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

(b)(6)

U.S. Citizenship and Immigration Services

[redacted]

Date: JUL 10 2014 Office: VERMONT SERVICE CENTER FILE: [redacted]

IN RE: Petitioner: [redacted]
Beneficiary:

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

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at http://www.uscis.gov/forms for the latest information on fee, filing location, and other requirements.** *See also* 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Vermont Service Center Director denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner filed a Petition for a Nonimmigrant Worker (Form I-129) seeking new employment and an extension of the beneficiary's stay in P-1 classification as an athlete in an individual capacity under section 101(a)(15)(P)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(P)(i). The petitioner, an agent, is filing on behalf of the beneficiary so that he may be temporarily employed in the United States as a Professional Horse Jockey for a period of five years.

The director denied the petition, concluding that the petitioner failed to establish that the beneficiary will participate in events requiring the participation of an internationally recognized athlete, and that the beneficiary is an internationally recognized athlete.

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review. On appeal, the petitioner asserts that the beneficiary is eligible for the classification sought. The petitioner submits a brief in support of the appeal.

I. The Law

Under section 101(a)(15)(P)(i) of the Act, an alien having a foreign residence which he or she has no intention of abandoning may be authorized to come to the United States temporarily to perform services for an employer or sponsor. Section 214(c)(4)(A)(i)(I) of the Act, 8 U.S.C. § 1184(c)(4)(A)(i)(I), provides that section 101(a)(15)(P)(i)(a) of the Act applies to an alien who "performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance." Section 214(c)(4)(A)(ii)(I) of the Act further provides that the alien must seek to enter the United States temporarily and solely for the purpose of performing as such an athlete with respect to a specific athletic competition.

The regulation at C.F.R. § 214.2(p)(1)(ii)(A)(*1*) provides that P-1 classification applies to an alien who is coming temporarily to the United States "[t]o perform at specific athletic competition as an athlete, individually or as part of a group or team, at an internationally recognized level or performance."

The regulation at 8 C.F.R. § 214.2(p)(4)(i) states:

> (A) *P-1 classification as an athlete in an individual capacity.* A P-1 classification may be granted to an alien who is an internationally recognized athlete based on his or her own reputation and achievements as an individual. The alien must be coming to the United States to perform services which require an internationally recognized athlete.

The regulation at 8 C.F.R. § 214.2(p)(3) further states, in pertinent part:

Internationally recognized means having a high level of achievement in a field evidenced by a degree of skill and recognition substantially above that ordinarily encountered, to the extent that such achievement is renowned, leading, or well-known in more than one country.

The regulation at 8 C.F.R. § 214.2(p)(4)(ii) sets forth the documentary requirements for P-1 athletes as:

(A) *General.* A P-1 athlete must have an internationally recognized reputation as an international athlete or he or she must be a member of a foreign team that is internationally recognized. The athlete or team must be coming to the United States to participate in an athletic competition which has a distinguished reputation and which requires participation of an athlete or athletic team that has an international reputation.

(B) *Evidentiary requirements for an internationally recognized athlete or athletic team.* A petition for an athletic team must be accompanied by evidence that the team as a unit has achieved international recognition in the sport. Each member of the team is accorded P-1 classification based on the international reputation of the team. A petition for an athlete who will compete individually or as a member of a U.S. team must be accompanied by evidence that the athlete has achieved international recognition in the sport based on his or her reputation. A petition for a P-1 athlete or athletic team shall include:

(*1*) A tendered contract with a major United States sports league or team, or a tendered contract in an individual sport commensurate with international recognition in that sport, if such contracts are normally executed in the sport, and

(*2*) Documentation of at least two of the following:

(*i*) Evidence of having participated to a significant extent in a prior season with a major United States sports league;

(*ii*) Evidence of having participated in international competition with a national team;

(*iii*) Evidence of having participated to a significant extent in a prior season for a U.S. college or university in intercollegiate competition;

(*iv*) A written statement from an official of the governing body of the sport which details how the alien or team is internationally recognized;

(*v*) A written statement from a member of the sports media or a

recognized expert in the sport which details how the alien or team is internationally recognized;

(*vi*) Evidence that the individual or team is ranked if the sport has international rankings; or

(*vii*) Evidence that the alien or team has received a significant honor or award in the sport.

