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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

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DATE: DEC 13 2011

Office: NEBRASKA SERVICE CENTER

FILE: [REDACTED]

IN RE:

Petitioner:
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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the employment-based immigrant visa petition, which 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). The director determined the petitioner had not established the requisite extraordinary ability and failed to submit extensive documentation of her sustained national or international acclaim.

Congress set a very high benchmark for aliens of extraordinary ability by requiring through the statute that the petitioner demonstrate the alien’s “sustained national or international acclaim” and present “extensive documentation” of the alien’s achievements. *See* section 203(b)(1)(A)(i) of the Act; H.R. 723 101st Cong., 2d Sess. 59 (1990); and 8 C.F.R. § 204.5(h)(3). The implementing regulation at 8 C.F.R. § 204.5(h)(3) states that an alien can establish sustained national or international acclaim through evidence of a one-time achievement of a major, internationally recognized award. Absent the receipt of such an award, the regulation outlines ten categories of specific objective evidence. 8 C.F.R. § 204.5(h)(3)(i) through (x). The petitioner must submit qualifying evidence under at least three of the ten regulatory categories of evidence to establish the basic eligibility requirements.

On appeal, the petitioner submits a brief with no new documentary evidence. For the reasons discussed below, the AAO upholds the director’s ultimate determination that the petitioner has not established her eligibility for the classification sought.

I. Law

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* H.R. 723 101st Cong., 2d Sess. 59 (1990); 56 Fed. Reg. 60897, 60898-99 (Nov. 29, 1991). The term “extraordinary ability” refers only to those individuals in that small percentage who have risen to the very top of the field of endeavor. *Id.*; 8 C.F.R. § 204.5(h)(2).

The regulation at 8 C.F.R. § 204.5(h)(3) requires that the petitioner demonstrate the alien’s sustained acclaim and the recognition of his or her achievements in the field. Such acclaim must be established either through evidence of a one-time achievement (that is, a major, international recognized award) or through the submission of qualifying evidence under at least three of the following ten categories of evidence.

- (i) Documentation of the alien’s receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor;
- (ii) 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;
- (iii) 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;
- (iv) 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 specialization for which classification is sought;
- (v) Evidence of the alien’s original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field;
- (vi) Evidence of the alien’s authorship of scholarly articles in the field, in professional or major trade publications or other major media;
- (vii) Evidence of the display of the alien’s work in the field at artistic exhibitions or showcases;
- (viii) Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation;
- (ix) Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field; or

(x) Evidence of commercial successes in the performing arts, as shown by box office receipts or record, cassette, compact disk, or video sales.

In 2010, the U.S. Court of Appeals for the Ninth Circuit (Ninth Circuit) reviewed the denial of a petition filed under this classification. *Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010). Although the court upheld the AAO's decision to deny the petition, the court took issue with the AAO's evaluation of evidence submitted to meet a given evidentiary criterion.¹ With respect to the criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (vi), the court concluded that while USCIS may have raised legitimate concerns about the significance of the evidence submitted to meet those two criteria, those concerns should have been raised in a subsequent "final merits determination." *Id.* at 1121-22.

The court stated that the AAO's evaluation rested on an improper understanding of the regulations. Instead of parsing the significance of evidence as part of the initial inquiry, the court stated that "the proper procedure is to count the types of evidence provided (which the AAO did)," and if the petitioner failed to submit sufficient evidence, "the proper conclusion is that the applicant has failed to satisfy the regulatory requirement of three types of evidence (as the AAO concluded)." *Id.* at 1122 (citing to 8 C.F.R. § 204.5(h)(3)). The court also explained the "final merits determination" as the corollary to this procedure:

If a petitioner has submitted the requisite evidence, USCIS determines whether the evidence demonstrates both a "level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the[ir] field of endeavor," 8 C.F.R. § 204.5(h)(2), and "that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise." 8 C.F.R. § 204.5(h)(3). Only aliens whose achievements have garnered "sustained national or international acclaim" are eligible for an "extraordinary ability" visa. 8 U.S.C. § 1153(b)(1)(A)(i).

Id. at 1119-20.

Thus, *Kazarian* sets forth a two-part approach where the evidence is first counted and then considered in the context of a final merits determination. In reviewing Service Center decisions, the AAO will apply the test set forth in *Kazarian*. As the AAO maintains *de novo* review, the AAO will conduct a new analysis if the director reached his or her conclusion by using a one-step analysis rather than the two-step analysis dictated by the *Kazarian* court. See 8 C.F.R. 103.3(a)(1)(iv); *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004); *Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003) (recognizing the AAO's *de novo* authority).

