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U.S. Department of Homeland Security  
U. S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
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**U.S. Citizenship  
and Immigration  
Services**



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FILE: [Redacted]  
LIN 07 170 51207

Office: NEBRASKA SERVICE CENTER

Date: **MAY 19 2009**

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

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

ON BEHALF OF PETITIONER:  
[Redacted]

**INSTRUCTIONS:**

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

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

*John F. Grissom*  
John F. Grissom  
Acting 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 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 athletics. The Director determined that the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

On appeal, the petitioner argues that he 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.

U.S. Citizenship and Immigration Services (USCIS) 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, 60898-99 (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, filed on May 22, 2007, seeks to classify the petitioner as an alien with extraordinary ability as a Karate instructor and/or referee.

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 a such an award, the regulation at 8 C.F.R. § 204.5(h)(3) 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.*

To fulfill this criterion, the petitioner initially submitted certificates, letters of recognition and awards. The petitioner's evidence included a National Peace Honor (2004) for his "outstanding contribution to national and international level sporting activities," an Everest Foundation Honor (2004) for his "development of sports in Nepal," and a Peace Development Campaign Honor (2006) for uplifting "the nation dignity from local to national level by disciplinary and dynamically through official sports Karate." Additionally, the letters of appreciation were submitted from the Everest Exhibition Celebration (1998), from the Katmandu municipality (2003), from Nature High School Gangabu-5 Katmandu (translation does not provide a date) and from Vishwa Niketan Higher Secondary School (2004). Additionally, a letter of appreciation was submitted for the petitioner's "development of karate in Nepal," which was handed out at a national ceremony (2006). The initial brief dated May 18, 2007, wherein the petitioner attached his initial evidence, stated another letter of appreciation for "Active Ideal Model School" was submitted. However, this document does not appear to have been submitted with the initial filing, nor was it submitted at any subsequent filings. One award for second place, the only award provided as evidence, given to the petitioner at the First South Asian Karate-do Championship (1998) was also submitted as evidence. Lastly, the petitioner provided an article that indicates he was selected as "Jewel of the Nation" for his contributions to Karate. The article touted the petitioner for his ability to assist more than a thousand students to establish "their identity internationally." The article's translation failed to provide a date, the article's source and the name of the author. Moreover, the article is lengthier than the English translation, and therefore it appears to be only a partial translation. Pursuant to 8 C.F.R. § 103.2(b)(3), any document containing foreign language submitted to USCIS shall be accompanied by a *full* English language translation that the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English.

After a review of the initial evidence submitted, the Director issued a Request for Evidence ("RFE") dated April 9, 2008. In the RFE, the Director notified the petitioner that the evidence provided was

insufficient to fulfill this criterion. Moreover, the Director advised that he does not consider letters of appreciation to be awards or prizes. In response to the RFE, the petitioner provided an additional letter from the General Secretary of the Society of Peace dated March 30, 2008.<sup>1</sup> The letter lists the criterion for recipients of the “National Peace Honor” as having an international award/metal, a Dan Black Belt in Karate, successfully completed the SAF Games and an award from an international sports federation such as World Karate Federation. Nonetheless, in his May 12, 2008 decision, the Director found the record failed to establish that the petitioner received any lesser nationally or internationally recognized prizes or awards for excellence in this field of endeavor and that the record contains no objective documentary evidence to establish the stature and prestige of any of the awards that the petitioner has received. On appeal, no new evidence was provided.

We concur with the Director’s finding that there is no evidence showing that these prizes constitute nationally or internationally recognized prizes for excellence in the petitioner’s field, such as supporting evidence showing the prestige associated with receiving the awards or some other evidence consistent with national or international acclaim at the very top of the field. The plain language of the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(i) specifically requires that the petitioner’s awards be nationally or internationally *recognized* in the field of endeavor and it is his burden to establish every element of this criterion. The record lacks general information about the awards, such as the award criteria, the area from where participants were drawn, the number of entrants, or the percentage of entrants who earned some type of recognition. Moreover, we also agree with the initial assessment in the RFE and the underlying decision which found that letters of appreciation do not constitute award or prizes.

