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U.S. Citizenship
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Services

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FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: MAY 24 2007
EAC 05 104 51662

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

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

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

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

Maura Deadnick
for Robert P. Wiemann, Chief
Administrative Appeals Office

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

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as an alien of extraordinary ability. The director determined 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.

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 he has sustained national or international acclaim at the very top level.

This petition, filed on March 1, 2005, seeks to classify the petitioner as an alien with extraordinary ability as a “marketing specialist.” The record also reflects that the petitioner has completed training as a real estate professional, sailing and boating enthusiast, and volunteer emergency medical technician.

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. 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.

The petitioner submitted multiple certificates reflecting that he completed training courses in real estate, sail and power boating, windsurfing, emergency medicine and first-aid, business management, hotel and restaurant management, gemology, bookkeeping, amateur radio, bombing response, hazardous materials response, and emergency vehicle operation (ambulance). We do not find that successful completion of such training programs constitutes “receipt of nationally or internationally recognized prizes or awards for excellence” in one’s field. Completing a training course is not indicative of national or international acclaim, nor does it demonstrate that an individual has risen to the very top of his field.

The petitioner also submitted five Merit Mark Awards issued to him by United States Power Squadrons, a Sail and Power Boating organization dedicated to “safe boating through education,” for promoting its interests and objectives. This award reflects internal recognition for organizational service or local volunteer activities rather than national or international recognition for excellence in the field.

The petitioner also submitted the following local awards:

1. Certificate of Appreciation issued by the Mayor of Houston for “contribution to the Hurricane Rita rescue efforts.”
2. Certificate of Appreciation issued by the Scarsdale, New York Volunteer Ambulance Corps (SVAC) “for performing above and beyond in the blizzard of 1996.”
3. “Guchi [sic] Award” issued by the SVAC for the petitioner’s “time and effort in keeping SVAC dressed in high fashion.”
4. Certificate of Appreciation issued by the Westchester, New York Emergency Communications Association for “contributions in connection with public service.”
5. Ten participation certificates issued by the New York Road Runners Club in appreciation of the petitioner’s service as medical volunteer for the New York City Marathon.
6. “Rookie of the Year 1994” award issued to the petitioner by the SVAC.
7. Merit Certificate issued by the Mayor of New York on July 5, 2005 for the petitioner’s “contribution to the safety of New York City.”

We find that the preceding awards reflect local recognition rather than national or international recognition. Further, the latter award, item 7, was issued to the petitioner subsequent to the petition’s filing date. A petitioner must establish eligibility at the time of filing. 8 C.F.R. § 103.2(b)(12); *see Matter of Katigbak*, 14 I&N Dec. 45 (Comm. 1971). Accordingly, the AAO will not consider this certificate in this proceeding.

Regarding the multiple award certificates submitted by the petitioner, there is no evidence of contemporaneous publicity surrounding his receipt of these awards or evidence showing that they command a substantial level of recognition. 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” and it is the petitioner’s burden to establish every element of a given criterion. In this case, there is no documentation from the awarding entities or print media to establish that the petitioner’s awards are nationally or internationally recognized awards for excellence. The plain language of this criterion also requires the petitioner to submit prizes or awards for excellence “in the field of endeavor.” We note that the petitioner seeks extraordinary ability classification as a “marketing specialist” and that the preceding award certificates do not relate to the field of marketing.

In light of the 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.

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

The petitioner submitted evidence indicating that he is a “Senior Member” of United States Power Squadrons, an “Honorary Member” of the American Red Cross, and a member of the American Sailing Association. The record, however, does not include evidence of the membership bylaws or the official admission requirements for these organizations. There is no evidence showing that admission to membership in these organizations required outstanding achievement or that the petitioner was evaluated by national or international experts in consideration of his admission to membership. Further, the plain language of this criterion requires the petitioner to submit documentation of his membership in associations “in the field for which classification is sought.” We do not find that the preceding organizations are marketing related.

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.

In order for published material to meet this criterion, it must be primarily about the petitioner and, as stated in the regulations, be printed in professional or major trade publications or other major media. To qualify as major media, the publication should have significant national or international distribution. An alien would not earn acclaim at the national or international level from a local publication. Some newspapers, such as the

New York Times, nominally serve a particular locality but would qualify as major media because of significant national distribution, unlike small local community papers.¹

The petitioner submitted an article reflecting an interview of him allegedly appearing on page 12 of the *New York Standard*. This article, entitled “EVACUTAION [sic] PROCEDURES LACKING FOR HIGH-RISE APARTMENTS,” misspells the word “evacuation” and is unrelated to the petitioner’s work as a marketing specialist. Doubt cast on any aspect of the petitioner’s proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

The petitioner also submitted an article allegedly appearing on page 39 of *The Marker* entitled “The Otake Secret.”

The petitioner failed to provide the date of the preceding articles as required by the plain language of the criterion at 8 C.F.R. § 204.5(h)(3)(iii). Further, there is no evidence showing that the aforementioned publications were “professional or major trade publications” or had substantial national or international readership.

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.

The petitioner submitted recommendation letters from [REDACTED] of Shuwa Corporation in Japan and [REDACTED] of the American Red Cross, but their letters fail to specify an original contribution of major significance in marketing, real estate, or public safety directly attributable to the petitioner. According to the regulation at 8 C.F.R. § 204.5(h)(3)(v), the petitioner’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 the field, the petitioner must show that his work has had a significant national or international impact. In this case, there is no evidence showing that the petitioner is among the most influential experts currently active in the fields of marketing, real estate, or public safety or that these fields have somehow changed as a result of his work. Without extensive documentation showing that the petitioner’s original contributions have been unusually influential or highly acclaimed at the national or international level, we cannot conclude that he meets this criterion.

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

¹ Even with nationally-circulated newspapers, consideration must be given to the placement of the article. For example, an article that appears in the *Washington Post*, but in a section that is distributed only in Fairfax County, Virginia, for instance, cannot serve to spread an individual’s reputation outside of that county.



The petitioner submitted what is alleged to be an article written by him appearing in *Nikkei Jewelry*. The record, however, includes no evidence showing that the publication featuring this article was a professional or major trade publication or had substantial national or international readership. Nor is there evidence of the field's reaction to this article, or any indication that it is widely viewed as significantly influential.

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

In this case, we concur with the director's finding that the petitioner has failed to demonstrate 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 national or international acclaim necessary to qualify as an alien of extraordinary ability.

Review of the record does not establish that the petitioner has distinguished himself to such an extent that he may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of his field. The evidence is not persuasive that the petitioner's achievements set him significantly above almost all others in his field at the national or international level. 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.