¹ Specifically, the court stated that the AAO had unilaterally imposed novel substantive or evidentiary requirements beyond those set forth in the regulations at 8 C.F.R. § 204.5(h)(3)(iv) and 8 C.F.R. § 204.5(h)(3)(vi).

II. Analysis

A. Evidentiary Criteria²

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

The petitioner submits the "Star Employee of the Year Award" from her employer, [REDACTED]. The director determined that the petitioner failed to meet this criterion.

Counsel's brief indicates that [REDACTED] selected the petitioner for this award out of 50 other employees. The petitioner failed to provide any evidence related to the national or international recognition of this award so as to establish its recognition beyond [REDACTED]. Additionally, the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(i) requires evidence of "prizes" and "awards" in the plural, which is consistent with the statutory requirement for extensive evidence. Section 203(b)(1)(A)(i) of the Act. Significantly, not all of the criteria at 8 C.F.R. § 204.5(h)(3) are worded in the plural. Specifically, the regulations at 8 C.F.R. §§ 204.5(h)(3)(iv) and (ix) only require service on a single judging panel or a single high salary. When a regulatory criterion wishes to include the singular within the plural, it expressly does so as when it states at 8 C.F.R. § 204.5(k)(3)(ii)(B) that evidence of experience must be in the form of "letter(s)." Thus, the AAO can infer that the plural in the remaining regulatory criteria has meaning. In a different context, federal courts have upheld USCIS' ability to interpret significance from whether the singular or plural is used in a regulation. *See Maramjaya v. USCIS*, Civ. Act. No. 06-2158 (RCL) at 12 (D.C. Cir. March 26, 2008); *Snapnames.com Inc. v. Chertoff*, 2006 WL 3491005 at *10 (D. Or. Nov. 30, 2006) (upholding an interpretation that the regulatory requirement for "a" bachelor's degree or "a" foreign equivalent degree at 8 C.F.R. § 204.5(l)(2) requires a single degree rather than a combination of academic credentials).

Thus, the petitioner has not established that she meets the plain language requirements of 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.

This criterion contains several evidentiary elements the petitioner must establish. First, the petitioner must demonstrate that she is a member of more than one association in her field. Second, the petitioner must demonstrate that the associations require outstanding achievements (in the plural) of its members. The final requirement is that admittance is judged, or adjudicated, by nationally or internationally recognized experts in their field.

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

The petitioner presents a certificate reflecting her membership in The Institute of Chartered Accountants of Nigeria (ICAN), and two web page printouts from this same institution. The director determined that the petitioner failed to establish eligibility for this criterion.

Regarding her membership in ICAN, on appeal the petitioner resubmits the membership page from ICAN's website. The information states:

A person shall be enrolled as a chartered accountant if: a. He passes the qualifying examination for membership conducted by the Council of the Institute and completes any prescribed training, (section 8(1)(a)) OR b. He holds a qualification granted outside Nigeria and for the time being accepted by the Institute, and he satisfies the Council of the Institute that he had sufficient practical experience as an Accountant (Section 8(1)(b)). Admission to membership as a Chartered Accountant, in pursuance of section 8(1)(a) of the Act, can be obtained by serving a specific period under articles of approved studentship and by passing the Institute's professional examinations.

Membership in this association consists of serving an unspecified amount of time as a student and by subsequently passing an examination. This evidence fails to establish that ICAN requires outstanding achievements of its members. It also appears that a "Council" determines if the applicant passes the examination for membership. The petitioner has not provided evidence indicating that this "Council" is comprised of recognized national or international experts in their disciplines or fields, which the regulation requires. As previously stated, the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(ii) requires evidence of "membership in associations" in the plural, which is consistent with the statutory requirement for extensive evidence. Section 203(b)(1)(A)(i) of the Act; 8 U.S.C. § 1153(b)(1)(A)(i). As previously noted, the AAO can infer that the plural language in the regulatory criteria has meaning and that federal courts have upheld USCIS' ability to interpret significance from whether the singular or plural is used in a regulation. *See Maramjaya v. USCIS*, Civ. Act. No. 06-2158 (RCL) at *12; *Snapnames.com Inc. v. Chertoff*, 2006 WL 3491005 at *10 (upholding an interpretation that the regulatory requirement for "a" bachelor's degree or "a" foreign equivalent degree at 8 C.F.R. § 204.5(l)(2) requires a single degree rather than a combination of academic credentials).