As discussed previously, the statute and regulations require the beneficiary’s national or international acclaim to be *sustained* and that he seeks to continue work in his area of expertise in the United States. See sections 203(b)(1)(A)(i) and (ii) of the Act, 8 U.S.C. §§ 1153(b)(1)(A)(i) and (ii), and 8 C.F.R. §§ 204.5(h)(3) and (5). The petitioner provided one award from 1998 when he was a competitive athlete and all the other awards were general honors for his contributions to Karate. While they are not completely irrelevant and will be given some consideration, ultimately he must satisfy the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(i) through his achievements as an instructor or a referee.<sup>2</sup> The “Jewel of the Nation” article, the only evidence that specifically references the

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<sup>1</sup> Although the petitioner came to the United States on January 18, 2007 according to his Immigrant Petition for Alien Worker (Form I-140), the letterhead for the Society for Peace in its letter dated March 30, 2008 continues to list the petitioner as the President of the organization with a contact mobile phone number in Nepal. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

<sup>2</sup> While not binding precedent, we note that the reasoning contained in *Lee v. I.N.S.*, 237 F.Supp.2d 914, 918 (N.D.Ill. 2002), supports this interpretation:

It is reasonable to interpret continuing to work in one’s “area of extraordinary ability” as working in the same profession in which one has extraordinary ability, not necessarily in any profession in that field. For example, Lee’s extraordinary ability as a baseball player does not imply that he also has extraordinary ability in all positions or professions in the baseball industry such as a manager, umpire or instruct.

petitioner's work with students, stated that the petitioner was able to assist his students establish "their identity internationally." However, the article does not identify the athletes he coached or the titles that they won. Moreover, there is also no evidence in the record showing that the petitioner coached athletes that have won nationally or internationally recognized prizes or awards. As such, the petitioner's evidence cannot serve to meet this regulatory criterion.

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.*

The petitioner initially submitted his credentials for World Karate Federation, which lists his title as the Head of Delegation as well as evidence of participation in various competitions. Additionally, he provided documentation regarding his Dan certification including his current Karate international card with his current Dan ranking (5 Dan) and a certificate of award as a 5 Dan, as well as two diplomas demonstrating satisfaction of previous Dan levels including 3 Dan and 2 Dan. The petitioner also provided a letter from the President of U.S. Tae Kwon Do Martial Arts Academy dated April 8, 2005 explaining the Dan certification system and a table illustrating minimum requirements for Dan certification. The evidence shows that there are a total of 9 Dan ranks, four of which are above the petitioner's current level. In addition, the evidence demonstrates that the title Grand Master is reserved for those at the top level of the Dan ranking system, far above the petitioner's current ranking.

In his RFE, the Director requested information as to how Dan certification constitutes membership in an association. In the petitioner's response, no new evidence was provided. The Director's decision reiterated the lack of evidence demonstrating that the petitioner's Dan level certification constitutes membership in an association. The Director also noted that the petitioner failed to show how his evidence of participation in various competitions constitutes membership in an association. The Director did not address the credentials provided for the petitioner's membership in the World Karate Federation. On appeal, no further evidence was submitted.

In order to demonstrate that membership in an association meets this criteria, 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 submits that he is a member of Nepal Goju Ryu Karate Do Association, the World Karate Federation and the Dan. The record does not include evidence (such as membership bylaws or official admission requirements) showing that the preceding organizations require outstanding achievements of their members, as judged by recognized national or international experts in the

martial arts. Moreover, it has not been established that attaining Dan certification at varying levels amounts to membership in an organization. The petitioner also provided proof of participation in various competitions as evidence of membership. We agree with the Director that participation does not equate to membership. Accordingly, the petitioner has not established that he 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.*

In general, 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 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.<sup>3</sup>

The petitioner initially submitted an English language translation of a 2003 article in the *Annapurna Post*, but the name of the author was not identified and the exact date of the article was not translated as required by 8 C.F.R. § 204.5(h)(iii). Moreover, the translation only appeared to be a partial translation as the actual article's length was longer than the translation provided. The regulation of 8 C.F.R. § 103.2(b)(3) requires "a full English language translation" be submitted with the foreign language document. The petitioner also submitted a 1999 article written in English from *Sports Monthly Magazine* entitled "Shihan T.S. Rai Visits India." Although the article noted that the petitioner was an international referee and a member of the National Karate Federation team, and included a brief quote by the petitioner, the article was about Shihan T.S. Rai and the NKF visit to India, not the petitioner.

