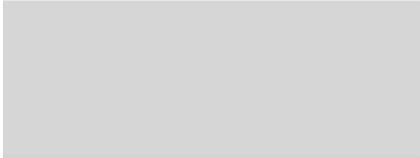




U.S. Citizenship  
and Immigration  
Services

(b)(6)



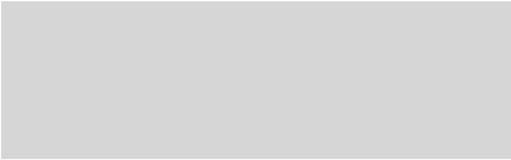
DATE: **MAY 18 2015**

PETITION RECEIPT #: 

IN RE: Petitioner:   
Beneficiary: 

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(O)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(O)(i)

ON BEHALF OF PETITIONER:



Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page ([www.uscis.gov/i-290b](http://www.uscis.gov/i-290b)) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The California Service Center Director denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. We will dismiss the appeal.

The petitioner, which is self-described as a Chinese restaurant and Asian produce grocery market, filed this petition seeking to classify the beneficiary as an O-1 nonimmigrant pursuant to section 101(a)(15)(O)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(O)(i), as an alien of extraordinary ability in the arts. The petitioner seeks to employ the beneficiary as a food service executive and head chef at its planned restaurant [REDACTED] for a period of three years.

The director denied the petition, concluding that the submitted evidence did not satisfy the evidentiary requirements applicable to aliens of extraordinary ability in the arts, pursuant to 8 C.F.R. § 214.2(o)(3)(iv)(A) or (B).

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to us. On appeal, the petitioner asserts that the beneficiary is eligible for the classification sought because “[a]ll the evidence, reviewed together have cumulatively established that the beneficiary has ascended to be a distinguished member of the top tier in his field which can rightly be described as ‘prominent’” and that the director erred by discounting evidence that the beneficiary received “a significant national award . . . [REDACTED].” The petitioner submits a brief in support of the appeal. For the reasons discussed below, we agree that the petitioner did not establish the beneficiary’s eligibility as an individual with extraordinary ability in the culinary arts. Accordingly, we will uphold the director’s decision and dismiss the appeal.

### I. Pertinent Law and Regulations

Section 101(a)(15)(O)(i) of the Act provides classification to a qualified alien who has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim, whose achievements have been recognized in the field through extensive documentation, and who seeks to enter the United States to continue work in the area of extraordinary ability. The regulation at 8 C.F.R. § 214.2(o)(3)(ii) provides, in pertinent part: “*Extraordinary ability in the field of arts* means distinction. Distinction means a high level of achievement in the arts evidenced by a degree of skill and recognition substantially above that ordinarily encountered to the extent that a person described as prominent is renowned, leading, or well-known in the field of arts.”

The regulation at 8 C.F.R. § 214.2(o)(3)(iv) sets forth a multi-part analysis. First, a petitioner can demonstrate the beneficiary’s recognition in the field through evidence that the alien has been nominated for, or the recipient of, significant national or international awards or prizes in the particular field such as an Academy Award, an Emmy, a Grammy, or a Director’s Guild Award. 8 C.F.R. § 214.2(o)(3)(iv)(A). If the petitioner does not submit this evidence, then a petitioner must submit sufficient qualifying evidence that satisfies at least three of the six categories of evidence listed at 8 C.F.R. § 214.2(o)(3)(iv)(B)(1)-(6). If the petitioner demonstrates that certain criteria in paragraph (o)(3)(iv)(B) of this section do not readily apply to the beneficiary’s occupation,

the petitioner may submit comparable evidence in order to establish the beneficiary's eligibility. 8 C.F.R. § 214.2(o)(3)(iv)(C).