The petitioner failed to establish she meets the plain language of 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.

Counsel's brief indicates the four witness letters from [REDACTED], [REDACTED], [REDACTED], and [REDACTED] establish the petitioner's eligibility for this criterion. However, it is not apparent from these witness letters that the petitioner has judged the work of others in her field. While the petitioner may, as an auditor, determine if an organization has complied with a particular regulation, this is not in line with serving as a judge of the work of others in the petitioner's field or an allied field. The regulation at 8 C.F.R. § 204.5(h)(3)(iv) requires evidence that the beneficiary has served as "a judge" of the work of others. The phrase "a judge" implies a formal designation in a judging capacity,

either on a panel or individually as specified at 8 C.F.R. § 204.5(h)(3)(iv). In this instance, the regulation cannot be read to include every informal instance of an individual performing the normal and expected functions of their job, as an accounting auditor, as qualifying activity under this criterion.

On appeal, the petitioner does not provide a persuasive argument or any apparent evidence for consideration under this criterion. Accordingly, the petitioner has not established that she meets this criterion.

Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.

The director determined that the petitioner failed to meet this criterion. On appeal, the petitioner presents no primary or direct evidence to meet the plain language requirements of this criterion. Counsel's brief on appeal indicates the petitioner has mastered the Sarbanes-Oxley Act and that the witness letters from [REDACTED], [REDACTED], [REDACTED] and [REDACTED] each indicate that the petitioner meets this criterion.

In reference to the petitioner mastering the Sarbanes-Oxley Act, the petitioner has not demonstrated how such knowledge is any different from the expectations of all those who occupy the petitioner's position as well as any other competent accountant. The fact that the petitioner is competent in her job is not equal to her providing original contributions of major significance in her field.

The letter from [REDACTED] provides general assertions and lacks any specificity of original contributions or major significance on the part of the petitioner. [REDACTED] states that he "is aware that [the petitioner] exhibited extraordinary abilities working for [REDACTED]...[and the petitioner] had a major impact on the implementation of the accounting software and internal controls in the Organization." [REDACTED] also indicates the petitioner performed research for his organization and, "analyzed the internal control setting in the organization as a whole from an international perspective." It is not apparent from this letter what original contributions the petitioner made for [REDACTED] company. [REDACTED] also fails to identify what impact the petitioner's contributions may have had beyond [REDACTED] company, which would lend credence to the position that these contributions were of major significance in her field. USCIS need not accept primarily conclusory assertions. *1756, Inc. v. The Attorney General of the United States*, 745 F. Supp. 9, 15 (D.C. Dist. 1990).

Additionally, this witness letter asserts the petitioner contributed to [REDACTED] organization using content which appears to be directly copied from the Internet and pasted into the witness letter. The segment of the letter titled, "Propriety and Reliability" appears to derive directly from an article written by [REDACTED], titled *Objective of Internal Control*.³ It is unclear whether [REDACTED] is attempting to attribute work to the petitioner that is not her own or if he is merely indicating that she was following a process already in place. Regardless, [REDACTED] use of language which appears to be taken directly

³ http://www.ehow.com/about_5479743_objectives-internal-control.html, [accessed on October 25, 2011, a copy of which is incorporated into the record of proceeding.]

from a source that is not his own, calls into question the remainder of the claims made in his letter. Nevertheless, this letter is insufficient to demonstrate that the petitioner meets this criterion.

The letter from [REDACTED] indicates the petitioner developed a plan for a South African company that required “a great deal of thought and effort on [the petitioner’s] behalf which ultimately resulted in increased revenue.” The author asserts that during the petitioner’s tenure, the South African company experienced revenue increases equal to one million U.S. dollars and that these revenue increases were “a direct result of the plans implemented.” The letter continues to state, “[The petitioner] gave us plenty of insight using her international knowledge on the training modules for our Accounting department which has greatly enhanced and will continue to enhance our productivity; her efforts focused on controls and following [the petitioner’s] implementation has produced high quality results for my company in South Africa time and time again.” The record contains no probative evidence of the petitioner’s plan she developed for the South African company. This letter contains assertions about the petitioner’s actions for the South African company, which are not corroborated by evidence within the record. 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’r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg’l Comm’r 1972)).