The regulation at 8 C.F.R. § 214.2(p)(2)(ii) states that petitions for P nonimmigrant aliens shall be accompanied by the following evidence:

(A) The evidence specified in the specific section of this part for the classification;

(B) Copies of any written contracts between the petitioner and the alien beneficiary or, if there is no written contract, a summary of the terms of the oral agreement under which the alien(s) will be employed;

(C) An explanation of the nature of the events or activities, the beginning and end dates for the events or activities, and a copy of any itinerary for the events or activities; and

(D) A written consultation from a labor organization.

The regulation at 8 C.F.R. § 214.2(p)(2)(iii) states, in pertinent part, that affidavits written by experts certifying to the recognition of the beneficiary "shall specifically describe the alien's recognition and ability or achievement in factual terms" and "must also set forth the expertise of the affiant and the manner in which the affiant acquired such information."

II. Discussion

A. Events Requiring Participation of an Athlete Who Has an International Reputation

As initial evidence of the beneficiary's proposed events in the United States, the petitioner submitted an Employment Agreement between the beneficiary (Jockey) and his employer, Mr. (Horse Trainer), stating:

It is anticipated that Jockey will compete at the following competitions:

Proposed Schedule for [the Beneficiary]

2013[1]

[redacted]

[1] The petitioner included events through 2018.

The petitioner submitted an April 16, 2013 copy of the beneficiary's jockey profile page from listing his "Best Racing Class Achieved" as a "Multiple Stakes Winning Jockey." The beneficiary's entries are listed as:

The director issued a Request for Evidence (RFE) advising the petitioner that the evidence submitted was insufficient and did not prove that the beneficiary is registered to provide qualifying services as an athlete in any of the listed events or that the requirements for an internationally recognized athlete or athletic team have been met. The director advised the petitioner to submit additional evidence to establish that the beneficiary meets the P-1A classification, including an explanation of the nature of the competition, event, or performance, and documentation demonstrating the beneficiary's intent to enter into competitive events as a rider.

In response to the RFE, the petitioner asserted:

> Internationally recognized jockeys compete on a daily basis in several races and often are given the opportunity to compete in Stakes and Graded Stakes races, the highest-caliber races with the largest purse. [The beneficiary] has been hired by Thoroughbred trainer, to race in races covering the meet which runs from – , the meet which runs from the meet which runs from , the meet which runs from and the meet, which runs from

The petitioner then submitted a second Employment Agreement between the beneficiary and Mr. , in which the beneficiary's proposed 2013 competitions are listed as follows (subject to amendments due to horse health or competitiveness):

[redacted]

The petitioner submitted the 2013-14 Thoroughbred Stakes Schedules for The petitioner also submitted documents showing the beneficiary's participation in several races at 2013.

The petitioner submitted an online article from the Thoroughbred Owners and Breeders Association explaining the American Graded Stakes Process, which states, in pertinent part, that the quality of races in the United States are evaluated and identified "in the form of ranked grades: Grade I, Grade II, and Grade III, with Grade I being the highest." The petitioner also submitted a list of 2013 U.S. Graded Stakes Races.

The director denied the petition. Specifically, the director found that the petitioner did not establish the level of the races (e.g., Grade I, Grade II, Grade III, or some other level) at which the beneficiary will be competing and therefore failed to establish that the competitions that the beneficiary will race in require the participation of an athlete that has an international reputation.