The submission of evidence relating to at least three criteria does not, in and of itself, establish eligibility for O-1 classification. 59 Fed. Reg. 41818, 41820 (Aug. 15, 1994). In addition, we have held that "truth is to be determined not by the quantity of evidence alone but by its quality. Thus, in adjudicating the application pursuant to the preponderance of the evidence standard, the director must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true." *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

The regulation at 8 C.F.R. § 214.2(o)(3)(ii) defines, in pertinent part:

*Arts* includes any field of creative activity or endeavor such as, but not limited to, fine arts, visual arts, culinary arts, and performing arts.

Additionally, the regulation at 8 C.F.R. § 214.2(o)(2)(iii) provides:

The evidence submitted with an O petition shall conform to the following:

- (A) Affidavits, contracts, awards, and similar documentation must reflect the nature of the alien's achievement and be executed by an officer or responsible person employed by the institution, firm, establishment, or organization where the work was performed.
- (B) Affidavits written by present or former employers or recognized experts certifying to the recognition and extraordinary ability . . . shall specifically describe the alien's recognition and ability or achievement in factual terms and set forth the expertise of the affiant and the manner in which the affiant acquired such information.

## II. Factual and Procedural History

The petitioner filed the Form I-129, Petition for a Nonimmigrant Worker, and supporting documentation on April 14, 2014. The director issued a request for additional evidence (RFE) on April 19, 2014, to which the petitioner replied. We have considered the evidence of record in its entirety in reaching this decision.

The beneficiary holds a Diploma of [REDACTED] Cheese Production from the [REDACTED] in Switzerland conferred in 1999. He further received European Culinary Arts Certificates in Gourmet Cuisine and Pastry & Chocolate at the [REDACTED] in [REDACTED] Switzerland in July 2000.

In a letter of dated April 9, 2014, the petitioning company indicates that it "started operations in 2012 with three major lines of business: 1) Asian grocery retail; 2) Food services including deli

and restaurant; and 3) Agricultural product trade.” The petitioner states that “[t]he primary area of operations covers Asian grocery sales and food services,” and further explains as follows:

The Management of [the petitioning company] has concrete plans to establish a Chinese restaurant tentatively by the name [REDACTED] . . . which will feature authentic Chinese food and adaptive Chinese food to American taste. The kitchen will also serve the deli section in the grocery store with Chinese BBQ, marinated dishes, dump[ing], bun, homemade soymilk, spring roll, fried dough, etc. We will also build a bakery corner . . . . [W]e therefore need someone with the talents of preparing both authentic Chinese food and Western food or [a] combination of the two cuisines . . . . The beneficiary . . . is a perfect candidate for our mission as outlined above.

The record contains the petitioner’s contract with the beneficiary signed by both parties on March 18, 2014. The contract indicates that the beneficiary will be employed as the Executive Chef in charge of the restaurant [REDACTED] and the food deli section of the grocery store [REDACTED] and that his duties in the position will include “designing the complete food menu for the restaurant and deli section; producing quality dishes and training assistant chefs; kitchen management and restaurant daily operation.”

### III. Analysis

#### A. The Beneficiary’s Eligibility under the Evidentiary Criteria

The sole issue to be addressed is whether the petitioner submitted evidence to establish that the beneficiary satisfies the evidentiary criterion at 8 C.F.R. 214.2(o)(3)(iv)(A), or at least three of the six criteria set forth at 8 C.F.R. § 214.2(o)(3)(iv)(B). In denying the petition, the director determined that the evidence submitted does not satisfy any of these criteria. After careful review, the evidence of record does not establish that the petitioner has overcome the grounds for denial.

If the petitioner establishes through the submission of documentary evidence that the beneficiary has been nominated for or has been the recipient of, significant national or international awards or prizes in the particular field pursuant to 8 C.F.R. § 214.2(o)(3)(iv)(A), then it will have submitted the requisite initial evidence for O-1 classification. The regulation lists an Academy Award, an Emmy, a Grammy, or a Director’s Guild award as examples of qualifying significant awards or prizes.

