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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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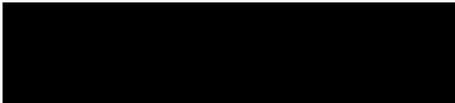


FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date: FEB 05 2010
SRC 09 033 54629

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.

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).


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Texas 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 that the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability. More specifically, the director found that the petitioner had 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).

On appeal, the petitioner argues that he meets at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3) and that the director applied incorrect standards in denying the petition.

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 November 13, 2008, seeks to classify the petitioner as an alien with extraordinary ability in the field of finance.

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).

We note that although the record contains evidence of the petitioner's prior approval as an O-1 non-immigrant, the prior approval does not preclude USCIS from denying an immigrant visa petition based on a different, if similarly phrased, standard. It must be noted that many I-140 immigrant petitions are denied after USCIS approves prior nonimmigrant petitions. *See e.g. Q Data Consulting, Inc. v. INS*, 293 F. Supp. 2d 25 (D.D.C. 2003); *IKEA US v. US Dept. of Justice*, 48 F. Supp. 2d 22 (D.D.C. 1999); *Fedin Brothers Co. Ltd. v. Sava*, 724 F. Supp. 1103 (E.D.N.Y. 1989). Because USCIS spends less time reviewing I-129 nonimmigrant petitions than I-140 immigrant petitions, some nonimmigrant petitions are simply approved in error. *Q Data Consulting, Inc. v. INS*, 293 F. Supp. 2d at 29-30; *see also Texas A&M Univ. v. Upchurch*, 99 Fed. Appx. 556, 2004 WL 1240482 (5th Cir. 2004) (finding that prior approvals do not preclude USCIS from denying an extension of the original visa based on a reassessment of petitioner's qualifications).

The AAO is not required to approve applications or petitions where eligibility has not been demonstrated, merely because of prior approvals that may have been erroneous. *See e.g. Matter of Church Scientology International*, 19 I&N Dec. 593, 597 (Comm. 1988). It would be absurd to suggest that USCIS or any agency must treat acknowledged errors as binding precedent. *Sussex Engg. Ltd. v. Montgomery*, 825 F.2d 1084, 1090 (6th Cir. 1987), *cert. denied*, 485 U.S. 1008 (1988).

Furthermore, the AAO's authority over the service centers is comparable to the relationship between a court of appeals and a district court. Even if a service center director had approved the nonimmigrant petitions on behalf of the beneficiary, the AAO would not be bound to follow the contradictory decision of a service center. *Louisiana Philharmonic Orchestra v. INS*, 2000 WL 282785 (E.D. La.), *aff'd*, 248 F.3d 1139 (5th Cir. 2001), *cert. denied*, 122 S.Ct. 51 (2001).

As aforementioned, each petition must be adjudicated on its own merits under the statutory provisions and regulations which apply. Thus, the petitioner's eligibility will be evaluated under the regulatory criteria at 8 C.F.R. § 204.5(h)(3) relating to the immigrant classification as claimed by the petitioner.

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 regulation, 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.¹

The petitioner provided the following evidence to satisfy this criterion:

1. An article entitled, "Global Funds Industry Shifting East," dated October 27, 2008, written by [REDACTED] in the *Asian Investor*;
2. An article entitled, "Traditionals to gain as Alternatives Falter," dated October 26, 2008, written by [REDACTED] in *FT.com*;
3. An article entitled, "Asia's army of Investors Rides In," dated July 7, 2008, written by [REDACTED] in *FTfm*;
4. An article entitled, "Asia Funds could hit \$8 trillion in five years," dated November 13, 2007, written by [REDACTED] in the *Asian Investor*;
5. Background information regarding the Asian Investor from www.asianinvestor.net;
6. An article entitled, "Legg Mason, Citibank Team to Offer Funds to Chinese Investors," dated February 11, 2008, written by [REDACTED] in www.investmentnews.com;
7. Background information regarding the InvestmentNews from www.investmentnews.com, which indicates that it has a subscriber base of 60,000;
8. An article entitled, "Turner Sets Sights Overseas with Ucits Launch," dated August 5, 2008 written by [REDACTED] in www.ignites.com;
9. An article entitled, "Firms Tweak Sales Efforts to Meet Distributor Changes," dated June 12, 2006, written by [REDACTED] in *fund action*;
10. An article entitled, "Europe's Fund Market Topped by UBS," dated March 6, 2006, without an author in *fund action*;
11. An article entitled, "Time to Look Abroad," dated April 21, 2003, written by [REDACTED] in *Global Investor*; and
12. An article entitled, "Bill Miller Superstar," dated January 12, 2006, written by [REDACTED] Narat in www.handelsblatt.com, written in German.