As previously discussed, the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(v) requires that the contributions be “of major significance in the field” rather than limited to one’s immediate employer and a few of its customers. Aside from [REDACTED] South African company, there is no documentary evidence showing the widespread impact of the petitioner’s work or that it otherwise equates to an original contribution of major significance in the field. This letter asserts the petitioner provided this organization insight based on her international knowledge resulting in high quality results. Similar to [REDACTED] letter, the segment of the letter titled, “[REDACTED] areas of focus include the following services:” appears to derive directly from the Ernst & Young web site.⁴ The fact that evidence is infused with content that is actually the work of an individual who is in no apparent way related to the petitioner or to the author of the letter calls into question the propriety of the rest of the claims within the letter. Nevertheless, this letter is insufficient to contribute to the petitioner establishing eligibility under this criterion.

The letter from [REDACTED] indicates this individual reviewed the petitioner’s work, which involved an audit of the United States Postal Services (USPS) where the petitioner “was able to get the clients [USPS] to conform with the requirements of the Sarbanes-Oxley Act and hence contributed highly to the success of the firm in that regard.” The letter continues to outline the petitioner’s abilities and accomplishments as an auditor with experience in regulatory compliance. The petitioner’s accomplishments contained in this letter are representative of an accounting auditor with a common

⁴ http://www.ey.com/US/en/Services/Advisory/IT-Risk-and-Assurance/IT-Internal-Controls/Advisory_ITRA_IT_internal_controls_areas_of_focus, [accessed on October 25, 2011, a copy of which is incorporated into the record of proceeding.]

level of accomplishments rather than one who has provided accomplishments of major significance to her field.

Additionally, this letter asserts the petitioner “broke down” the Sarbanes-Oxley Act describing mandates and other financial reporting requirements. The letter continues to summarize the titles of the Sarbanes-Oxley Act to include content that appears to be directly copied from the Internet and pasted into the witness letter. The text from this segment of the letter is an exact match to a Wikipedia web site.⁵ The fact that evidence is mixed with content that purports to be original information, but is actually the work of an unrelated individual, calls into question the propriety of the rest of the claims within the letter. Nevertheless, this letter is insufficient to contribute to the petitioner establishing eligibility under this criterion.

The letter from [REDACTED] recounts knowledge he possesses of the petitioner’s past work. Additionally, [REDACTED] recounts the petitioner’s work in his marketing department where the petitioner performed work “focusing on the internal controls and accounting responsibilities [which] contributed to the huge success of my organization.” The plain language of this criterion requires original contributions of major significance to the field as a whole rather than simply to the petitioner’s employer. The petitioner provides no documentary evidence showing the widespread effect of her work or that it otherwise equates to an original contribution of major significance in the field. [REDACTED] then indicates the specific actions the petitioner performed for his organization to corroborate his assertions of the petitioner’s accomplishments within his marketing department. [REDACTED] statements derive directly from multiple web sites and are not representative of the petitioner’s actions for his marketing department, which the AAO outlines below:

- The section titled, “Extending the service life cycle” is taken directly from *The Times 100*, an online educational resource for United Kingdom business students.⁶
- The section titled, “Promoting the Service brand” is also taken directly from *The Times 100*.⁷
- The section titled, “The use of marketing mix in product launch: is also taken from two web pages on *The Times 100*.⁸

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’r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg’l Comm’r 1972)). While letters such as

⁵ http://en.wikipedia.org/wiki/Sarbanes%E2%80%93Oxley_Act#cite_note-3, [accessed on October 25, 2011, a copy of which is incorporated into the record of proceeding.]

⁶ http://www.thetimes100.co.uk/downloads/kelloggs/kelloggs_13_full.pdf, and [accessed on October 25, 2011, a copy of which is incorporated into the record of proceeding.]

⁷ <http://www.thetimes100.co.uk/case-study--promoting-the-brand--35-334-2.php>, [accessed on October 25, 2011, a copy of which is incorporated into the record of proceeding.]

⁸ http://www.thetimes100.co.uk/downloads/nivea/nivea_13_full.pdf and [http://www.thetimes100.co.uk/theory/theory--the-extended-marketing-mix-\(7ps\)--319.php](http://www.thetimes100.co.uk/theory/theory--the-extended-marketing-mix-(7ps)--319.php) [accessed on October 25, 2011, copies of which is incorporated into the record of proceeding.]

those above are relevant in providing details about the petitioner's role in various projects, they cannot by themselves establish the petitioner's eligibility as they lack evidence of specific contributions. There is insufficient evidence to determine how the petitioner's contributions have impacted her field.