The petitioner initially submitted evidence of the beneficiary’s receipt of the following awards:

1. Annual Contest of Asparagus Peeling, first Place ([REDACTED]).
2. Famous Cooking Master in [REDACTED].
3. Famous Snack in [REDACTED].

In response to the director's RFE, the petitioner submitted evidence of the beneficiary's receipt of the following awards:

4. [REDACTED]
5. Liaoning Chef Master, [REDACTED]
6. China Chef Master, [REDACTED]

The petition also submitted documentation showing that in [REDACTED] the beneficiary performed as a judge at the [REDACTED] Cuisine Technique Innovation Competition sponsored by the [REDACTED] and received an "Honorable Certificate of 'Judge,'" expressing the sponsor's "gratitude and compliment for [the beneficiary] taking part as judge." The petitioner has not established that this certificate constitutes an award rather than a certificate of appreciation. On appeal, the petitioner discusses only the [REDACTED] China Chef Master title. Regardless, we agree with the director's determination that the record does not contain documentation to provide additional context of the above awards within the scope of the beneficiary's profession. While the [REDACTED] covered the [REDACTED] Annual Contest of Asparagus Peeling, the summary translation the petitioner provided of this article does not suggest that awards from this competition are significant national or international awards or prizes. In addition, 2, 3, 4 and 5 reflect local or regional, rather than national or international recognition.

On appeal, the petitioner asserts that, regarding item 6, the beneficiary has submitted evidence of "a significant national award which has apparently been overlooked or discounted without an explanation in the decision, that is[,] the [REDACTED] China Chef Master issued by national [REDACTED]" While the petitioner indicates on appeal that this award is "a significant national award" it did not specifically indicate in response to the director's RFE, when it submitted the award, that it qualified under 8 C.F.R. § 214.2(o)(3)(iv)(A).

The regulation at 8 C.F.R § 214.2(o)(3)(iv)(A) specifically requires that the beneficiary's awards be significant nationally or internationally in the field of endeavor, and it is the petitioner's burden to establish every element of this regulation. The record contains insufficient evidence establishing the significance and magnitude of the preceding competition and the extent to which the nominees or winners of such an award are recognized beyond the issuing body. The petitioner did not provide general information about the competition (such as the eligibility criteria, the number of entrants, or the percentage of entrants who earned some type of recognition, including the number of chefs receiving the same title as the beneficiary).

The record also does not contain supporting evidence showing that the recipients of the preceding honor were announced in major media or in some other manner consistent with a significant national or international award. For example, the winners and nominees of Emmy and Grammy awards receive significant national and international media attention as the result of their recognition, and the awards themselves are considered among the highest achievements attainable in the performing arts.

The testimonial evidence in the record does not establish that such awards are comparable in importance to the highly recognizable awards mentioned in the regulation. For example, Mr.

\_\_\_\_\_ a China National Special First Class chef with \_\_\_\_\_ in the food service industry, states that he was a judge of a competition in which the beneficiary won the award of “\_\_\_\_\_.” He states that the beneficiary’s version of the dish called Five Grain Harvest “uplifted a Northeastern China’s household dish into a fine cuisine product.” He also notes that the beneficiary “has recently won the title of ‘\_\_\_\_\_’” However, Mr. \_\_\_\_\_ does not discuss the significance of either award.

Mr. \_\_\_\_\_, owner of a Shanghai-style restaurant in China who has been in the food service industry for more than \_\_\_\_\_, states that he has known the beneficiary since 2012. Mr. \_\_\_\_\_ notes that in \_\_\_\_\_ the beneficiary “won the Famous Cooking Master of \_\_\_\_\_ [given] by the \_\_\_\_\_” but Mr. \_\_\_\_\_ does not discuss the significance of the award.

