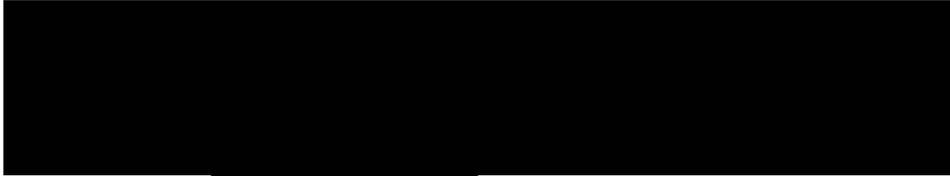




U.S. Citizenship
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Petitioner:

Beneficiary:



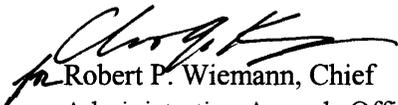
PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

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, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner, a commercial printing company, seeks to classify the beneficiary 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 that the beneficiary has earned the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

On appeal, the petitioner argues that the beneficiary 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, 60898-9 (November 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 the beneficiary has sustained national or international acclaim at the very top level.

This petition, filed on October 13, 2005, seeks to classify the beneficiary as an alien with extraordinary ability as an “executive manager and business management consultant.” Since 2002, the beneficiary has worked for Impressions, Inc. as a business management consultant and has also served as the company’s president.

The petitioner submitted evidence showing that in 1969 the beneficiary earned a Bachelor of Education degree and a Bachelor of Science degree from Memorial University of Newfoundland. In 1972, the beneficiary earned a Master of Science degree (Planning) from the University of British Columbia. According to his resume, between 1972 and 1984, the beneficiary worked as Director of City Planning in St. John's, Canada; as a Federal Negotiator and Federal Chairman for the Department of Regional Economic Expansion (DREE), Canada; as Executive Director of the Gander Development Corporation (managing development issues for the Town of Gander and the Gander International Airport), Canada; and as a Branch Director with Federal Fisheries in Canada. From 1982 through 1992, the beneficiary was Chief Executive Officer (CEO) and President of Orme's Bakery, Inc., in Canada. Since that time, the beneficiary has served as President of Yorkisle Capital Corporation in Canada from 1991 through 1999, as a Management Consultant and Planner for the Arizona State Asset Management Division in 1999, as a Senior Management Consultant with George S. May International Company in California in 2000, as a Senior Management Consultant with International Profit Associates from 2000 through 2003, and first as a Business Management Consultant and later as President for the petitioner since 2002.

On appeal, the petitioner submits a September 10, 2006 letter from [REDACTED], CEO and Chairman, Impressions, Inc., stating:

The decision letter writer seemed to insinuate that maybe [the beneficiary] did not have these work experiences, which both [the beneficiary] and I felt was an offensive attack. I personally felt that the decision letter writer basically did not believe me nor [the beneficiary's] credentials and as an American I found it appalling and offensive

The petitioner also submits a September 4, 2006 letter from the beneficiary stating:

I concur that the decision letter has an overall undesirable tone that seems negative [P]age 5 paragraph 1, sentence 4, states: "the record contains little documentary evidence verifying these claimed positions. While the positions are listed on the beneficiary's resume, there is no evidence in the file from the government employers discussing the beneficiary's duties or indicating that he judged the work of others." The use of the word claimed positions is as if the writer does not believe my resume. Page 6, paragraph 3, sentence 7, the decision writer again uses the word claimed twice where it states: "The petitioner also claims the beneficiary's claimed federal employment with the Canadian government."

Nowhere in the director's decision is there any statement indicating that the information provided in the beneficiary's resume is false or not credible. Nevertheless, we agree with the director that the information in the resume prepared by the beneficiary is not sufficient evidence of his qualifying experience or achievements. The regulation at 8 C.F.R. § 204.5(g) states, in pertinent part: "Evidence relating to qualifying experience or training shall be in the form of letter(s) from current or former employer(s) or trainer(s) and shall include the name, address, and title of the writer, and a specific description of the duties performed by the alien or of the training received." In the examples cited by the beneficiary, the director's decision was not questioning the credibility of his credentials, but simply noting the absence of objective evidence as required by the regulatory criteria at 8 C.F.R. §§ 204.5(h)(3)(iv) and (viii). A petition must be filed with the initial evidence required by regulation. 8 C.F.R. § 103.2(b)(1). The non-existence or other unavailability of required evidence

creates a presumption of ineligibility. 8 C.F.R. § 103.2(b)(2). The director's finding that the information in beneficiary's resume did not constitute qualifying evidence of the specific achievements required by the regulatory criteria at 8 C.F.R. § 204.5(h)(3) is consistent with CIS's regulations and the statute's requirement for "extensive documentation" of sustained national or international acclaim. See section 203(b)(1)(A)(i) of the Act.