In addition, the petitioner provided a chart from the Press Counsel Nepal, indicating the publications currently in circulation. The only applicable publication listed in the chart was the *Annapurna Post*. Nonetheless, the chart fails to demonstrate that any of the publications have wide circulation or represent "major media."

In the Director's RFE, he requested that the petitioner identify the date of the publication and the name of the publication referring to the article claimed to be from the *Annapurna Post*. He additionally requested information regarding distribution and circulation of the publications provided. However, in response to the RFE, the petitioner resubmitted the same copies of the *Annapurna Post* article, again without the exact date, name of the author, or name of publication as part of the translation. This does not conform with the regulation at 8 C.F.R. § 204.5(h)(3)(iii). The petitioner additionally provided an internet printout from [www.mediaseen.com](http://www.mediaseen.com), purporting to show

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<sup>3</sup> 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.

that the *Annapurna Post* is a widely circulated publication in Nepal. However, no evidence about this source, the reliability of its contents or any other information to support the assertions regarding the *Annapurna Post* was provided. The petitioner also included a new article from the *Vishwaparikrama* dated May 16-June 15, 2007 in his submission. The translation does not appear to be accurate as it lists the type of publication and circulation statistics in the translation. It is unlikely this information is provided at the beginning of the short article that was provided. On appeal, the petitioner provided one new article, entitled “Kandel, Dangol aim for new heights in karate” from the *Kathmandu Post* dated December 13, 2001 and an internet printout from the Library of Congress indicating that this publication is available at the Library of Congress’ Current Periodical Reading Room. However, the fact that a publication is available at the Library of Congress does not mean the publication constitutes major media. Moreover, the article provided only mentions the petitioner briefly, quoting him and identifying him as the team leader and referee at the competition discussed in the article.

In his decision, the Director found that the petitioner failed to meet this criterion. We concur with this decision. The articles contained in the record, while some may briefly mention the petitioner’s name or quote him, are not considered about the petitioner or his work as an instructor and/or referee. Further, the record contains no reliable evidence to demonstrate that any of the publications have wide circulation or otherwise can be considered “major media.” The entire record lacks objective circulation information from an independent source showing the ranking of the newspapers relative to other national media.

Finally, we note the petitioner’s submission of two additional articles at the time of filing that counsel argues meet this criterion. Specifically, in 2001, the petitioner had a thank you greeting published in the *Sports Karate Bulletin* for which no certified translation was provided as required by 8 C.F.R. § 103.2(b)(3) as well as an article he wrote entitled “Karate: What, Where and When?” which discussed the history of Karate. The date of the latter article was not provided. While these articles are not relevant to this criterion as they are not published materials about the petitioner but rather, materials written by the petitioner, they will be considered under the regulation at 8 C.F.R. § 204.5(h)(vi).

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

*Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.*

The 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 petitioner’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). For example, judging a national competition or a competition involving top athletes is of far greater probative value than judging a regional or youth competition.

The petitioner submitted the following:

1. A Certificate of Participation as a Referee at the 6<sup>th</sup> Asian Shikhar Karate Championships in 1991;
2. A Certificate of Participation as a Referee at the 2<sup>nd</sup> India International Karate-Do Championships in 1989;
3. A Certificate of Participation as an Official in the 10<sup>th</sup> South Asian Games in 2006;
4. An appreciation certificate for participation as an Arena Controller for the 6<sup>th</sup> Valley-Wide Goju-Ryu Karate Championship;
5. A Certificate of Participation as a Referee and an Arena Controller at the 2<sup>nd</sup> Matryrs Memorial All Nepal Karate & Kick Boxing Championship in 2054 (date not provided from Gregorian calendar);
6. A Certificate of Appreciation for participation as jury in the Nepal Goju-Ryu Karate-Do Association dated July 8, 2006;
7. A certificate stating he participated as Referee in the Valley Karate-Do Championship in September of 1995;
8. A certificate stating he participated as Referee-Coordinator in the 1<sup>st</sup> Kathmandu District Karate and Valley Kick Boxing Championship in February of 1998;
9. A Certificate of Participation as Referee of the Kathmandu Utsav Karate & Kick Boxing Championship in 2001;
10. A certificate from the Nepal Karate Federation that certifies participation as an instructor in a National Referee Course in December of 2003;
11. A Certificate of Participation as Jury-Coordinator of the 4<sup>th</sup> Panathlon International High School Karate and Kick Boxing Championship in May of 1997;
12. A Certificate of Participation as Jury for the Third International High School Shitoryu Karate and Kick Boxing Championship in June of 1996;
13. A Certificate of Participation as Examiner-Coordinator in a National Referee Course held by the National Karate Federation;
14. A Certificate of Merit as a Referee in the 5<sup>th</sup> Panathlon International High School Karate and Kickboxing Championship in May of 1998;
15. A Certificate of Participation as Chief Jury in the 1<sup>st</sup> District-Wide Dojo and School Karate & Kickboxing Championship in 2000;
16. A Letter of Appreciation for being a member of the evaluation committee for the Bir Ganaesh Man Sigh Child Talent Award Fund “Children of the Year 2060” Award;
17. A letter from the Nepal Olympic Committee dated October 26, 1991 requesting that the petitioner be chosen to judge the 13<sup>th</sup> Asian Games in Bangkok, Thailand;<sup>4</sup> and

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<sup>4</sup> Please note that the petitioner’s initial brief dated May 18, 2007 lists this event in item 17 as one in which the petitioner has participated. However, no proof of participation was provided.

18. An internet printout from [www.wkf.net](http://www.wkf.net), which lists the requirements for being a referee or judge.

In his RFE, the Director requested evidence regarding the duties and responsibilities of each position and the criteria utilized to be selected in the official capacity in which the petitioner acted. The Director also requested information regarding the nature and purpose including the level of competition and the requirements necessary to compete. In response to the RFE, the petitioner provided two additional letters, one with an organization table from the National Sports Council and another letter from the National Sports Council dated March 27, 2008 generally describing the petitioner's involvement in Karate competitions. The Director found that the additional information submitted was not sufficient to satisfy this criterion. On appeal, no new evidence was submitted.

With regard to items 1 through 16, the record lacks evidence such as official competition rules showing that serving as a referee or a jury member was tantamount to participation as a judge of the work of others for this highly restrictive classification. Specifically, the petitioner has failed to establish that as referee he assessed the skills or qualifications of the competitor rather than simply ensuring that rules, proper procedures and fair play is enforced. Even if the petitioner were to establish that refereeing a karate tournament is tantamount to judging the work of others in his field, there is no evidence showing the names of the athletes evaluated by the petitioner, their level of expertise, documentation of his assessments, or the level of acclaim associated with judging at the events. We note that many of the competitions appear to have involved high school students.

The evidence demonstrating that the petitioner was an instructor of referees is similarly lacking. While an instructor does evaluate the work of those being instructed, this evaluation is inherent to the process of teaching. The petitioner's assignment as an instructor demonstrates that his knowledge of the sport and his competency are valued, but it has not been established that simply performing one's job duties (such as training students or subordinates) meets this regulatory criterion and demonstrates sustained national or international acclaim at the very top of the field.

Finally, as it relates to the remaining evidence, Item 18 lists the requirements for being a referee, and states that such licensures require that a written examination be taken once every two years. Item 17, while identifying the petitioner as being a Kumite Judge (A) in 1998, is not supported by any independent evidence to demonstrate the petitioner's licensures were current or that he judged high-level athletes. Without evidence showing, for example, that the petitioner's activities involved judging top athletes in national level competition (such as senior black belts) or were otherwise consistent with sustained national or international acclaim, 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.*

This criterion was not claimed initially or on appeal. Nonetheless, the petitioner submitted two articles in an attempt to satisfy 8 C.F.R. § 204.5(h)(iii), which we will address under this criterion as well. These articles both written by the petitioner and published in the *Sports Bulletin* include a thank

you greeting and an article entitled "Karate: What, Where and When?," which discussed the history of Karate. The petitioner failed to provide a certified translation for these articles as required by 8 C.F.R. § 103.2(b)(3). Because the petitioner failed to submit certified translations of the documents, the AAO cannot determine whether the evidence supports the petitioner's claims. Accordingly, the evidence is not probative and will not be accorded any weight in this proceeding.