Therefore, without documentation to provide additional context regarding the beneficiary’s awards within the scope of his profession, we cannot conclude that the beneficiary’s awards in the culinary field are regarded as comparable to, for example, an Academy award in the motion picture field. It is the petitioner’s burden to establish how the submitted evidence establishes eligibility under the regulation. Accordingly, the petitioner has not established that the beneficiary has received or been nominated for a significant national or international prize or award that would qualify for him for O-1 status under 8 C.F.R. § 214.2(o)(3)(iv)(A).

Therefore, the petitioner must establish the beneficiary’s eligibility under at least three of the six evidentiary criteria set forth at 8 C.F.R. § 214.2(o)(3)(iv)(B). We will address these criteria below.<sup>1</sup>

*Evidence that the alien has achieved national or international recognition for achievements evidenced by critical reviews or other published materials by or about the individual in major newspapers, trade journals, magazines, or other publications*

The plain language of the regulation at 8 C.F.R. § 214.2(o)(3)(iv)(B)(2) requires the petitioner to demonstrate that the beneficiary has achieved national or international recognition for achievements through submission of critical reviews or other published materials by or about the individual in major newspapers, trade journals, magazines, or other publications. In general, in order for published material to meet this criterion, it must be by or about the beneficiary and, as stated in the regulations, be printed in major newspapers, magazines or other major publications. To qualify as major media, the publication should have significant national or international distribution.

The petitioner initially submitted an article that appeared in the \_\_\_\_\_ containing a photograph of the beneficiary, stating that the beneficiary won First place in the \_\_\_\_\_ Annual Contest of Asparagus Peeling held at the \_\_\_\_\_. In response to the director’s RFE, the petitioner provided information regarding the circulation of the publication. However, the article is not a critical review from a restaurant critic or specifically “about” the beneficiary as an individual; rather, it only briefly mentions the beneficiary as the winner of the contest. The plain

<sup>1</sup> The petitioner does not claim to meet or submit evidence relating to the criteria not discussed in this decision.

language of this regulatory criterion requires that the published material be a critical review or “about the individual.”

In addition, the regulation at 8 C.F.R. § 103.2(b)(3) states: “Any document containing foreign language submitted to USCIS shall be accompanied by a full English language translation which 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.” The petitioner confirms on appeal that the translation is a summary translation rather than representing the whole foreign language article. Because the translation does not comply with 8 C.F.R. § 103.2(b)(3), it has significantly diminished probative value.

As additional initial evidence, the petitioner submitted a translation for a letter from [REDACTED]. The translation reflects that the editor/director of the station’s Modern Life Programs invited the beneficiary to join one of the programs as a special guest. The translator, however, did not sign the translator certificate. Accordingly, the translation does not comply with the regulation at 8 C.F.R. § 103.2(b)(3). Regardless, the invitation does not confirm that the beneficiary actually participated as a guest on one of the station’s programs.

Also in response to the director’s RFE, the petitioner submitted an article that appeared in [REDACTED] magazine in September 2013. The article, which does not include the author of the material, identifies two of the restaurants where the beneficiary has worked. The article states that the beneficiary is currently the Deputy Head Chef of [REDACTED] (also known as the [REDACTED]), which the article identifies as a five star hotel, and states that he was previously the Chinese Head Chef of [REDACTED] headed by a German Chef. While the article discusses some of the beneficiary’s culinary successes at those restaurants, including some dishes that the beneficiary has created, it does not constitute a review by a restaurant critic and does not discuss the beneficiary’s achievements with any specificity, such as identifying other news and media outlets that have critiqued his work. Vague references to favorable reviews cannot be deemed national or international recognition for achievements. Moreover, while the author of the published material speaks very positively of the beneficiary’s performance as a chef at those restaurants, the article does not recognize the beneficiary’s individual achievements in the culinary arts or the national and international recognition he received for such achievements.

In light of the above, the petitioner has not submitted evidence that satisfies the evidentiary criterion at 8 C.F.R. § 214.2(o)(3)(iv)(B)(2).