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 receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

In addressing the evidence for this criterion, the director's decision stated:

In response to the Service's request, the petitioner references an "international competition" for the position of "Director, Asset Management and Master Planning as a Management Consultant and Planner to start up a new division for the State of Arizona." The petitioner submitted a statement from the Arizona State Land Department, dated May 11, 1999 and apparently written in conjunction with a petition to accord the beneficiary TN nonimmigrant status, which indicates that the department advertised the position for several months and selected the beneficiary for the position from the final qualified candidates. This is neither a national or international award or prize. Rather, this was a job offer for a temporary position. It cannot be concluded that everyone who is selected for a position over other candidates has won an [sic] prize or award, or has achieved sustained national or international acclaim. Therefore, the record does not demonstrate that the beneficiary meets this criterion.

We concur with the director's findings.

On appeal, the petitioner submits a September 10, 2006 letter from [REDACTED] stating that the beneficiary's selection for the Canadian Federal Government's "Executive Interchange Program" in 1978 is "a national award for excellence in executive management." The petitioner also submits an August 8, 2006 letter from [REDACTED] Manager, Interchange Canada Program, Public Service Human Resources Management Agency of Canada, stating:

Per your request, based upon the documents I have, I can confirm the following:

- [The beneficiary] commenced employment with the Department of Regional Economic Expansion (DREE) on September 23, 1974 as an Implementation Officer (C02).
- [The beneficiary] was promoted to a Senior Implementation Officer (C03) on November 01, 1976 while with DREE.
- [The beneficiary] went on Special Assignment for DREE in New Brunswick in 1977—1978.
- [The beneficiary] went on Executive Interchange to the Gander Development Corporation in 1978 – 1979
- [The beneficiary] was promoted to A/Director, Atlantic Fisheries Programs Branch with Federal Fisheries on June 25, 1979, which was an SX-01 executive position. Regarding your question as to the level of this position in a federal departmental organization, a Director position in the federal government is normally the fourth highest position below the Deputy Minister, Asst. Deputy Minister and Director General positions.

You specifically requested information on the Executive Interchange Program that [the beneficiary] participated on during 1978 – 1979. The Executive Interchange Program was established in 1971 through an initiative announced by [REDACTED] former Prime Minister of Canada for executive-level employees. It provided senior executives with up to a two-year assignment in another sector. Those who were nominated for the Executive Interchange Program were considered to be the top of the class candidates and therefore very few executives were selected each year. Any candidate selected for Executive Interchange from 1971 to the mid 1980s could only be approved at the highest federal government bureaucratic level, which is Deputy Minister. To enter the Executive Interchange program contractual agreements between the Federal Government and the engaging outside organization were prepared which set out the terms and conditions each party needed to fulfill.

Today, the program continues on a broader scale and is known internationally as the Interchange Canada Program.

There are no available statistics for 1978 when [the beneficiary] was on Executive Interchange but between 1971 and 1982, there were only 35 executive-level federal employees selected for assignment to a Canadian Crown Corporation.

The petitioner also submits labor statistics showing the total number of federal employees working in Canada each year from 2001 through 2005. Amelia Young states that these statistics show that “in 2001 there were 440,462 employees. Assuming 400,000 federal employees in 1978 and assuming only 3 executive-level employees were chosen for Federal Executive Interchange, this would put [the beneficiary] in the top $3/400,000 = .0000075\%$ of all eligible federal employees.” The record, however, includes no official statistics for 1978, nor information regarding the number of managers eligible for nomination to the program at that time. Nevertheless, we do not find that eligibility for “a two-year assignment in another sector” of the federal government is tantamount to the beneficiary’s receipt of a nationally or internationally recognized prize or award for excellence. Further, there is no evidence showing that being selected for this program commanded a significant level of recognition outside of the participating organizational components. The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(i), however, specifically requires that the awards or prizes be nationally or

internationally *recognized* in the field of endeavor and it is the petitioner's burden to establish every element of a given criterion.