No new evidence was submitted on appeal regarding this criterion. In addition, the petitioner's appeal brief did not argue that this criterion was applicable.

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.

In his decision, the director found that the petitioner failed to satisfy this criterion, indicating that none of the evidence provided qualified as "about the alien." Moreover, the director found that the articles provided failed to "discuss the merits of the petitioner's work" or "the petitioner's standing in the field." We concur with his decision, finding also that the articles were not primarily about the petitioner, as the plain language of this regulatory criterion requires. The articles were instead about financial markets, primarily the Asian markets, with the petitioner offering his opinions regarding such topics.

Moreover, the record contained limited and inadequate evidence to prove that the various publications were professional or major trade publications or some other form of major media. While items 5 and 7 contained some background information regarding two of the publications, such information came directly from each publication's own website. Moreover, only item 7 even included the circulation statistics for its particular publication. Further, there was no independent evidence to support that either of these two publications, or any of the other sources, were professional or major trade publications or some other form of major media.

This criterion also specifically requires that the evidence submitted must contain a title, date, author and translation, if necessary. Item 10 failed to include an author. In addition, the translation for item 12 was omitted. 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. As the article contained in item 12 failed to follow such requirement, it was not considered.

For all of the above stated reasons, the petitioner failed to establish 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 in finance is of far greater probative value than judging a local competition for novices.

The petitioner initially provided evidence of his participation as an expert panelist at various conferences including, but not limited to, the ICBI conferences and the Emerging Markets Product Innovation Summit. In addition, the petitioner provided his entire PowerPoint presentation for the Fundforum Distribution Summit in Barcelona. No further evidence was provided on appeal, and the petitioner did not claim he satisfied this criterion in his appeal brief.

In his decision, the director found that the petitioner failed to fulfill this criterion. We agree with the finding of the director. It is clear from the evidence provided by the petitioner that he served only as a speaker, either in the capacity as a primary presenter or as part of a panel. These conferences that the petitioner participated are not represented as competitions or other type of event where the petitioner was expected to review or judge the work of others. Even if these conferences could be characterized as competitions, the record lacks evidence establishing the level of prestige associated with speaking at such conferences, the requirements necessary to serve as a speaker, and the names of any other financiers in which he evaluated and/or their levels of expertise or other evidence of his speaking that is indicative of this highly restrictive classification.

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 his colleagues including; [REDACTED] a Senior Counsellor for the World Bank, [REDACTED] an Investment Director of AXISS Australia, [REDACTED] Founder and Managing Director of Sage & Hermes, Ltd., [REDACTED] CEO of Fortis Investments, [REDACTED] Managing Director of the German Investment and Asset Management Association and [REDACTED] Senior Project Manager of Vontobel Asset Management.

On appeal, no new evidence was provided. However, the petitioner's appeal brief argued that the previously provided letters support his contention that he made original contributions of major significance. Specifically, the petitioner's brief highlighted the letter written by [REDACTED] which credits the petitioner for developing a "worldwide database of detailed mutual fund asset and flow information" and for creating "monthly quantitative and qualitative analyses of the global mutual fund industry." The brief stated that the petitioner's contributions also include "research, analysis and promotion of Australia's mutual fund industry" and "seminal publications of guides to mutual funds globally, in Asia and the Middle East and in Israel."

The burden is on the petitioner to establish the significance of his work. To satisfy the criterion relating to original contributions of major significance, the petitioner must demonstrate not only that his work is novel and useful, but also that it has attracted sustained attention, had a demonstrable impact on his field at the national or international level or other commensurate evidence. The petitioner has not shown, for instance, how the field has changed as a result of his work so as to establish it was a contribution of major significance to his field.

Moreover, although the reference letters provided by the petitioner contain useful information about his qualifications and help in assigning weight to certain evidence, such letters are not a substitute for objective evidence of the alien's achievements and recognition as required by the statute and regulations. Letters from colleagues or letters that do not specifically identify contributions or how these contributions have influenced the field are insufficient to meet this criterion. *Kazarian v. USCIS*, 580 F.3d 1030 (9th Cir. 2009). Primary evidence of achievements and recognition is of far greater probative value than the opinions of one's professional acquaintances.

As discussed above, the petitioner has failed to establish how his work has influenced his field and how it is considered to have been a contribution of major significance to his field. Accordingly, the petitioner has not established 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.