According to the regulation at 8 C.F.R. § 204.5(h)(3)(v), an alien's contributions must be not only original but of major significance. The AAO must presume that the phrase "major significance" is not superfluous and, thus, that it has some meaning. *Silverman v. Eastrich Multiple Investor Fund, L.P.*, 51 F.3d 28, 31 (3rd Cir. 1995) quoted in *APWU v. Potter*, 343 F.3d 619, 626 (2nd Cir. Sep 15, 2003). To be considered a contribution of major significance in the field of business, it can be expected that the results would reflect the impression the petitioner's work has had on the field as a whole. The petitioner has failed to provide such evidence, and as previously noted, the assertions within the witness letters are insufficient to establish eligibility under this criterion. As a consequence, the petitioner has not established that she 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.

On appeal, counsel claims the petitioner qualifies under this criterion, but the record contains no primary evidence of any article that has appeared in professional or major trade publications or other major media. Although the second page of the [REDACTED] letter references a publication, the record does not mention the title, date, or the name of the publication in which it was purportedly published. This is clearly insufficient as the record contains no evidence of the aforementioned publication and counsel even fails to identify this publication within the appeal brief. However, the record does contain an audit report titled *Internal Control and Fraud Considerations and Design*. This appears to be a report related to the petitioner's work with the United States Postal Service as the initialism "USPS" is "whited out" at the top of the report's cover page. The petitioner has failed to establish that this report is a scholarly article or that it appeared in a professional or major trade publication or other major media.

The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(vi) requires evidence of "scholarly articles" in the plural, which is consistent with the statutory requirement for extensive evidence. Section 203(b)(1)(A)(i) of the Act; 8 U.S.C. § 1153(b)(1)(A)(i). As previously noted, the AAO can infer that the plural language in the regulatory criteria has meaning and that federal courts have upheld USCIS' ability to interpret significance from whether the singular or plural is used in a regulation. See *Maramjaya v. USCIS*, Civ. Act. No. 06-2158 (RCL) at 12; *Snapnames.com Inc. v. Chertoff*, 2006 WL 3491005 at *10. Accordingly, the petitioner has not established that she meets this criterion.

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

A leading role should be apparent by its position in the overall organizational hierarchy and that it be accompanied by the role's matching duties. A critical role should be apparent from the petitioner's impact on the organization or the establishment's activities. The petitioner's performance in this role

should establish whether the role was critical. Counsel offers no specific argument regarding any role of the petitioner, which was leading or critical.

Although the petitioner's resume indicates she has held several positions of audit supervisor/manager for different companies, a review of the record does not reveal any evidence which establishes that she performed in a leading or critical role to corroborate this assertion. The AAO will not infer the nature of the petitioner's role solely from the job title. Additionally, the witness letters discussed above assert the petitioner played a critical role for various organizations; however, the petitioner failed to provide sufficient evidence to corroborate these assertions such as an organizational chart differentiating the petitioner from other supervisors and managers. The petitioner also failed to provide evidence that any of these entities enjoy a distinguished reputation. On appeal, the petitioner does not provide any argument or additional evidence for consideration under this criterion. The AAO, therefore, considers this issue to be abandoned. *See Sepulveda v. U.S. Att'y Gen.*, 401 F.3d 1226, 1228 n. 2 (11th Cir. 2005); *Hristov v. Roark*, No. 09-CV-27312011, 2011 WL 4711885 at *1, *9 (E.D.N.Y. Sept. 30, 2011) (the court found the plaintiff's claims to be abandoned as he failed to raise them on appeal to the AAO). Accordingly, the petitioner has not established that she 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 record contains no evidence that actually establishes any salary the petitioner has received for her services such as a Form W-2 Wage and Tax Statement. The record does contain a job offer letter from [REDACTED]. However, at filing, this was a future offer rather than a salary that the petitioner has already commanded. The petitioner must establish the elements for the approval of the petition at the time of filing. 8 C.F.R. §§ 103.2(b)(1), (12). A petition may not be approved if the beneficiary was not qualified at the priority date, but expects to become eligible at a subsequent time. *See Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971).

Counsel's brief indicates the four witness letters from [REDACTED], [REDACTED], [REDACTED], and [REDACTED] establish the petitioner's eligibility for this criterion. However, it is not apparent from these witness letters that the petitioner has commanded a high salary or other significantly high remuneration relative to others in her field. Specifically, none of the letters reference the petitioner's salary or any form of compensation she has received. More importantly, the petitioner fails to provide any evidence to juxtapose against her salary that might indicate a salary she has commanded is high compared to others in her field. Accordingly, the petitioner has not established that she meets this criterion.