The petitioner also submits an August 9, 2006 letter from [REDACTED] who states that he "was employed with the Federal Government of Canada for 30 years and retired in August 2004" and that his "first job was with the DREE, the same Department that [the beneficiary] joined in September 1974." Vincent Pike further states:

I recall that around 1977 – 1978[,] [REDACTED], who was . . . Assistant Deputy Minister in Moncton, NB, asked [the beneficiary] to go on a special assignment in Moncton, New Brunswick to renegotiate a previous \$100 million program for the three maritime provinces. . . . To negotiate a critical multi million dollar agreement with three Provincial Governments and their senior executive staff was a very big assignment. It was an honor that one of our professional colleagues in our office was requested to undertake such a prestige [sic] assignment.

Amelia Young states that the letter from [REDACTED] "shows that the Special Assignment qualifies for a lesser National Award and meets this criterion." The task to which the beneficiary was assigned by his superior, however, is not tantamount to the beneficiary's receipt of a nationally or internationally recognized prize or award for excellence.

The petitioner also submits local newspaper articles reflecting that the beneficiary received various student honors during his high school years. For example, the beneficiary was identified as a first runner up in an essay contest sponsored by the Great Falls Branch of the Canadian Legion and as a winner in another essay contest sponsored by the local Kinsmen Service Organization. The beneficiary also received a Strathcona Trust Trophy in 1962 for outstanding cadet in the Great Falls Academy (New Brunswick) Central High School Cadet Corps and was selected to attend the Summer Army Camp at Banff. At this national summer cadet camp, the beneficiary was judged "best cadet . . . in D Company." The September 4, 2006 letter from the beneficiary states that he "was one of just four Best Cadets for all of Canada, a true National Award at the age of 17." In addition, the beneficiary was awarded a "Master Cadet Star" by the Company Commander of the Great Falls Academy Army Cadet Corps, "the highest achievement that a cadet can attain." The record, however, does not establish that these honors were for excellent achievement in the beneficiary's field of endeavor, business management, or that they were consistent with sustained national acclaim at the very top of the beneficiary's field.

The petitioner also submits a local newspaper article stating: "[The beneficiary] received two fellowships while at U.B.C. [University of British Columbia] in 1970-1971. He was awarded the Richard King Mellon Fellowship and in 1971-1972, the Central Mortgage and Housing Fellowship." The September 4, 2006 letter from the beneficiary states that these fellowships "are prestigious awards" and that the Central Mortgage and Housing Fellowship "is a National Fellowship that is only offered to a very few select graduate students after a National Examination Application process." We do not find that selection for these educational fellowships constitutes the beneficiary's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. The preceding fellowships were intended to provide funding for students seeking to pursue their graduate studies rather than to recognize excellence among those already active in the business management field. University study is not a field of endeavor, but rather training for future employment in a field of endeavor. Receiving funding for one's education, while an academic honor, is not

an indication that an individual has reached the “very top of the field of endeavor.” See 8 C.F.R. § 204.5(h)(2).

In light of the above, the petitioner has not established that the beneficiary 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.

In addressing the evidence for this criterion, the director's decision stated:

The record establishes that the beneficiary is a member of the Institute of Management Consultants USA (IMC USA), the Canadian Institute of Planners (CIP), the Atlantic Planners Institute (API), and the American Society of Planning Officials (ASPO). The initial submission contained no evidence regarding the criteria for membership into any of these organizations. The Service requested this information. While the petitioner submitted additional information regarding IMC USA and CIP, the petitioner did not address or provide any evidence regarding API or ASPO. Without such information, the record cannot establish that membership in API or ASPO meets this criterion.

The record indicates that a Professional Member of IMC USA must be a practicing management consultant or potential management consultant who agrees to subscribe to the IMC USA Code of Ethics and meets at least one of the following criteria: minimum of one year experience as a management consultant; at least five years experience in management; at least five years experience in a technical or professional specialty; a Master's Degree in Business or a related field; or be currently working as a consultant within an IMC Accredited Practice. From this, it is clear that IMC USA does not require outstanding achievements as judged by nationally or internationally recognized experts in the field.

