserts that the selection process for Charter Members is rigorous and that the bylaws of API limit the number of Charter Members to 175, including six from Argentina. [REDACTED] President of the Argentine Academy of Engineering, asserts that the petitioner has been a member of that academy since 2000. He refers us to the academy's bilingual website. As stated in the AAO's decision on the previous petition, it is the petitioner's burden to submit the evidence that supports his claims. The petitioner did not submit a printout of the website materials he references. The petitioner also submitted a self-serving press release on his own website discussing his induction into the Argentine Academy of Engineering. This evidence has little probative value as it was prepared and posted on the Internet by the petitioner himself.

The petitioner's self-serving website also indicates that he is a member of the Chinese Academy of Engineering. Once again, this evidence has little probative value as it was prepared and posted on the Internet by the petitioner himself.

General Manager of Consejo Profesional de Ingenieria Industrial, asserts that the petitioner has been a member and officer of this council. The petitioner did not submit the official bylaws or other documentation confirming the membership requirements of this council.

The petitioner also submitted membership certificates for associate and then senior membership in the American Institute of Industrial Engineers. The petitioner is also a senior member of the Society of Manufacturing Engineers (SME). The petitioner submitted no evidence of the membership requirements for either entity.

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 under the criterion set forth at 8 C.F.R. § 204.5(h)(3)(viii), relating to leading or critical roles. As stated above, the petitioner meets the leading or critical role criterion at 8 C.F.R. § 204.5(h)(3)(viii). The record contains no evidence that the IIE requires outstanding achievements of its general membership. Thus, his membership in IIE cannot also serve to meet this criterion.

In the AAO's decision on a previous petition filed by the petitioner, submitted by counsel in support of the instant petition, we did not reach the issue of whether or not the memberships were in the field of endeavor the petitioner intended to pursue in the United States because the petitioner had not submitted the required initial evidence to demonstrate that his membership were otherwise qualifying. We cannot ignore, however, that the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(ii) requires evidence of memberships in associations in the field for which classification is sought. Significantly, all of the above associations are engineering associations. The petitioner, however, does not seek to enter the United States to work as an engineer. Whatever relevance engineering may have to his management consulting work, it remains that engineering is not the field of endeavor he seeks to pursue in the United States.

The petitioner submitted evidence of memberships in management associations. Specifically, the petitioner's corporation is a member of the Alliance of Professional Consultants, the Denver World Trade Center and the Minnesota Council for Quality. In addition, the petitioner is a member of the American Management Association International, the Society for the Advancement of Management (SAM), the American Purchasing Society, the American Production and Inventory Control Society and the American Society for Quality Control. The petitioner is also listed as a member of the American Economic Association. The regulation at 8 C.F.R. § 204.5(h)(3)(ii) requires evidence of the petitioner's membership. Thus, we will not consider the memberships of his corporation. Regardless, the petitioner did not submit evidence of the membership requirements for any of these management associations.

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

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.

Initially, the petitioner relies on the results of an Internet search of his name, videos of the petitioner available on his own website, a selection of book reviews and other published material in a foreign language, a self-serving list of radio and television broadcasts, a list of commercial directories and professional directories that include the petitioner's information. In response to the director's request for additional evidence, the petitioner submits several foreign language articles. The regulation at

8 C.F.R. § 204.5(h)(3)(iii) explicitly requires “any necessary translation” and evidence that the published materials appeared in “professional or major trade publications or other major media.” Moreover, foreign language documents must be accompanied by *complete* and certified translations pursuant to 8 C.F.R. § 103.2(b)(3). The petitioner, however, merely submitted a list of the articles with the titles translated. Although this list is certified by the translator, without the complete translation of at least a selection of the articles in their entirety, we cannot determine whether they are “about” the petitioner as required in the regulation at 8 C.F.R. § 204.5(h)(3)(iii). The petitioner also failed to submit evidence of the significance of the media in which these materials appeared, such as circulation data. The only article in English is a brief notation in the December 1998 issue of *Team* announcing the release of the petitioner’s book, “Change Management.” The petitioner, however, did not submit any evidence that *Team* is major media, such as evidence of a national circulation.

The petitioner submitted a letter from [REDACTED] Executive coordinator of Special Project Unit at the Argentine Ministry of Economics, thanking the petitioner for his “participation” in their television program. The letter does not confirm whether the program was broadcast nationally or the nature of the petitioner’s “participation.” While the petitioner submitted compact discs with the private lectures and apparent television interviews, the petitioner did not submit complete translated transcripts of these materials.

The petitioner submits a list of his 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.

Finally, the petitioner relies on his inclusion in 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.

The petitioner initially asserted that he meets this criterion through his participation on a panel for the National Commission for Evaluation and Accreditation (CONEAU) in Argentina. The petitioner submits a letter from [REDACTED], Coordinator of the Acreditacion de Posgrado for CONEAU confirming that the petitioner was part of a three-expert committee for the evaluation of two graduate programs for CONEAU in 2000. On appeal, counsel asserts that the director failed to sufficiently consider this evidence.

As evidence of the significance of this participation, the petitioner submits what purports to be a translation as it contains a translator's certification at the bottom. The record, however, contains no foreign language document corresponding to this "translation." Rather, it appears to be a self-serving description of the evidence in the exhibit. For example, the text refers to "a copy of the homepage that lists numerous sections" and "a copy of the section that has links with similar institutions in the world." The "translation" also contains a referral to CONEAU's website.

The petitioner has not explained how accrediting a postgraduate management program constitutes judging the work of other management consultants. Rather, it would appear that the petitioner was merely confirming that the curricula met the minimum requirements for accreditation.

In addition, the petitioner submits the aforementioned letter from [REDACTED] explaining the petitioner's various positions with CPII. This letter affirms that the petitioner was an officer from 1984 through 1986, Vice President from 1986 through 1988 and Secretary from 1994 through 1996. Mr. [REDACTED] does not explain how these positions involved judging the work of other management consultants or even engineers. Specifically, while [REDACTED] asserts that CPII certifies engineers, he does not assert that the officers of CPII examine the engineering work of each prospective engineer seeking certification rather than using a certification examination or other generalized process administered by CPII certifiers. Ultimately, the petitioner's position with CPII appears more relevant to the leading or critical role criterion set forth at 8 C.F.R. § 204.5(h)(3)(viii), a criterion that the petitioner meets.

The petitioner also relies on his duties as a professor, an educational administrator, consultant and officer of professional societies. 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.

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.

Initially, the petitioner submitted an Internet search for his name and "el modelo" and letters from various companies and institutions affirming that the petitioner provided consulting services for them. These letters merely establish that the petitioner is qualified to work in his field. The petitioner also submitted evidence of his experience in academia and the prestige of the university where he taught. The petitioner must establish his own sustained acclaim, we will not infer such acclaim from the

distinguished nature of his employer. It remains, none of the evidence supports the petitioner's claim that his model is a contribution of major significance.

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. To be considered a contribution of major significance in the field of management consulting, it can be expected that the petitioner's model would be widely used by other management consultants. The record contains no such evidence.

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

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

The petitioner claimed to meet this criterion initially but did not raise this criterion in response to the director's request for additional evidence or on appeal. 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. While the evidence submitted establishes that the petitioner's books are available for sale, the sales figures were not provided.

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.