On appeal, the petitioner asserts that "evidence was submitted in the form of a contract between Classic Racing and [the beneficiary]."[2] The petitioner claims that this "contract establishes that [the beneficiary] will ride horses trained by Classic Racing in professional thoroughbred events throughout the United States" and that a schedule of proposed races was included in the contract. The petitioner reaffirms that jockeys generally will compete in two to three races on any given day and in three or four meets per year. The petitioner explains that "[e]ach meet at each track represents a group of events that reoccur annually." The petitioner then asserts:

> The racing schedule shows the "entire season" of events in which [the beneficiary] will compete. It would be more accurate to state that [the beneficiary] will ride at the track meet instead of individual races. It should be noted that each meet is for professional horse racing. The individual races were included only to show that the meets require athletes with an

[2] The petitioner has not documented or explained the relationship between Classic Racing and the beneficiary's intended employer,

> international reputation. We submitted as evidence in the RFE response the stakes races that are graded stakes. The denial states that the races were not identified by grade. The racing calendar does not identify the races as "Grade 3" races; instead the calendar will show the race as "Gr.III." We did in fact submit the racing calendar with the stakes races and all the graded stakes identified on the itinerary.

Upon review, we agree with the director that the petitioner failed to establish the level of the races at which the beneficiary will be competing and thereby failed to establish that the beneficiary will participate in events requiring participation of an athlete who has an international reputation.

We are not persuaded by the petitioner's claim that the meet, not the actual races themselves, is the "athletic competition" or "event" for purposes of 8 C.F.R. § 214.2(p)(4)(ii)(A). First, the petitioner has not explained or established what it means when it states that the beneficiary "will ride at the track meet instead of individual races." The petitioner defines a "meet" as representing a group of events in each track that reoccur annually. Based on the petitioner's definition, it would appear that a "meet" represents the group of horse races that are held annually at a particular racetrack.

On appeal, the petitioner indicates that the racing schedule, consisting of various meets, is equivalent to an "entire season" of events. We acknowledge that an athletic competition "could include an entire season of performances" and that "[a] group of related activities will also be considered an event." *See* 8 C.F.R. § 214.3(p). However, the individual nature of horse racing does not allow for an "entire season" of horse races to be considered an "athletic competition" or an "event" for purposes of establishing the level of performance needed. Unlike in team sports wherein a team plays all of the games in the entire season, a horse jockey does not compete in all of the races in the entire season. The petitioner has acknowledged that jockeys generally compete in two to three races per day, and competes in three or four meets per year. Moreover, the evidence reflects that horse races within each meet vary in quality, with the graded stakes races being "the industry's highest-caliber races." Consequently, different levels of athletes are needed for different races, even for those within the same meet.

The petitioner has not persuasively established that an "entire season" of horse races or the "meet" can be said to require an athlete with an international reputation, without considering the specific quality of each individual race. While the petitioner submitted evidence indicating that each race is assigned a certain quality, the petitioner has submitted no evidence to indicate that a meet is assigned a certain quality. On the contrary, it appears that each meet can consist of numerous races of various qualities and, thus, a particular meet, depending on the specific races being held, can require different levels of athletes. The fact that a meet may contain some graded stakes races, among other ungraded or non-stakes races, does not establish that an athlete of a particular level is required for the entire meet or for any and all races within the meet. Therefore, we are not persuaded by the petitioner's claim that "the meets require athletes with an international reputation." Rather, as the director concluded, we will look to the level of the individual races in which the beneficiary will compete to determine whether they require the participation of an athlete that has an

international reputation pursuant to 8 C.F.R. § 214.2(p)(4)(ii)(A).

Here, for the reasons discussed herein, the petitioner has not consistently identified and evidenced the specific races in which the beneficiary will compete and the level of those races. In turn, the petitioner has not established that the beneficiary will be coming to participate in athletic competitions which require participation of an athlete with an international reputation. 8 C.F.R. § 214.2(p)(4)(ii)(A).

