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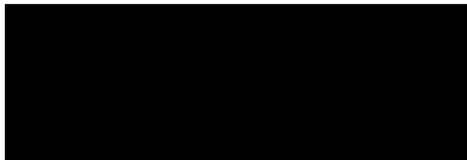
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
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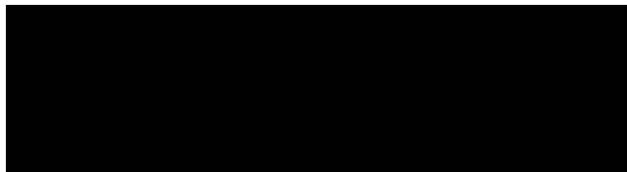


FILE: LIN 07 048 52046 Office: NEBRASKA SERVICE CENTER Date: JUN 18 2008

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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

ON BEHALF OF PETITIONER:



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.


2 Robert P. Wiemann, Chief
Administrative Appeals Office

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

The petitioner seeks classification as an “alien of extraordinary ability” in business, pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A). After issuing a detailed and specific request for additional evidence and considering the response, which failed to address many of the director’s concerns, 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 motion, the petitioner failed to submit the documentation identified by the director as lacking. Thus, the director reaffirmed the initial denial.

On appeal, counsel submits a brief and additional evidence, most of which was already in the record of proceeding. The petitioner has not, however, submitted the evidence noted as lacking by the director, such as evidence of high-level wages in the petitioner’s occupation for comparison purposes and evidence of the circulation of the publications that carried his articles. Even if he had submitted the evidence on appeal, the petitioner was on notice of these deficiencies from the request for additional evidence. Thus, we would have been precluded from considering that evidence on appeal.¹

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

¹ The purpose of the request for evidence is to elicit further information that clarifies whether eligibility for the benefit sought has been established, as of the time the petition is filed. *See* 8 C.F.R. §§ 103.2(b)(8), (12). The failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14).

Where, as here, a petitioner has been put on notice of a deficiency in the evidence and has been given an opportunity to respond to that deficiency, the AAO will not accept evidence offered for the first time on appeal. *See Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); *see also Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988).

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

Citizenship and Immigration Services (CIS) and the 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. The petitioner has submitted evidence that, he claims, meets the following criteria.²

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

Initially, the petitioner submitted evidence that *Executive Excellence Publishing* listed the petitioner as 68th within the top 100 leadership consultants. The introduction to the list provides:

Leadership consultants who make the top 100 possess a rare combination of both substance and presentation style, inspiring action and real world performance, while working tirelessly towards implementing change. Top 100 consultants excel in the areas of: credibility, relevance, originality, practicality, ideas, presentation style, and their guru score (the influence of their work).

While the petitioner submitted this evidence with the initial submission, counsel only asserted that the ranking serves to meet this criterion in response to the director's request for additional evidence. On motion, counsel merely asserted that this evidence demonstrates that the petitioner "has received significant recognition for achievements." The director concluded that the petitioner had failed to demonstrate the significance of this achievement. On appeal, counsel simply requests that CIS consider

² The petitioner does not claim to meet or submit evidence relating to the criteria not discussed in this decision.