The petitioner submitted the following as evidence of his authorship:

1. Lists of other published authors in the periodical entitled *Gewerkschaftliche Monatshefte*, including [REDACTED]
2. An article entitled, "[REDACTED]" written by the petitioner in *Gewerkschaftliche Monatshefte* with a certified English translation, dated 1999;
3. A 2008 report entitled, "Global Fund Distribution: Best Practices, Key Trends, and Opportunities to Grow Sales Worldwide," written by the petitioner, which appears to be published by the petitioner's employer, [REDACTED]
4. A 2007 report entitled, "Asia Fund Management and Middle East Opportunities: Investing in the Future," written by the petitioner, which also appears to be published by [REDACTED]
5. A Guide to Israel Mutual Funds, wherein the petitioner wrote the first chapter, published by *Israel Funds Observer*;
6. Information regarding the *Handleszeitung*, a Swiss financial journal, without a source;
7. Various articles written by the petitioner and published in the *Handleszeitung*, which appear to be published in 2001 and 2002, without any English translation;
8. An article written by the petitioner in the *Investment Management Review*, which is published by Sage & Hermes; and
9. A recommendation letter from [REDACTED] Managing Director of Sage & Hermes, which confirms the petitioner's work in item 8.

On appeal, the petitioner provided the following three additional reference letters:

10. A letter from the Director of Economics and Research at the European Fund and Asset Management Association, dated May 28, 2009, that indicated the petitioner published two significant pieces, referring to items 3 and 4;
11. A letter from the Executive Vice President and Director of Research for [REDACTED] dated May 26, 2009, that discussed the petitioner's contribution towards item 5; and

12. A letter from [REDACTED], dated May 25, 2009, stating the significance of items 3 and 4.

In order to determine the nature and significance of a petitioner's publications, we often evaluate a citation history or other evidence of the impact of the petitioner's articles when determining their significance to the field. *Kazarian v. USCIS* at 1030 (mere publication is insufficient absent evidence that the articles constitute contributions of major significance). The petitioner failed to provide any articles in which his articles were cited, and therefore he failed to demonstrate that his articles were frequently cited in a manner consistent with sustained national or international acclaim. The petitioner only provided reference letters to bolster the claim that his publications were significant. However, such recommendation letters do not establish that the petitioner's works have been relied upon or cited to the extent that the impact of the articles is commensurate with a finding that the petitioner has achieved sustained national or international acclaim in his field. In fact, the petitioner's appeal brief contends that:

Much of financial industry research is the analysis of data and projection of future profits and outcomes, thus there is no need to cite past articles, as this information will already be stale and unusable.

This statement further confirms that the articles written by the petitioner are not consistent with "sustained" national or international acclaim. While it may be true that the financial industry publishes a plethora of articles whose statistics are no longer relevant, if the petitioner's articles were truly innovative or significant, they would still be cited to in a manner consistent with "sustained" national or international acclaim.

In addition, the petitioner failed to provide evidence to show that his publications appeared in professional or major trade publications or other major media. Items 3 or 4 were published by the petitioner's employer, so it is unclear whether such publications were distributed or circulated outside of the corporation in a manner consistent with sustained national or international acclaim. The petitioner's brief argued that "publication is not inherent to all researchers" and that "most accurate researchers, carefully guard their in-house research, and use the information only internally to advise other departments and their client bases." As such, the petitioner should have provided evidence that his works, especially the reports published by his employer, were in fact distributed outside of the company. However, there was no evidence, aside from recommendation letters and a list of other authors who wrote for the publisher in item 1, that would support a finding that the petitioner's works were published in professional or major trade publications or other major media.

Moreover, the petitioner failed to provide translations for the articles contained in item 7. 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. Because the petitioner failed to submit certified translations for these items, the AAO cannot determine whether the evidence supports the petitioner's claims. *See* 8 C.F.R. § 103.2(b)(3). Accordingly, this evidence is not probative.