The record indicates that the CIP has membership qualifications relating to people who have a recognized degree, a related degree, an unrelated degree, or who are members of the profession in other countries. As the beneficiary has a recognized degree, the Service will only discuss those qualifications. Specifically, membership may be granted to those who have a recognized degree in planning, who have applied for and been elected as a Provisional member, who have subsequently completed a minimum of two years of responsible professional planning experience which has been recorded in a log book, and who has successfully completed an oral examination. Provisional membership may be granted based on a degree alone. This clearly indicates that CIP does not required outstanding achievements as considered by regulations.

Therefore, the record does not demonstrate that the beneficiary is a member of an association which requires outstanding achievements or that the beneficiary was judged by national or international experts in consideration of his membership in IMC USA, CIP, API, and ASPO. Thus, the record does not demonstrate that the beneficiary meets this criterion.

We concur with the director's findings.

On appeal, the petitioner submits a May 30, 2006 letter from [REDACTED] Manager, Member Services and Administration, CIP, stating that the beneficiary is a “certified member” of the CIP and that the organization has “over 6800 members . . . of which 3600 Members are certified MCIP’s.”

In his September 4, 2006 letter, the beneficiary notes that membership requirements for the API, a regional affiliate of the CIP, were provided as they fall under the national charter of the CIP. Nevertheless, based on a reading of the CIP’s bylaws contained in the record, we do not find that the API or the CIP require outstanding achievements of their members, as judged by recognized national or international experts. Earning a requisite degree, completing two years of professional experience, and successfully passing an oral examination to the satisfaction of a regional affiliate to obtain “certified” membership in the CIP simply do not rise to the level of “outstanding achievements” as required by the regulation.

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

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

Although the petitioner does not claim that the beneficiary meets this criterion, the appellate submission included several local newspaper articles from the early 1960s, one from 1972, and two from 1996, that mention the beneficiary. There is no evidence showing that the newspapers in which these articles were published qualify as “professional or major trade publications or other major media.” Further, the authors of the articles from the early 1960s and 1972 were not identified as required by this criterion. Thus, the petitioner has not established that the beneficiary 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 regulation at 8 C.F.R. § 204.5(h)(3) provides that “a petition for an alien of extraordinary ability must be accompanied by evidence that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise.” Evidence of the beneficiary’s participation as a judge must be evaluated in terms of these requirements. The weight given to evidence submitted to fulfill the criterion at 8 C.F.R. § 204.5(h)(3)(iv), therefore, depends on the extent to which such evidence demonstrates, reflects, or is consistent with sustained national or international acclaim at the very top of the alien’s field of endeavor. 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).

In addressing the evidence for this criterion, the director’s decision stated:

The petitioner . . . states that “it is apparent that as a Federal Director, as a Federal Chairman, as an Executive Director and in such other senior management positions, it is obvious that at such executive positions that [the beneficiary] hired, fired and judged the work of others.” However, it is noted that

the record contains little documentary evidence verifying these claimed positions. While the positions are listed on the beneficiary's resume, there is no evidence in the file from the government employers discussing the beneficiary's duties or indicating that he judged the work of others in the field. The record contains some reports written by the beneficiary as a consultant to the government, but nothing to show that he judged the work of others. The petitioner did submit meeting minutes downloaded from a website which list the beneficiary as "Director," but there is again nothing to demonstrate that the beneficiary was actively judging the work of others.

The petitioner also refers to the fact that "for the past 3 years here in this company [the beneficiary] has been overseeing every manager's work." In an occupation where 'judging' the work of others is an inherent duty of the occupation, such as management occupations with subordinate employees, simply performing one's job related duties demonstrates competency, and is not evidence of national or international acclaim.

We concur with the director's findings.

On appeal, the petitioner submits the beneficiary's June 30, 1977 "Performance Review and Evaluation Report" listing his primary responsibilities as a Senior Implementation Officer for the DREE. According to the Performance Review and Evaluation Report, the beneficiary's responsibilities were performed "[u]nder the general direction of the Manager, Program Implementation" and there is no indication that he participated either individually or on a panel, as a judge of the work of others.