*Evidence that the alien has performed, and will perform, in a lead, starring, or critical role for organizations and establishments that have a distinguished reputation evidenced by articles in newspapers, trade journals, publications, or testimonials.*

In a letter dated April 9, 2014, the petitioner asserts that the beneficiary meets this criterion based on his previous employment as “the Executive Associate Head Chef of [REDACTED] since 2010” and previous employment as follows: from 2009 to 2010 as Head Chef of the Food Service Department of [REDACTED] of [REDACTED] 2008 to 2009 Chinese Head Chef of [REDACTED] 2006 to 2008 as Head

Chef of [REDACTED]; 2001 to 2005 as a Chef for [REDACTED] in Switzerland; and 1997 to 1998 “as Chef in [REDACTED] . . . for [REDACTED]”

Although the petitioner asserts that “[t]he above progressive experiences in [the beneficiary’s] career in culinary arts should establish [the beneficiary’s] recognized ability in his field of endeavor,” at issue for this criterion are the position the beneficiary was selected to fill and the reputation of the entity that selected him. The director concluded that the record does not contain sufficient evidence of the beneficiary’s duties and any other pertinent information that would establish his claimed critical roles with the establishments that have employed him. The director also noted the lack of evidence that the beneficiary “will perform” in a role for a qualifying organization or establishment. On appeal, the petitioner asserts that the beneficiary meets this criterion based upon having submitted “evidence to show that the beneficiary is a leading chef for a prominent five star hotel.” The petitioner does not respond to the director’s concerns regarding the beneficiary’s proposed role and the reputation of the entity for which he will perform that role.

With respect to the beneficiary’s previous employment, the petitioner has submitted a certificate of employment from the [REDACTED] China, stating that the beneficiary “was working at our hotel as executive associate head chef from October 8, 2010 to December 30, 2012.” The petitioner submitted several pictures of the beneficiary showing him cooking with others in restaurant kitchens and attending a professional meeting and conference. The petitioner also submitted several testimonial letters in support of the petition.

Mr. [REDACTED] a China National Special First Class chef with [REDACTED] in the food service industry, states that he has known the beneficiary since 2009, when “the beneficiary, for family reasons, left the [REDACTED]” He further states that the beneficiary thereafter “decided to work for the Food Service Department of [REDACTED] of [REDACTED]”

Mr. [REDACTED] owner of a Shanghai-style restaurant in China who has been in the food service industry for more than [REDACTED], states that he has known the beneficiary since 2012, when he was favorably impressed by the food “at the [REDACTED] well-known as [REDACTED] (a five-star hotel in [REDACTED]).” Mr. [REDACTED] states that the beneficiary was the Head Chef of the restaurant at the time. The article in [REDACTED] also discusses the beneficiary’s role for that restaurant.

Mr. [REDACTED] the current editor of China’s [REDACTED] magazine, states that the beneficiary was his classmate in a “well-known [REDACTED] in Switzerland” from which Mr. [REDACTED] graduated in 2000, and that he and the beneficiary were interns “at a star-level restaurant in Switzerland.” Mr. [REDACTED] letter does speak to the nature of the beneficiary’s role or level of responsibility as an intern or how he played a leading or critical role for the institute. Mr. [REDACTED] also summarizes the beneficiary’s other employment experience, stating that in 2006, the beneficiary was a manager of production at “the [REDACTED] Flagship restaurant of [REDACTED]” and that in 2008, the beneficiary worked as the Chinese Head Chef at the German restaurant [REDACTED]

\_\_\_\_\_ a chef at \_\_\_\_\_ Switzerland, and one of the beneficiary's teachers, states that the beneficiary worked in the kitchen at \_\_\_\_\_ for several months in 1999 as Garde Manger and also was responsible for "some of the desserts and some of the hot food."