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, in his initial brief, claimed that he performed a critical role for his employers, [REDACTED] and the [REDACTED]. The petitioner submitted reference letters, which discussed his work, in an attempt to fulfill this criterion. On appeal, in addition to citing to these various recommendation letters, the petitioner also points to a lengthy statement by the petitioner himself describing his role at [REDACTED] that he believes supports his case. However, 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 director found that the petitioner failed to satisfy this criterion, and we agree. In order to establish that the petitioner performed a leading or critical role for an organization or establishment with a distinguished reputation, the petitioner must establish the nature of his role within the entire organization or establishment and the reputation of the organization or establishment. There was little discussion of his role or responsibilities within either organization. Similarly, there is no evidence demonstrating how the petitioner's role differentiated him from the others where he worked. For instance, as it relates to his position within [REDACTED] the petitioner did not submit evidence such as an organizational chart which demonstrates the petitioner's position within the organization as a whole and whether he was the only managing director of a unit within [REDACTED]. Mere title, without specific information regarding actual duties or explanation of relevance or importance of that position within the hierarchy of the organization's management is not sufficient to establish the petitioner's leading or critical role at [REDACTED]. As it relates to his role with the [REDACTED], the petitioner indicated he "collaborated with a team of professionals." He provides no evidence to differentiate his role from that of other team members. Therefore, while the petitioner may have proven that he provided valuable services to his past employers, he has failed to support the proposition that he has performed a leading or critical role for the organization.

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 did not initially claim this criterion applied to him. However, he submitted Wage and Tax Statements ("W-2") for 2007, 2006 and 2005. The W-2 for 2007 indicated that the petitioner earned approximately \$180,000.

On appeal, the petitioner's brief argued that he had fulfilled this criterion. The petitioner submitted his W-2 for 2008 indicating that the petitioner had an income of approximately \$270,000.

The petitioner also submitted an excerpt from the Foreign Labor Certification Data Center's website on appeal, which indicated that the comparable salaries of "financial managers." He argued that the highest salary on the website was still lower than the petitioner's prior salaries in 2007 and 2008. However, this website only provides information regarding the salaries of financial managers, which is an overly broad category. The website also fails to offer a basis of comparison that the petitioner's salary is significantly high in comparison to other managing directors in his field. A letter from [REDACTED] Executive Vice President at [REDACTED] the petitioner's employer, was also provided. In his letter, [REDACTED] indicated that the petitioner was given a \$60,000 salary increase in 2008 and a \$70,000 bonus. Further, he stated that the petitioner was "the only employee at [REDACTED] who was given such a dramatic salary increase last year." This letter appears to compare the petitioner only to his coworkers. There is no indication that the petitioner has earned a level of compensation that places him among the highest paid managing directors "in relation to others in his field" in Germany, the United States or any other country.

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

Counsel argues that the petitioner's participation and/or presentations at many conferences are comparable evidence of the petitioner's extraordinary ability in his field. The regulation at 8 C.F.R. § 204.5(h)(4) allows for the submission of "comparable evidence" 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 evidence that eligibility for visa preference in the petitioner's occupation cannot be established by the ten criteria specified by the regulation at 8 C.F.R. § 204.5(h)(3) of which the petitioner has claimed that he meets four. Where an alien is simply unable to meet three of the regulatory criteria, the plain language of the regulation at 8 C.F.R. § 204.5(h)(4) does not allow for the submission of comparable evidence.

Moreover, there is no evidence showing that the documentation the petitioner requests evaluation of as comparable evidence constitutes achievements and recognition consistent with sustained national or international acclaim at the very top of his field. The petitioner failed to provide evidence for any of these engagements regarding the type of audience who attended these presentations, the number of attendees, or the selection criteria for the presenters. At best, these presentations are comparable to the publication of an article in a scholarly journal or original contribution of major significance, as it amounts to the dissemination of technical information to a specialized audience. As such, the evidence does not demonstrate that the petitioner's participation in these conferences conveyed national or international acclaim or that his participation in such events made a contribution of major significance to his field. While the presentations may attest to his originality, the record lacks evidence of the impact his work has had on the field as a whole. The nonexistence of required evidence creates a presumption of ineligibility. 8 C.F.R. § 103.2(b)(2)(i). Further, the classification sought requires "extensive documentation" of sustained national or international acclaim. See section 203(b)(1)(A)(i) of the Act, 8 U.S.C. § 1153(b)(1)(A)(i), and 8 C.F.R. § 204.5(h)(3). The commentary for the proposed regulations implementing the 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).

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

Moreover, counsel contends on appeal that the director violated 8 C.F.R. § 103.2(b)(8) by failing to request further evidence before denying the petition. The cited regulation requires the director to request additional evidence in instances “where there is no evidence of ineligibility, and initial evidence or eligibility information is missing.” *Id.* The director is not required to issue a request for further information in every potentially deniable case. If the director determines that the initial evidence supports a decision of denial, the cited regulation does not require solicitation of further documentation.

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)(i) of the Act and the petition may not be approved.

The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.