The petitioner also submits a March 31, 1979 letter from [REDACTED], President, Gander Development Corporation, describing actions taken by the beneficiary as Executive Director and stating that he "has met the objectives of the Board." Nothing in the March 31, 1979 letter indicates that he participated either individually or on a panel, as a judge of the work of others.

The record also includes a May 11, 1999 letter from [REDACTED], State Land Commissioner, Arizona State Land Department, describing a job offer to the beneficiary and two accompanying position descriptions. This documentation, which was issued prior to the beneficiary's employment for the department, does not contain information establishing that he participated either individually or on a panel, as a judge of the work of others.

An October 3, 2002 letter from [REDACTED], President, Battlefield Graphics, Inc. states that the beneficiary's consulting services helped the company to implement necessary changes and achieve "positive promised results." However, we do not find that that providing management consulting services is tantamount to judging the work of others for purposes of this criterion.

In the preceding instances, there is no evidence showing the names of the individuals judged by the beneficiary, their level of expertise, the paperwork documenting his evaluations, or the exact dates of his participation. The benefit sought in the present matter, however, is not the type for which documentation is typically unavailable and the statute specifically requires "extensive documentation" to establish eligibility. See section 203(b)(1)(A)(i) of the Act. The commentary for the proposed regulations implementing this statute provide that the "intent of Congress that a very high standard be set for aliens of extraordinary ability is reflected in this regulation by requiring the petitioner to present more extensive documentation than that required" for

lesser classifications. 56 Fed. Reg. 30703, 30704 (July 5, 1991). Further, we agree with the director that the beneficiary's performance of job duties inherent to his occupation demonstrates competency rather than sustained national or international acclaim. General managerial or consulting responsibilities, such as administering programs and projects, directing staff, hiring and firing personnel, or providing business guidance, are not tantamount to judging the work of others in the field in a manner consistent with sustained national or international acclaim.

Without substantive evidence showing that the beneficiary participated in judging others in his or an allied field in a manner indicative of sustained national or international acclaim, we cannot conclude 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.

In addressing the evidence for this criterion, the director's decision stated:

In response to the Service's request, the petitioner . . . references witness letters from companies which have retained the beneficiary as a management consultant. While it appears that the beneficiary made contributions to each of these companies, it is not clear that his contributions were original or that such contributions affected the field as a whole. There is nothing to indicate that, as a management consultant, the beneficiary developed new theories or processes which have been widely adopted in the field or otherwise had major significance. While the beneficiary's contributions likely had some significance for his employers, there is nothing to demonstrate that the contributions were original or were of major significance to the field at large. Therefore, the record does not demonstrate that the beneficiary meets this criterion.

We concur with the director's findings. While the beneficiary is a skilled manager who has clearly earned the admiration of his past and present employers, there is no evidence showing that the work attributable to him has had a substantial impact beyond his employers such that it can be considered a business-related contribution of "major significance in the field." For example, the record does not show that the greater field has somehow changed as a result of the beneficiary's business management techniques. With regard to the personal recommendation of individuals who have worked with the beneficiary, the source of the recommendations is a highly relevant consideration. These letters are not first-hand evidence that the beneficiary has achieved recognition for his contributions outside of those for whom he has worked consistent with the requisite "sustained national or international acclaim." See section 203(b)(1)(A)(i) of the Act.

In light of the above, the petitioner has not established that the beneficiary 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.

In addressing the evidence for this criterion, the director's decision stated:

The initial submission contained several internal reports generated by the beneficiary for employers. There is nothing to indicate that these reports were published in professional or major trade publications or other major media. The petitioner was requested to provide additional evidence that the beneficiary meets this criterion. The response contains evidence that the beneficiary has one publication, "Newfoundland Bait Service: a cost recovery alternative" (1980), located in the Library and Archives Canada and Memorial University of Newfoundland, and a second publication, "Public Attitudes Toward Mobile Homes" (1972), located in an unknown library. There are no copies or specific information regarding either publication, and it is not clear if they were scholarly articles or if they were published in professional or major trade publication[s] or other major media. It is noted that the second listed publication is from the same year the beneficiary received his Master's Degree, and may possibly be his thesis, which would not meet this criterion. Without additional information regarding these publications, the record does not demonstrate that the beneficiary meets this criterion.