There is no evidence demonstrating how the beneficiary's role as Head Chef of the Food Service Department, intern or Garde Manger differentiated him from others where he worked. For instance, the petitioner did not submit evidence such as an organizational chart which would demonstrate the beneficiary's position within the organizations that employed him, or otherwise describe the hierarchy among the kitchen staff. Position title alone, without specific information regarding the beneficiary's actual duties or explanation of the relevance or importance of that position within the hierarchy of the organization, is not sufficient to establish the beneficiary's leading or critical role. While the beneficiary provided valuable services in these roles, the petitioner has not supported the proposition that he has performed a leading or critical role for the establishments. That said, the evidence in the aggregate, including the article in *eastat*, confirms that that the beneficiary did perform in a critical role for \_\_\_\_\_. The petitioner has not submitted sufficient documentary evidence to establish that \_\_\_\_\_

\_\_\_\_\_ in Switzerland, and \_\_\_\_\_ enjoyed a distinguished reputation in the culinary arts field during the beneficiary's employment. Nevertheless, Mr. \_\_\_\_\_ describes the \_\_\_\_\_ as a five-star hotel and the article in \_\_\_\_\_ confirms that information regarding both the hotel and the restaurant. Accordingly, the petitioner has established that the beneficiary's role with the \_\_\_\_\_ is qualifying under this criterion.

The plain language of the regulation at 8 C.F.R § 214.2(o)(3)(iv)(B)(3), however, requires not only evidence that the beneficiary "has performed" in a qualifying role, but also that he "will perform" in such a role. On appeal, the petitioner does not address the director's finding that the petitioner has not established its distinguished reputation. We agree with the director that the record does not contain any documentary evidence that the petitioner's retail and food service business enjoys a distinguished reputation in the culinary field.

Based on the foregoing, the petitioner has not submitted evidence to fully satisfy the plain language of the regulation at 8 C.F.R. § 214.2(o)(3)(iv)(B)(3).

*Evidence that the alien has a record of major commercial or critically acclaimed successes as evidenced by title, rating, standing in the field, box office receipts, motion pictures or television ratings, and other occupational achievements reported in trade journals, major newspapers, or other publications*

The director determined that the petitioner did not submit any evidence in support of this criterion. On appeal, the petitioner asserts that it has satisfied this criterion by having "submitted evidence how the beneficiary designed menus that improved the business." Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*,

19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). The letters do not provide specific examples of how the beneficiary has improved a business, such as by providing data relating to an increase in customers after he began working there. The article in *easteat* implies that while the [REDACTED] [REDACTED] previously held a five-star designation, the beneficiary proposed changes to turn it into a “booming business.” The article does not, however, confirm that the beneficiary did, in fact, turn a “listless and losing restaurant” into a “booming business.” Moreover, the petitioner did not provide information from the hotel confirming an increase in customers after the beneficiary began working there or the size of that increase.

The petitioner also asserts that it has satisfied this criterion by providing evidence of “how [the beneficiary’s] career achievement was recognized by peer of national recognition, namely, Mr. [REDACTED] who is a national award winner in China and has been a chef of national renown in China, to name only one of several in the Petition.” The director determined that such evidence does not satisfy this criterion. The record supports that determination.

The plain language of the regulation at 8 C.F.R. § 214.2(o)(3)(iv)(B)(4) requires a record of major commercial or critically acclaimed successes as evidenced by such indicators as title, rating, standing in the field, box office receipts, motion picture or television ratings, and other occupational achievements reported in trade journals, major newspapers, or other publications. The record includes no evidence of documented “receipts” showing that the beneficiary achieved commercial successes in the culinary arts in a manner consistent with sustained national or international acclaim. For example, there is no indication that the beneficiary’s employment as a chef in China or Switzerland consistently drew notable crowds, or resulted in greater patronage than other similar dining establishments that did not feature the beneficiary, or other evidence of tangible achievements in the culinary arts field. The article in [REDACTED] does not constitute a formal review of the beneficiary’s cooking or the [REDACTED] by a restaurant critic such that it constitutes a critical review. The favorable reviews of the beneficiary’s performance as a chef which are contained in the testimonial letters are not sufficient evidence of a record of “major critically acclaimed success”; the petitioner did not provide objective evidence to establish the significance of these favorable reviews. In light of the above, the petitioner has not established that they constitute a “major” success as required by the plain language of 8 C.F.R. § 214.2(o)(3)(v)(B)(4).