Moreover, the petitioner has failed to provide evidence to establish that the *Sports Bulletin* is a professional or major trade publication, or other major media. The mere fact that the petitioner's articles were published is not enough to satisfy this criterion. Moreover, the petitioner failed to establish that his thank you letter is considered a scholarly article.

As such, the petitioner has not established that he meets this criterion.

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

The petitioner submitted the following evidence:

1. A letter from the Nepal Olympic Committee dated March 1, 1997, which stated that he was appointed as a member of the General Council;
2. A letter from a member of the 8<sup>th</sup> SAF Games dated July 27, 1999 that notified the petitioner of his nomination as the Coordinator of the volunteer division;
3. A letter from the National Sports Council dated February 23, 2004 stating the petitioner was nominated as an "ex officio Member in the recently formed ad hoc committee of Nepal Goju Ryu Karate Do Association;"
4. A letter from the National Kickboxing Association dated September 9, 1997 nominating the petitioner as Joint Treasurer in the association;
5. A letter from the Nepal Patriotic Organization dated August 4, 1994 nominating the petitioner to be the General Secretary of the Central Committee of the organization;
6. A letter from Nepal Shito Ryu Karate Association without a date appointing the petitioner to be the Chairperson of the Training Committee of the organization and to start this position on June 6, 2002;
7. A letter from the National Sports Council dated July 21, 2003 nominating the petitioner as General Secretary;
8. A letter from the Pan-American Okinawan Goju-Ryu Karate Do Federation dated May 8, 2007 welcoming the petitioner as a new country Branch Member for Nepal, which entrusts the petitioner with the "responsibility for the leadership and development of our Federation in your country;"
9. An appreciation letter from the National Sports Council dated September 16, 2000 that mentions the petitioner is the President of the Central Black Belt Committee;
10. Two certificates from the Japan Karate-Do Goju-Ryu Ohshikai Association both dated December 12, 2006, appointing the petitioner as Branch Manager; and
11. Credentials from Our Society for Peace listing him as the President without the date translated to the Gregorian calendar.

The Director requested additional information in his RFE including specific information regarding the petitioner's responsibilities as an official for the preceding organizations and the criterion used to select candidates for these positions, among other things. In response to the RFE, the petitioner provided two additional letters. One letter from the Deputy Director of the Training Department of the National Sports Council dated December 21, 2006 states that the petitioner is a senior coach of the Karate game in the organization and discusses generally his involvement in the sport. The second letter from the Olympic Council of Asia dated March 30, 2008 again provides a general overview of the petitioner's career. The letter states that the petitioner has held "different key positions," only specifically mentioning his work as Senior Coach for the National Sports Council and as General Secretary for the Nepal Karate Federation. The Director's decision notes that the Olympic Council letter does not state that the petitioner was appointed in its organization as General Council in 1997. On appeal, the petitioner submits a letter that is not dated with a chart from the National Sports Council to show the organizational framework of Karate in Nepal. The chart illustrates that the National Olympic Council and National Sports Council are in the second tier of hierarchy and the Nepal Karate Federation is in the third tier of hierarchy within the organization of the sport of Karate in Nepal.

In order to establish that the petitioner performed in a leading or critical role for an organization or establishment with a distinguished reputation, he must establish the nature of his role within the organization or establishment and its reputation. The position should also be of such significance that the alien's selection to fill the position, in and of itself, is indicative of or consistent with national or international acclaim. In all the above-referenced pieces of evidence except item 9, although the petitioner provides evidence of his appointment to specific positions within the organization, he fails to show that such positions were commensurate with a leading or critical role. Recitation of the petitioner's titles within the various organizations, without further evidence of his duties and actual role, is not sufficient to establish his leading or critical role for these organizations.

The evidence further lacks proof that the organizations for which the petitioner served had "distinguished reputations." For example, no evidence was included regarding the organizations' background, standing in the community or world, or any other aspect of its reputation. Moreover, sustained acclaim cannot be demonstrated as many of the petitioner's appointments occurred a decade prior to the filing of his petition.