We concur with the director's findings.

On appeal, the petitioner submits a listing of six investigative reports prepared by the beneficiary in federal service and a listing of eight "confidential federal policy papers" prepared by committees on which he served. Copies of the listed reports and papers were not submitted. 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)). In addressing the papers and reports he prepared for the government, the September 4, 2006 letter from the beneficiary states: "I believe this is equivalent or in higher regard than just having the paper read in a trade publication, where anyone can write at any time. I believe this falls under *other media* and meets the criteria [sic]" [emphasis added]. The plain language of this criterion requires the beneficiary's work to appear "in professional or major trade publications or other *major media*" [emphasis added]. The record, however, includes no evidence showing that the beneficiary's governmental reports and papers appeared in one of the *major* publications in his field. For example, the petitioner failed to submit circulation statistics for the beneficiary's reports and papers.

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

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

In addressing the evidence for this criterion, the director's decision stated:

In the initial submission, the petitioner claimed all of the beneficiary's prior employment under this criterion, including part-time instructor duties with Memorial University of Newfoundland, a position with Gander Development Corporation, and third party management consultant duties for Battlefield Graphics, Hertel Meats, Ltd., RNR Mechanical Contr[actors], Urban Wood Waste Recycle[r]s, Matthews Studio Equipment, the petitioning entity, Tire Management, JAL Construction Inc., American Video Systems, Custom Design Countertops, Apache Machine & Mfg., Land & Sea, and Yell Concrete. The petitioner also claims the beneficiary's claimed federal employment with the

Canadian government, but . . . the record contains no specific information or corroborative documentation regarding his duties or specific employment.

On appeal, the petitioner submits the August 8, 2006 letter from [REDACTED] and the August 9, 2006 letter from [REDACTED] confirming the beneficiary's federal employment and describing his various job assignments. Regarding the beneficiary's work for the DREE, there is no evidence showing that his work was more important than that of the other Implementation Officers or Senior Implementation Officers who worked for this agency. Further, the evidence shows that the preceding positions held by the beneficiary were subordinate to the Deputy Minister, Asst. Deputy Minister, Director General, and Director. Regarding the beneficiary's Executive Interchange assignment to the Gander Development Corporation, the March 31, 1979 letter from [REDACTED], President of the Gander Development Corporation, stated that it was "too early to comment on the success of [the beneficiary's] activities," but that he had "met the objectives of the Board during this past year." [REDACTED] further stated: "[The beneficiary] came to us at a time when our objectives were fairly well established and the need was for an organizer with administrative ability . . ." From this letter, it appears that the President and Board members played a significant and authoritative role in the corporation, but there is nothing in the record indicating that the beneficiary's role was of comparable significance. While the beneficiary is credited with meeting "the objectives of the Board," the record does not demonstrate that the beneficiary was responsible for the organization's success or standing to a degree consistent with the meaning of "leading or critical role." In regard to the beneficiary's work as A/Director of the Atlantic Fisheries Programs Branch of Canadian Federal Fisheries, there is no evidence showing that the beneficiary's work was more important than that of the other A/Directors or other senior managers who worked for Federal Fisheries. Further, the evidence shows that the A/Director position held by the beneficiary was subordinate to the Deputy Minister, Asst. Deputy Minister, and Director General. Finally, there is no evidence showing that the preceding organizations had distinguished reputations.

The director's decision further stated:

Regarding the beneficiary's management consultant duties with the above listed entities, the petitioner submitted a number of statements attesting to the beneficiary's activities as a consultant and the satisfaction of the clients. However, none of the letters demonstrate how the beneficiary's role was leading or critical to the organization. It appears that the beneficiary was simply contracted as a third party consultant to these companies for short periods of time, in one case only two weeks. While the beneficiary recommended and implemented changes for the companies, this is the very nature of a management consultant position, and it is not clear how an outside party working with a company for a limited time could have played a "leading or critical role" as considered by regulations. Further, the record contains no evidence to demonstrate that any of these companies have a distinguished reputation.

We concur with the director's findings.