*Evidence that the alien has received significant recognition for achievements from organizations, critics, government agencies, or other recognized experts in the field in which the alien is engaged. Such testimonials must be in a form which clearly indicates the author’s authority, expertise, and knowledge of the alien’s achievements.*

The director determined that the evidence of record does not establish that the beneficiary meets the criterion at 8 C.F.R. § 214.2(o)(3)(iv)(B)(5).

The petitioner submitted four letters of recommendation. On appeal, the petitioner asserts that “we have submitted evidence, letters of recommendation by several nationally renowned figures in the

field in China who are obviously the peers or critics of the beneficiary's work." We note that some of the letters submitted are from the beneficiary's own former employer and colleagues and discuss his talents and work ethic rather than his *achievements* in the culinary arts field. The letters of support will be addressed below.

Mr. [REDACTED] a China National Special First Class chef with [REDACTED] in the food service industry, states that since 2009 he "got in touch with [the beneficiary] several times" and was "impressed by his culinary art skills, cuisine concepts and extensive knowledge in the profession." He states that the beneficiary "has been trying hard to revolutionize Chinese cuisine while reserving the essence of Chinese taste." He praises the beneficiary's "creative and masterful handling of various cuisine techniques" and describes the beneficiary's achievement in his field as "unique."

Mr. [REDACTED] owner of a Shanghai-style restaurant in China who has been in the food service industry for more than [REDACTED], states that he has known the beneficiary since 2012, when he was favorably impressed by the food at a restaurant where the beneficiary was the Head Chef. He describes the beneficiary as "passionately devoted to the culinary art" and praises the beneficiary's "innovative dishes and styles with exceptional flavors and tastes" and the beneficiary's "maturity and pursuit of excellence in his design of menus." He explains that "the beneficiary's strength lies in his ability of going beyond traditional menus and using commonplace raw materials to forge new dishes with unprecedented flavors and styles."

Mr. [REDACTED] the current editor of China's [REDACTED] magazine, states that the beneficiary was his classmate in a "well-known [REDACTED] in Switzerland" from which Mr. [REDACTED] graduated in 2000. Mr. [REDACTED] also states that he interned with the beneficiary "at a star-level restaurant in Switzerland." Mr. [REDACTED] summarizes the beneficiary's pertinent employment experience, stating that in 2006, the beneficiary was a manager of production at a restaurant in Shanghai, where the beneficiary "developed a better understanding of Chinese local delicacies" and "deepened his understanding of market expansion and planning in the food service industry." Mr. [REDACTED] also states that in 2008, the beneficiary worked as the Chinese Head Chef at a German restaurant in [REDACTED] where the beneficiary "perfectly combined Chinese and Western Cuisines and seamlessly integrated Chinese and Western foods and processes having turned the heavy Bavarian country tastes into something that better suit[ed] Chinese consumers." He praises the beneficiary's "outstanding culinary art skills, openness of his mind and unparalleled passion."

Finally the petitioner submitted a letter from [REDACTED] a chef at [REDACTED] Switzerland, who states she was one of the beneficiary's teachers. Ms. [REDACTED] states that the beneficiary worked in the kitchen at [REDACTED] for several months in 1999 as Garde Manger and also was responsible for "some of the desserts and some of the hot food." Ms. [REDACTED] states that the beneficiary "helped us to broaden our menu with his unique cultural background."

