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FILE:

[REDACTED]
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Office: NEBRASKA SERVICE CENTER

Date: FEB 22 2005

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.

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 senior quantitative analyst. 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 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.

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

While counsel no longer asserts that the petitioner meets this criterion, we will discuss the evidence relating to it. The petitioner is a charterholder and member of the [REDACTED] and Research [REDACTED]. Regular membership in [REDACTED] requires either (1) a bachelor's degree or equivalent education or work experience, passage of Level 1 of the CFA exam, and three years of "acceptable professional work experience" or (2) passage of the AIMR Self Administered Standards of Professional Practice Examination, six years "of acceptable professional work experience in the investment decision-making process," engagement in acceptable professional work at the time of application and an agreement to adhere to and sign the Member's Agreement and a Professional Conduct Statement. Charterholders must satisfy both the regular membership requirements "and the requirements of the CFA Program established by [REDACTED]. The letter confirming the petitioner's charterholder status asserts that this status is based on passage of Levels I, II, and III of the CFA Study and Examination Program.

The petitioner is also a member of the [REDACTED] of Chicago [REDACTED] Membership requirements are similar to those of [REDACTED]. In addition, the petitioner is a member of the Econometric Society. While fellows of the society are nominated by current fellows based on their original contributions to economic theory, no such exclusive requirements are set forth for the general membership. Rather, membership "shall be open to anyone seriously interested in the objectives of the Society." The record contains no specific requirements for membership in the American Economic Association, or the Western Finance Association, of which the petitioner is also a member.

A degree, number of years of experience, and even passage of a competitive examination are not outstanding achievements in the field as judged by recognized national experts. Thus, we concur with the director that the petitioner does not meet 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 asserts that the petitioner meets this criterion both through his job responsibilities of evaluating his subordinates and his invitations to referee submitted articles for economic journals. The petitioner submitted a letter from [REDACTED] an Associate Professor at Rutgers University and associate editor for two economic journals, confirming that the petitioner "was invited as a journal referee" for three papers. We note that Dr. [REDACTED] indicates in another letter that he was the petitioner's Ph.D. academic advisor at Pennsylvania State University.

The director concluded that work responsibilities are not the type of judging contemplated by the regulations and that the record lacked evidence of the selection criteria for serving as a reviewer. On appeal, counsel asserts that the director did not request such evidence in the request for additional evidence and asserts that only experts in the field are chosen to review articles submitted for publication. The petitioner submits another request to review an article. This request is dated after the date of filing and cannot be considered evidence of the petitioner's 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).

All of the evidence must be evaluated as to whether it is indicative of or consistent with national or international acclaim. Not every supervisor, editor, teacher or coach is one of the very few at the top of his or her field. As such, we concur with the director that one's supervisory job duties are not the type of judging contemplated by the regulations. The petitioner's role for his employer will be considered below.

In addition, being requested to review an article by one's own former advisor is not evidence of national or international acclaim. Moreover, we cannot ignore that scientific journals are peer reviewed and rely on many scientists to review submitted articles. Thus, peer review is routine in the field; not every peer reviewer enjoys sustained national or international acclaim. Without evidence that sets the petitioner apart from others in his field, such as evidence that he has reviewed an unusually large number of articles, received independent requests from a substantial number of journals, or served in an editorial position for a distinguished journal, we cannot conclude that the petitioner meets this criterion.

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

The director concluded that the petitioner had not demonstrated that his work had been recognized for its significance. On appeal, counsel asserts that the director erred in failing to consider the reference letters submitted in support of the petition. We will consider these letters below.

Dr. [REDACTED], a senior economist with the U.S. Department of Agriculture (USDA), asserts that the petitioner provided "helpful service for the mutual understanding of economic conditions" between the United States and China as an exchange student in 1988. He concludes that the petitioner's recent work "would enhance the understanding of futures market[s] and benefit U.S. farmers."

Dr. [REDACTED] asserts that the petitioner's work provides "new methods to understand and forecast price movement in national markets," which can promote stability of these markets by providing more accurate forecasts. In one of his articles, the petitioner "redefined the term 'mean reversion.'" Specifically, the petitioner "used an equilibrium model to derive the relationship between future and spot prices with a second derivative and using daily data to test the pattern of price movement in relation to mean reversion." Dr. [REDACTED] characterizes this work as "ground breaking" and "a significant contribution to financial market research." Dr. [REDACTED] notes that the work was accepted for presentation and publication.

In a second article, the petitioner "proposed and tested new selection criteria to combine different forecasts." Dr. [REDACTED] characterizes this work as "cutting edge." He concludes that the work "will revolutionize the way forecasts are made" and opines that this method's "potential application is no doubt economy wide." Finally, the petitioner used novel tools to calculate mean reversions "never being done before" and "tested arbitrage strategies that took advanced of his models." Dr. [REDACTED] asserts that this work "was significant in helping the industry to understand better how prices co-moved and whether there were profitable ways to trade on those irregular co-movements."

In order to establish eligibility under this criterion, a petitioner must demonstrate contributions already viewed in the field as having major significance. The assurances of one's coauthor and mentor that one's work may eventually have such an impact is insufficient. The record contains no evidence that the papers referenced by Dr. [REDACTED] have been widely cited, are routinely used as reading material in multiple economics courses around the nation, or are relied upon by multiple investment firms beyond the petitioner's employer.