Foremost, the record contains significant discrepancies which undermine the overall credibility of the petitioner's claims and evidence. With respect to the beneficiary's proposed races at the petitioner stated in response to the RFE that the beneficiary would participate in the meet which runs from However, the first Employment Agreement stated that the beneficiary would participate in events from The second Employment Agreement stated that the beneficiary would participate in the meet that started

With respect to the beneficiary's proposed races at the petitioner stated in response to the RFE that the beneficiary would participate in the meet which runs from However, the first and second Employment Agreements stated that the beneficiary would participate in events from In addition, none of race dates listed on the Employment Agreements matched the dates listed on the 2013-14 Thoroughbred Stakes Schedule for

With respect to the beneficiary's proposed races at the petitioner stated in response to the RFE that the beneficiary would participate in the meet which runs from However, neither the first nor second Employment Agreement listed any events at Similarly, with respect to races at the the petitioner stated in response to the RFE that the beneficiary would participate in the meet which runs from However, neither the first nor second Employment Agreement listed any events at the

With respect to the beneficiary's proposed races at the Race Course, the first Employment Agreement stated that the beneficiary will participate in the meet which runs from to but the second Employment Agreement stated that the beneficiary will participate in the meets which run from and In addition, none of the race dates listed on the Employment Agreements match the dates on the 2013-14 Thoroughbred Stakes Schedule for the Race Course. The petitioner did not specifically state in its RFE response that the beneficiary would be participating in any events at the Fair Grounds Race Course.

In addition, the beneficiary's jockey profile page provided by the petitioner from shows that he is entered to compete in a Maiden Claiming race at the Racetrack on However, the Employment Agreements do not indicate that the beneficiary would be participating at events at the Racetrack, nor has the petitioner specifically mentioned this particular racetrack. The beneficiary's jockey profile page further reflects that the beneficiary is entered to compete in an Allowance

race on , a Maiden Claiming race on , and an Allowance race on all at None of the Employment Agreements indicate that the beneficiary would be participating at these particular races at Instead, the Employment Agreements indicate that the beneficiary would be competing in the Inaugural race on and the race on , none of which are reflected as "Current Entries" on the beneficiary's jockey profile page.[3] Significantly, none of the races in which the beneficiary is entered to compete are listed on the 2013 Thoroughbred Stakes Schedule for thus indicating that they are not stakes races.

Likewise, the petitioner submitted documentation showing the beneficiary's participation in several races at However, the Employment Agreements do not indicate that the beneficiary would be participating at these particular races at Moreover, none of the races in which the beneficiary competed are listed on the 2013 Thoroughbred Stakes Schedule for thus indicating that they are not stakes races. Not only do the above discrepancies undermine the petitioner's credibility, but they suggest that the beneficiary will not be competing at a level requiring an athlete with an international reputation.

It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence; any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Id.*

Overall, the petitioner failed to establish in which races the beneficiary will be participating in the United States, the level of these races, and that these races require the participation of an athlete who has an international reputation. For this reason, the appeal will be dismissed.

B. The Beneficiary's International Recognition as an Individual Athlete

To demonstrate that the beneficiary is an internationally recognized athlete, the petitioner must satisfy at least two of the seven evidentiary criteria provided at 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*). In this regard, the petitioner asserts that it has satisfied the criteria at 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*)(*v*), (*vi*), and (*vii*).[4]

(1) *A written statement from a member of the sports media or a recognized expert in the sport which details how the alien or team is internationally recognized.*

---

[3] The beneficiary's jockey profile page provided by the petitioner from reflects that he would race for different trainers, none of them the intending employer / trainer), after the date the instant petition was filed.

[4] As the petitioner has not claimed to have met and as we do not find that the petitioner has satisfied any of the remaining criteria at 8 C.F.R. §§ 214.2(p)(4)(ii)(B)(*2*), we will not address them for efficiency's sake.

Under the criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*)(*v*), the petitioner submitted a letter from former Chief Executive Officer of the and current Executive Director for Mr. states that the beneficiary first began his career in the professional thoroughbred racing sport in Mexico, "riding in match races first and then moving to higher-level races at tracks such as Mr. then states that the beneficiary "was fortunate enough to take an opportunity to come to the United States and ride at the premier tracks across the country." Mr. states that the beneficiary "has competed at top races atop some of the industry's best and most valuable horses." He states that the beneficiary "is an exceptional jockey whose reputation is on par with athletes with an international reputation" and that he has "made a name for himself in the United States Thoroughbred Race industry and has become one of the most sought after jockey[s] in the country." Mr. states that he has studied the beneficiary's Equibase statistics as a Multiple Stakes Winning jockey with over 7,500 races who finishes in the money in 27% of all races and has a lifetime earnings of over $7 million, and states that this record shows the beneficiary is "an exceptional individual." He concludes that "without a doubt [the beneficiary] has achieved prominence and distinction in [the] Thoroughbred horse racing industry."