On appeal, the petitioner submits an article printed in *Heidelberg News*, a "customer magazine" distributed by Heidelberg, a company that sells and services printing equipment, to its clients. The article discusses how Battlefield Graphics was better able to serve its customers after acquiring a Speedmaster SM 102 printing press from Heidelberg. The article notes that Battlefield Graphics' customers "chiefly come from Ontario" and that the

new printing press helped the company “increase its market share.” We do not find that this one article, appearing in a Heidelberg marketing publication (a company that is an immediate supplier of Battlefield Graphics), is adequate to demonstrate Battlefield Graphics’ distinguished reputation in the industry. Further, we note the beneficiary’s statement on appeal that his consultant work at Battlefield Graphics lasted “about 9 – 10 weeks.” Further, the record does not demonstrate that the beneficiary was responsible for this company’s success or standing in the same manner as its owners [REDACTED] and [REDACTED] who, unlike the beneficiary, control and manage their company. We agree with the director’s finding that the beneficiary’s brief work as a hired consultant for Battlefield Graphics was not tantamount to a “leading or critical role” for the company.

In addressing the beneficiary’s role for Impressions, Inc., the director’s decision stated:

The record does contain documentation that the beneficiary has played an important role with the petitioning entity and has helped keep the company from bankruptcy. However, the record contains no documentation demonstrating that the petitioning entity has a distinguished reputation.

* * *

The statements from Elkhart Community Bank and MFB Bank again state that the beneficiary has helped turn around the profits of the company, and that the company’s loans with Elkhart are contingent on the beneficiary’s continued management role. While this again suggests that the beneficiary’s role within the petitioning entity is leading or critical, it does not demonstrate that the petitioning organization holds a distinguished reputation. The petitioner contends that the customer list provided shows that the company has a distinguished reputation based on the reputation of several of the customers, such as Indiana University, Notre Dame, or Owens Corning. However, this list was internally produced and was not accompanied by any corroborative evidence that these entities are actually customers of the petitioner. In fact, the record lacks any documentary evidence establishing the reputation of the petitioning employer. As such, the record does not sufficiently demonstrate that the beneficiary has played a leading or critical role for an organization with a distinguished reputation.

On appeal, the petitioner re-submits Impressions, Inc.’s customer list as certified by the company’s accountant, various invoices confirming the company’s customer relationships, and samples of material printed by the company. While the preceding documentation is sufficient to show that Impressions, Inc. has done business with various companies and educational institutions, it is not sufficient to show that the company enjoys a distinguished reputation in its industry. The petitioner also submits examples of several award certificates presented to Impressions, Inc. for quality of materials it printed for its customers, but the significance and magnitude of these awards in relation to the company’s general reputation in its industry have not been established.

Regarding the beneficiary’s role for the Arizona State Land Department, the May 11, 1999 from [REDACTED] states: “In this position, [the beneficiary] would work directly under my supervision as a Management Consultant, to organize and start up a new division of ‘Asset Management & Master Planning’ as director. The position is uncovered, thus is temporary and is thus offered for one year at a salary of \$61,943 annually” The record, however, does not demonstrate that the beneficiary, in his “temporary” position for the state, was

responsible for the department's success or standing to a degree consistent with the meaning of "leading or critical role." Further, there is no evidence showing that the beneficiary's division had a distinguished reputation.

In light of the above, the petitioner has not established that the beneficiary 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.

In addressing the evidence for this criterion, the director's decision stated:

The petitioner initially claimed this criterion, citing the beneficiary's employment within the petitioning entity. The evidence included a job offer letter citing a base salary of \$2,600.00 per week (\$135,200.00 per year); an incentive bonus commission at 2.5% of sales in excess of \$4.3 million, benefits including pension, vacation, and medical for an estimated \$23,000.00 per year; and travel expenses from the beneficiary's residence in Surprise, Arizona to the petitioner's place of business in Elkhart, Indiana along with accommodations and per diem estimated at \$50,000.00 per year. This indicates an estimated \$208,200.00 salary per year plus bonuses. However, the record lacked any documentation regarding the salaries of others in the field of business management.

The Service's correspondence requested the petitioner to submit clear documentation regarding the nationwide salaries of others in the field and to submit documentation that the beneficiary's own salary is significantly high.