At the time of filing, the petitioner was working as a principal researcher at [REDACTED], a division of [REDACTED], Director of Research at [REDACTED], discusses the importance of independent research firms, such as [REDACTED] in producing less biased recommendations than Wall Street companies affiliated with investment banking businesses. The importance of one's field does not mandate a

finding that any contribution to that field is a contribution of major significance to the field. Rather, we must evaluate the actual impact the petitioner's work has had.

Mr. [REDACTED] asserts that [REDACTED] stock selection models are "well known in the industry" and that the petitioner "has been instrumental in improving several key aspects" of [REDACTED] redesigned Value Alert (VA) model, one of its "most successful products." Mr. [REDACTED] that VA produced a low rating for Enron stock prior to the disclosures of its accounting abuses and asserts that "Schwab has launched a nationwide campaign to make the [REDACTED] model-based Schwab Equity Rating available to the general public." Finally, Mr. [REDACTED] asserts that the petitioner correctly predicted how the market would react to the Goodwill accounting rule changes provided "insightful and unmatched" conclusions on the usefulness of legal insider stock trading information.

Prior to his employment for [REDACTED] the petitioner worked as an equity analyst for [REDACTED] Investment Management, Inc. [REDACTED], former Chief Investment Officer at [REDACTED] reiterates the importance of unbiased market research. Mr. [REDACTED] asserts that the petitioner's work at [REDACTED] benefited the company's clients and "enhanced the development of quantitative disciplines in the investment management business." Mr. [REDACTED] provides several examples of models the petitioner either developed or improved at [REDACTED] asserting that they were more accurate and state of the art than models at other companies. The record contains no evidence that these models have influenced the field, such as newspaper articles attesting to the accuracy of Aeltus models or attestations from other investment firms.

The only claim to rely on the petitioner's models is from Dr. [REDACTED] Director of Research at one of [REDACTED] clients, Traveler's Investment Management Company. That the petitioner has produced models used by the clients of his employer is not indicative of the model's major significance in the field.

In response to the director's request for additional evidence, the petitioner submitted a new letter from Mr. [REDACTED] asserts that the models developed by the petitioner allow greater accuracy and earlier detection of aberrant stock behavior. Mr. [REDACTED] notes that [REDACTED] has many large financial management companies with their own in-house research teams as clients, demonstrating the impact of the petitioner's work. The petitioner submitted a list of [REDACTED] clients.

The petitioner was hired by [REDACTED] to devise and improve econometric models. The record establishes that he is succeeding at his job. Successful fulfillment of one's job duties is not necessarily a contribution of major significance. While [REDACTED] may have several prestigious clients, the record lacks evidence that these are new clients attracted to [REDACTED] based on the notoriety of the petitioner's models. As with the petitioner's models for [REDACTED] the record contains no evidence that trade publications have noted the superiority of [REDACTED] s econometrics models.

While the petitioner's research is no doubt of value, it can be argued that any research must be shown to be original and present some benefit if it is to receive funding and attention from the economic community. An economic researcher is expected to develop and improve economic models. It does not follow that every researcher who performs original research that adds to the general pool of knowledge or who develops improved models has made a contribution of *major significance*.

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 copies of his four authored articles and his presentation. The director concluded that the petitioner meets this criterion. Citations or similar evidence demonstrating the impact this work has had on the field would have made the petitioner's claim to meet this criterion more persuasive.

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

Counsel did not initially assert that the petitioner meets this criterion. In his decision, the director concluded that the petitioner did not meet this criterion. On appeal, despite never having previously claimed that the petitioner meets this criterion, counsel challenges the director's conclusion as a "disregard for the evidence we have submitted." Counsel now asserts that the petitioner is a Senior Quantitative Analyst for [REDACTED] a critical role for the success of the company. While counsel refers to an attached organization chart and position descriptions, that evidence was not included with the appeal.

At the time of filing, the petitioner was a principal researcher at [REDACTED]. Mr. [REDACTED] describes the petitioner as a "key contributor" to [REDACTED]'s research platforms. We have already considered the petitioner's contributions above. In evaluating a claim to meet this criterion, we look at the nature of the role the petitioner was hired to fill. The record lacks evidence regarding how many principal researchers work for [REDACTED]. The record does not confirm that principal researchers play a critical role for [REDACTED] above and beyond the obvious fact that [REDACTED] business requires it to employ competent researchers.

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 evidence that the level two wage in Zone 5 for financial analysts is \$61,797. The petitioner also submitted a letter from Charles Schwab confirming his employment as a Principal Researcher with [REDACTED] a division of Charles Schwab, with a salary of \$120,000. The director concluded that the petitioner had not compared his salary with those in the same occupation.

On appeal, counsel does not address this criterion. In order to meet this criterion, a petitioner must provide evidence not that he earns more than the prevailing wage, but that his salary compares with the wages of the most experienced and renowned experts in the field nationwide. Such evidence is lacking in the record.

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 senior quantitative analyst 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 senior quantitative analyst, 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.

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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.