However, Mr. letter does not detail in factual terms how the beneficiary is internationally recognized. For instance, he states that the beneficiary raced at "higher-level races" in Mexico, but does not name any of these higher-level races. He states that the beneficiary has ridden at "the premier tracks" and "top races atop some of the industry's best and most valuable horses," but does not name any of these premier tracks, top races, or top horses. He also fails to explain the significance of the beneficiary's Equibase statistics, such as how the beneficiary's Multiple Stakes Winning title or in-the-money winning percentages compare to other jockeys. His conclusion that the beneficiary's Equibase statistics shows the beneficiary to be an "exceptional individual" falls short of stating that the beneficiary is an internationally recognized jockey. Further, stating that some is "on par" with athletes with an international reputation, in addition to being conclusory and unsupported, is not the same as finding that someone is such an athlete and providing sufficient evidence to support that conclusion.

In addition, Mr. fails to explain how he acquired knowledge about the beneficiary's international reputation, stating only that he has studied the beneficiary's Equibase statistics. Overall, Mr. letter provides no more than conclusory assertions regarding the beneficiary's international reputation. Conclusory assertions regarding the beneficiary's international reputation are not sufficient. Merely repeating the language of the statute or regulations does not satisfy the petitioner's burden of proof. *See Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F. 2d 41 (2d. Cir. 1990); *Avyr Associates, Inc. v. Meissner*, 1997 WL 188942 at *5 (S.D.N.Y.). This letter also fails to meet the requirements set forth at 8 C.F.R. § 214.2(p)(2)(iii), requiring the writer to specifically describe the beneficiary's recognition in factual terms and explain the manner in which the writer acquired such information.

The petitioner also submitted a letter from Chief Executive Officer of the Mr.

states that he has reviewed "some of [the beneficiary's] race record and information related thereto." He states that the beneficiary's "reputation dates back to his time as a jockey in Mexico [where] he earned a reputation as an exceptional jockey on the race tracks." He reiterates the beneficiary's Equibase statistics, including him being a Multiple Stakes Winning Jockey with over 7,600 race rides and over $8 million in lifetime purse earnings. He also lists seven of the beneficiary's recent wins by the date, racetrack, and name of the horse. He then concludes that the beneficiary is "an athlete that has achieved the level of success typical of athletes with an international reputation" and has earned "a reputation as an excellent jockey."

Mr. however, fails to detail in factual terms how the beneficiary is internationally recognized. He provides no details regarding the beneficiary's recognition in Mexico. While Mr. reiterates the beneficiary's Equibase statistics and lists seven of the beneficiary's most recent wins, he does not explain the significance of these statistics or identify which particular races the beneficiary recently won. He does not explain in detailed, factual terms how he acquired knowledge of the beneficiary's reputation, and instead states vaguely that he reviewed "some of [the beneficiary's] race record and information related thereto." Overall, Mr. letter provides no more than conclusory assertions regarding the beneficiary's international reputation and therefore fails to meet the requirements set forth at 8 C.F.R. § 214.2(p)(2)(iii).

The petitioner submitted a letter from President of the and Vice Chairman at the Mr states that he is "acquainted" with the beneficiary and has "had a chance to follow his impressive career in the United States." He further states that the beneficiary's reputation "dates back to his career in Mexico, where he competed in top events before being noticed by leading U.S. trainers." He writes that the beneficiary "has competed at some of the nation's premier Thoroughbred racetracks" such as in Texas and in Louisiana. He states that the beneficiary's "international record includes the following wins and achievements," and lists ten of the beneficiary's recent wins in the United States by date, racetrack, and horse. He also states that the beneficiary, as "one of the industry's leading jockeys," competes in several races a day and hundreds of races per year, as compared to jockeys that do not have an international reputation who "maybe race in a few dozen races during a meet." Mr. concludes that the beneficiary's achievements are "evidence of a level of success as a jockey typical of athletes with an international reputation" and that the beneficiary's "impressive racing record qualifies him as an internationally recognized jockey."