Summary

In light of the above, the petitioner has not submitted the requisite evidence under at least three of the evidentiary categories for which evidence must be submitted to meet the minimum eligibility requirements necessary to qualify as an alien of extraordinary ability. Nevertheless, the AAO will review the evidence in the aggregate as part of our final merits determination.

B. Final Merits Determination

In accordance with the *Kazarian* opinion, the next step is a final merits determination that considers all of the evidence in the context of whether or not the petitioner has demonstrated: (1) a “level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the[ir] field of endeavor,” 8 C.F.R. § 204.5(h)(2); and (2) “that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise.” 8 C.F.R. § 204.5(h)(3). *See Kazarian*, 596 F.3d at 1119-20.

The petitioner claims that she qualifies under the lesser awards or prizes criterion at 8 C.F.R. § 204.5(h)(3)(i). As qualifying evidence the petitioner provides an employee recognition award from [REDACTED]. An award from a single company without national or international recognition is not representative of sustained national or international acclaim or status as one of that small percentage who have risen to the very top of their field of endeavor.

Similarly, the petitioner claims that she qualifies under the membership in associations in the field which require outstanding achievements of their members criterion at 8 C.F.R. § 204.5(h)(3)(ii) based upon her membership in ICAN. Membership in a single association which is based upon minimal entrance standards open to most in the profession is not indicative of someone with a career of acclaimed work who has risen to the very top of the field.

The petitioner also claims to have judged the work of others as an accounting auditor. The nature of the beneficiary’s judging experience is a relevant consideration as to whether the evidence is indicative of the beneficiary’s national or international acclaim. *See Kazarian*, 596 F.3d at 1122. Typical work as an accounting auditor or supervisor is not indicative of or consistent with sustained national or international acclaim or status as one of that small percentage who have risen to the very top of their field of endeavor.

The petitioner’s contributions of major significance are not represented within the record of proceeding, outside of an accounting auditor’s standard work. The assertions within the witness letters are not corroborated with any type of primary evidence. Simply performing an auditor’s ordinary duties is not representative of one who has achieved sustained national or international acclaim or status as one of that small percentage who have risen to the very top of their field of endeavor.

The petitioner’s authorship of a report titled, *Internal Control and Fraud Considerations and Design*, was found insufficient to meet the scholarly articles criterion at 8 C.F.R. § 204.5(h)(3)(vi). Pursuant to the reasoning in *Kazarian*, 596 F.3d at 1122, the field’s response to this document may be and will be considered in our final merits determination. The petitioner provides no information relating to the document’s impact on her field, nor of any response to this document. Counsel’s brief asserts the petitioner authored this “review” and that it “offers extensive coverage of subjects on the regulation of banks and securities markets.” Counsel continues by asserting this “volume” is indispensable reading for all interested in international banking and finance.” It remains that the petitioner has not provided

evidence of the impact of this document on her field. She therefore, cannot be considered to be one who has achieved sustained national or international acclaim or status as one of that small percentage who have risen to the very top of their field of endeavor.

The petitioner provides witness letters without corroborating evidence asserting she played a critical role in organizations. However, these witness letters lack the specificity to show the petitioner performed a leading or critical role for the organizations. The reputation of each organization also remains in question as the petitioner failed to provide any evidence to establish each organization enjoyed a distinguished reputation. Additionally, each of these letters incorporate long segments of information derived from web sites that are not related to the petitioner or to the respective organization. The petitioner has not established she has attained sustained national or international acclaim or status as one of that small percentage who have risen to the very top of their field of endeavor related to this criterion.

Ultimately, the evidence, in the aggregate, does not distinguish the petitioner as one of the small percentage who has risen to the very top of the field of endeavor. The petitioner, an accounting auditor, relies on a company award, membership in a Nigerian accountant group in which admittance is based on passing an examination after serving a specific period of time as an approved student, performing the normal and expected duties of an auditor, vague and questionable witness letters alleging the critical roles the petitioner performed, and one "review" or "volume" which has made no apparent impact on the petitioner's field. This is not sufficient to distinguish the petitioner from other accounting auditors. Thus, it appears that the highest level of the petitioner's field is far above the level she has attained.

III. Conclusion

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim and is one of the small percentage who has risen to the very top of the field of endeavor.

Review of the record, however, does not establish that the petitioner has distinguished herself as an accounting auditor to such an extent that she may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of her field. The evidence is not persuasive that the petitioner's achievements set her significantly above almost all others in her field. 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 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

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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.