We note that although the letter welcoming the petitioner as a new country Branch Member for Nepal (item 8) is dated May 8, 2007, the Immigrant Petition for Alien Worker, Form I-140, indicates that the petitioner arrived in the United States on January 18, 2007. It is not clear that the petitioner could be acting as a Branch Manager for Nepal if he was physically in the United States. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Without any further explanation for this inconsistency, this piece of evidence was afforded little weight.

As such, the petitioner has not established that he 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.*

The petitioner submitted a letter from Kathmandu Metropolitan City Office stating that the petitioner is a “well-known and experienced karate instructor” and that he earns 1,500,000 Nepalese Rupee, the United States equivalent to \$20,833. In his RFE, the director requested documentary evidence such as tax documents or yearly wage statements, as well as evidence illustrating the petitioner’s remuneration is high in relation to others karate instructors and/or referees.

In response to the director’s request for evidence, the petitioner provided a letter from the President of the Nepal Karate Federation dated March 26, 2008 which states the petitioner’s salary is 1,500,000 Nepalese Rupee (US \$20,833) and is “greater than his next highest competitor by a factor at least 200 percent.” The petitioner also provided another letter from the Nepal Karate Federation dated December 1, 2005 which states his income is 10,000 Nepalese Rupee per month. In addition, the petitioner provided three letters from different secondary schools that stated he receives 200 Nepalese Rupee per month per student for coaching a total of two hundred and seventy students in all three schools. Lastly, the petitioner provided a letter from the President of the Branch Dojo Boudha stating that he provides consulting services and receives 25,000 Nepalese Rupee per month for his work. On appeal, the petitioner did not provide any additional evidence nor did his appellate brief make an argument that this criterion applied. Nonetheless, we will address it.

The evidence provided does not specify the dates the petitioner was earning the salaries claimed nor the dates he consulted for the three schools or for the Branch Dojo Boudha. No reliable evidence from an independent source, as the ones contemplated and requested by the RFE including tax returns or income statements, was submitted to fulfill this criterion. The plain language of this regulatory criterion requires the petitioner to submit evidence that he has commanded a high salary “in relation to others in the field.” The petitioner’s only evidence regarding such a comparison consists of a letter from the Nepal Karate Federation stating his salary is “greater than his next highest competitor by a factor at least 200 percent.” However, the record lacks documentary evidence to support this statement, such as the name of the next highest competitor or his salary. 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)). The petitioner offers no basis for comparison showing that his compensation was significantly high in relation to others in his field. There is no indication that the petitioner has earned a level of compensation that places him among the highest paid Karate instructors or referees in Nepal, the United States or any other country.

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

Finally, on appeal, counsel argues that the director’s reference to *Matter of Price*, 20 I&N Dec. 950, is “misplaced.” While it may be true, as counsel argues, that there is no major league for Karate competition, the reasoning underlying *Matter of Price*, that there is not automatic eligibility even for

athletes competing in the major leagues, is still applicable. While counsel first disputes the relevance of *Matter of Price*, contending that the petitioner “does not play for a major league sports team,” he then contradictorily argues that the petitioner is “not new to major league competition.” The petitioner in this case is only a mid-level Dan. He has yet to even reach the top-level in Dan ranking and earned the titles associated with the highest members of his sport. A comparison of the petitioner’s achievements with those who have submitted recommendation letters on his behalf serves to further highlight the fact that the petitioner has **not yet** even reached the top of his field. For instance, [REDACTED] has obtained a level 6 Dan, while [REDACTED] is named as a Grand Master, both clearly higher levels than the petitioner.

In this case, as discussed above, the petitioner has failed to demonstrate receipt of a major, internationally recognized award, or that he meets at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3).

Review of the record does not establish that the petitioner has distinguished himself as a Karate instructor or referee 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 AAO maintains plenary power to review each appeal on a *de novo* basis. 5 U.S.C. § 557(b) (“On appeal from or review of the initial decision, the agency has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule.”); *see also Janka v. U.S. Dept. of Transp., NTSB*, 925 F.2d 1147, 1149 (9th Cir. 1991). The AAO’s *de novo* authority has been long recognized by the federal courts. *See, e.g., Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989).

The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.