As with the letters from Misters and Mr. does not detail in factual terms how the beneficiary is internationally recognized. He provides no details regarding the beneficiary's recognition in Mexico, such as in which "top events" the beneficiary competed. Mr. indicates that the beneficiary has competed at "premier" racetracks in the United States and, as indicated above, even names some of these racetracks in the list of the beneficiary's recent wins, but he fails to specifically identify in which races the beneficiary competed at those racetracks and the level of those races. While Mr. states that "leading jockeys" like the beneficiary compete in several races a day and hundreds of races per year, as compared to jockeys that do not have an international reputation, he fails to provide any additional explanation or support for this assertion. In addition, Mr. does not explain in detailed, factual terms how he acquired

knowledge of the beneficiary's reputation, and instead states vaguely that he is "acquainted" with the beneficiary. Overall, Mr. letter fails to detail the beneficiary's international reputation and fails to meet the requirements set forth at 8 C.F.R. § 214.2(p)(2)(iii).

The petitioner also submitted a letter from Editor-in-Chief of Mr. states that, "[a]s a member of the media, [he] has had the chance to follow [the beneficiary's] career." Mr. states that the beneficiary rode at some of Mexico's "most premier racetracks [*sic*]" and has "established himself as a force to be reckoned with" since coming to the United States. Mr. reiterates the beneficiary's Equibase statistics, and states that the beneficiary "is a regular at the top of the leader boards at tracks such as He asserts that these tracks are "some of the most well-known tracks across the United States" and that "[r]aces at these tracks require high-caliber jockeys and [the beneficiary] is one of them." He concludes that based on his "experience in the Thoroughbred racing media" and the beneficiary's statistics, he can state that the beneficiary "is an exceptional jockey with an international reputation."

Mr. letter, like the others, does not detail in factual terms how the beneficiary is internationally recognized. He provides no details regarding the beneficiary's recognition in Mexico, such as the "premier racetracks" the beneficiary competed at, the races he competed in, and the level of those races. Mr. indicates that the beneficiary has competed at "some of the most well-known tracks in the United States" but fails to specifically identify in which races the beneficiary competed at those tracks and the level of those races. Finally, Mr. does not explain in detailed, factual terms how he acquired knowledge of the beneficiary's reputation, and instead states vaguely that he has had "the chance to follow [the beneficiary's] career" as a member of the media. Overall, Mr. letter fails to detail the beneficiary's international reputation, and fails to meet the requirements set forth at 8 C.F.R. § 214.2(p)(2)(iii).

For the reasons above, the petitioner failed to submit evidence satisfying the criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*)(*v*).

(2) *Evidence that the individual or team is ranked if the sport has international rankings.*

Under the criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*)(*vi*), the petitioner submitted the beneficiary's jockey profile from Equibase, which maintains the database of racing information for the Thoroughbred industry for the United States and Canada. The profile provides statistics such as how many starts the beneficiary has made, how many firsts, seconds, and thirds the beneficiary has placed, and how much he has earned in a given year or overall in his career. However, the beneficiary's jockey profile does not provide an individual ranking of the beneficiary. As such, this document cannot be considered evidence of the beneficiary's ranking in the sport, as required by the plain language of the criterion.

The petitioner also submitted the beneficiary's rankings at specific race tracks. Specifically, the petitioner submitted evidence that the beneficiary has been ranked 32nd, 23rd, and 55th at 51st and 61st at

, 40th and 27th at 40th at and 55th at during certain years. However, the petitioner failed to establish that the beneficiary's rankings for these particular race tracks within the United States in a given year are "international rankings" as required by the plain language of 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*)(*vi*).