In response, the petitioner submitted a statement from the company's accountant along with a 2003-2004 survey. The statement indicates that, for calendar year 2004, the beneficiary received total pay and benefits in the amount of \$266,461.82. The only evidence regarding the salaries of others in the field was a copy of two pages of a 200+ page survey conducted by the Graphic Arts Technical Foundation and the Printing Industries of America regarding management and administrative compensation in the printing industry. As the petitioner submitted so little of the survey, it is not clear how the survey was conducted, who was surveyed, or whether it is representative of nationwide salaries in the field. It does appear that the survey was limited to those working specifically in the printing field as opposed to management employees in general. The record clearly shows that the beneficiary has worked in management dealing with a number of fields. The fact that the petitioner itself is a printing company does not mean that the beneficiary's field is limited to management of printing companies.

Further, the petitioner submitted only two pages from the report, the first which dealt with firms with 20 to 49 employees, and the other which dealt with sheetfed companies. It appears that the petitioner is attempting to limit the beneficiary's field, but the Service must take into consideration whether the beneficiary is extraordinary in the field of management overall, not whether he is extraordinary at managing printing companies with between 20 to 49 employees. Further, it appears that the survey was extremely limited, as it only collected salary data [sic] for presidents from 54 companies with 20 to 49 employees and 89 companies which specialize in sheetfed printing. This does not appear to be adequately representative of nationwide salaries and remuneration in the field of management.

We concur with the director's findings. Regarding the beneficiary's compensation for 2004, aside from the correspondence bearing the petitioner's letterhead dated June 5, 2003; November 1, 2004; and May 26, 2006, we note that the record includes no supporting evidence (such as an income tax form or Form W-2, Wage and Tax Statement) showing the beneficiary's actual earnings for 2004 as reported to the Internal Revenue Service. 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. at 165.

On appeal, the petitioner submits "mean annual wage" statistics for "Management Occupations" and "General and Operations Managers" printed from the U.S. Department of Labor's Bureau of Labor Statistics internet site. According to the information submitted by the petitioner, the "Management Occupations" grouping includes jobs as diverse as "Farm, Ranch, and Other Agricultural Managers," "Food Service Managers," and "Funeral Directors." We note here that the beneficiary is a company president. As such, we find that evaluating his compensation in relation to other corporate business executives represents a more relevant comparison than the job categories selected by the petitioner. The petitioner also submits "average total compensation" statistics for "management consultants" and "senior consultants." For example, the 2004 average total compensation for "senior consultants" was \$123,305.¹ In the preceding instances, the petitioner's use of "mean annual wage" and "average total compensation" statistics is not an appropriate basis for comparison. Rather than showing that the beneficiary's salary was simply above average in the field, the petitioner must submit evidence that the beneficiary commanded a "high salary" or other "significantly high remuneration" for services in relation to others in the field indicative of sustained national or international acclaim.

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

We concur with the director's finding that the petitioner has failed to demonstrate the beneficiary's receipt of a major internationally recognized award, or that he meets at least three of the criteria that must be satisfied to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability.

On appeal, the petitioner argues that much of the preceding evidence should also be evaluated pursuant to the regulation at 8 C.F.R. § 204.5(h)(4). This regulation allows for the submission of "comparable evidence," but only if the ten criteria "do not readily apply to the beneficiary's occupation." The regulatory language precludes the consideration of comparable evidence in this case, as there is no indication that eligibility for visa preference in the beneficiary's occupation cannot be established by the ten criteria specified by the regulation at 8 C.F.R. § 204.5(h)(3). In fact, the September 10, 2006 letter submitted by the petitioner on appeal states that at least six of the ten criteria apply to the present case.

In conclusion, while the beneficiary is a talented manager of a small business located in Elkhart, Indiana, review of the record does not establish that the beneficiary has distinguished himself to such an extent that he may be

¹ Aside from his salary as president of Impressions, Inc., the only other salary information provided for the beneficiary's senior consulting work is contained in the May 11, 1999 letter from Michael Anable stating: "In this position, [the beneficiary] would work directly under my supervision as a Management Consultant The position is uncovered, thus is temporary and thus offered for one year at a salary of \$61,943 annually"

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 beneficiary's achievements set him significantly above almost all others in his field at the national or international level. Therefore, the petitioner has not established the beneficiary's 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.