We note that the petitioner has provided translations of the foreign language testimonials of [REDACTED]. As previously stated, the regulation at 8 C.F.R. § 103.2(b)(3) states: "Any document containing foreign language submitted to USCIS shall be accompanied by a full

English language translation which 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." While not addressed by the director in her decision, the translations of those foreign language documents are uncertified. Because these translations do not comply with 8 C.F.R. § 103.2(b)(3), they have significantly diminished probative value.

Upon review, the evidence of record supports the director's determination that the submitted evidence does not satisfy the criterion at 8 C.F.R. § 214.2(o)(3)(iv)(B)(5). As noted above, to satisfy this evidentiary criterion, the petitioner must submit evidence that the beneficiary has received significant recognition for achievements from organizations, critics, government agencies, or other recognized experts in the field in which he is engaged. Any testimonials must be in a form which clearly indicates the author's authority, expertise, and knowledge of the alien's achievements.

USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm'r. 1988). However, USCIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive evidence of eligibility; USCIS may evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795. USCIS may even give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *Id.* at 795; *see also Matter of Soffici*, 22 I&N Dec. at 165 (citing *Matter of Treasure Craft of California*, 14 I&N Dec. at 190). Thus, the content of the writers' statements and how they became aware of the petitioner's reputation are important considerations.

The submitted reference letters all praise the beneficiary's talent and abilities. While reference letters can provide useful information about the beneficiary's qualifications or help in assigning weight to certain evidence, those letters that did address achievements of the beneficiary, such as his "creative and masterful handling of various cuisine techniques," his "ability of going beyond traditional menus and using commonplace raw materials to forge new dishes with unprecedented flavors and styles," and his "outstanding culinary art skills, openness of his mind and unparalleled passion," do not explain how the beneficiary's achievements to date have received significant recognition from organizations, critics, government agencies or other recognized experts in the field.

Although some of the testimonials mention several of the beneficiary's culinary awards received in China, as discussed above, the petitioner has not documented the scope and significance of these competitions. The submitted evidence does not establish that the prizes rise to the level of a "significant recognition for achievements from organizations in the field" pursuant to the plain language of the criterion.

We acknowledge the petitioner's assertions on appeal that the evidence should not be reviewed "discretely"; rather the inquiry should be whether "[a]ll the evidence, reviewed together [has] cumulatively established that the beneficiary has ascended to be a distinguished member of the top tier in his field which can rightly be described as 'prominent.'" However, it remains the petitioner's

burden to establish the beneficiary's significant recognition for achievements in the field. As discussed, the testimonial evidence submitted does not meet this burden. Overall, while the beneficiary has earned the respect of his colleagues in the culinary arts, the evidence submitted is insufficient to establish that the beneficiary has received significant recognition for achievements in the field.

Finally, as discussed above, the beneficiary has also received recognition in 2013 in the form of the title China Chef Master, [REDACTED]. However, the record contains insufficient evidence to establish that the competition for this title is a high-profile national event in the Chinese culinary industry. The petitioner did not document the entry criteria for earning the title, the number of competitors in the specific competition in which the beneficiary earned this title, and the number of chefs who also received this title. In addition, as none of the testimonials address the significance of this title, and there is no published information regarding the beneficiary's title, we cannot determine whether the certificate rises to the level of a "significant recognition."

Based on the foregoing, the petitioner has not submitted evidence that satisfies the criterion at 8 C.F.R. § 214.2(o)(3)(iv)(B)(5) that the beneficiary has received significant recognition for achievements from organizations, critics, government agencies, or other recognized experts in the field.

#### IV. Conclusion

The petitioner has not submitted qualifying evidence under 8 C.F.R. § 214.2(o)(3)(iv)(A) or at least three criteria at 8 C.F.R. § 214.2(o)(3)(iv)(B). Consequently, the petitioner has not established that the beneficiary is eligible for classification as an alien with extraordinary ability in the arts and the petition may not be approved.

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

**ORDER:** The appeal is dismissed.