On appeal, counsel asserts that the beneficiary was ranked 269th out of all professional jockeys in 2013 by thus placing him in the top 16th percentile of all professional jockeys. However, counsel provides no documentary evidence to corroborate this assertion. The petitioner's unsupported assertions, alone, are insufficient to satisfy the criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*)(*vi*), which requires "evidence" of the beneficiary's international ranking.

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). 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. Comm'r 1972)).

As such, the petitioner failed to establish the beneficiary's eligibility under 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*)(*vi*).

(3) *Evidence that the alien or team has received a significant honor or award in the sport.*

Under the criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*)(*vii*), the petitioner refers to the beneficiary's career highlights and statistics as shown on his jockey profile. The beneficiary's jockey profile reflects that he is a Multiple Stakes Winning Jockey who has made 7,200 starts, placed first 566 times, second 625 times, third 714 times, and has earned over $7 million over his career. The petitioner has not explained how these statistics establish that the beneficiary has received a "significant honor or award," as required by the plain language of this criterion.

The petitioner also claims that it has submitted website articles about the beneficiary which purportedly "[acknowledge] him as an accomplished, internationally recognized horse jockey." Specifically, the petitioner submitted the article printed in The only reference to the beneficiary in this article is a single statement that the winning horse, , trained by was "piloted to another victory in the by [the beneficiary]." The petitioner also submitted the article ' printed in The only reference to the beneficiary in this article is a single statement that the winning horse, trained by was jockeyed by the beneficiary.

While these articles establish that the beneficiary won one graded stakes race, the (G-3),

and one ungraded stakes race, the the petitioner failed to establish that winning these races constitute "significant" honors or awards in the sport. The petitioner has consistently stated that the Grade 1 races are the industry's highest-caliber races, but it has not specifically addressed the significance of a G-3 race or an ungraded stakes race. Given the lack of explanation and documentation, the petitioner failed to establish that the beneficiary's winning performances at a G-3 race and an ungraded stakes race can be considered "significant" honors or awards in the sport.

Finally, the petitioner submitted photographs of the beneficiary at various races he has won in the United States, including the following:

- Unnamed race at atop owner/trainer
- Unnamed race at , atop owner trainer
- Unnamed race a atop owner trainer
- Unnamed race at atop owner trainer and
- Unnamed race at , atop , owner trainer

None of the submitted photographs identify the races the beneficiary won. Without knowing the actual races the beneficiary won and the level of those races, the petitioner failed to establish that any of these victories constitute "significant" honors or awards in the sport.

As such, the petitioner failed to establish the beneficiary's eligibility under 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*)(*vii*).

In summary, the petitioner failed to establish the beneficiary's eligibility under any of the regulatory criteria at 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*). The petitioner has therefore failed to establish that the beneficiary has achieved international recognition in the sport based on his own reputation.

III. Conclusion

The petitioner failed to establish that the beneficiary will participate in events requiring participation of an athlete who has an international reputation, pursuant to 8 C.F.R. § 214.2(p)(4)(ii). The petitioner also failed to establish that the beneficiary will be performing as an athlete, individually or as part of a group or team, at an internationally recognized level pursuant to section 214(c)(4)(A)(i)(I) of the Act. Finally, the evidence submitted by the petitioner fails to meet at least two of the criteria listed in the regulation at 8 C.F.R.

§ 214.2(p)(4)(ii)(*B*)(*2*), thereby failing to establish that the beneficiary has achieved international recognition in the equestrian sport.[5]

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.

---

[5] While the petition has been denied and the appeal is being dismissed for the reasons discussed above, we note one additional issue that would need to be addressed if these grounds had been overcome on appeal. Specifically, the evidence of record as currently constituted does not support a finding that the beneficiary will be entering the United States temporarily and *solely* for the purpose of performing as an athlete with respect to a specific athletic competition pursuant to section 214(c)(4)(A)(ii)(I) of the Act.

Based on the petitioner's statements in the Form I-129, the support letter dated April 17, 2013, and the Employment Agreements, it appears that part of the beneficiary's duties will entail "training horses," not just training with horses in his capacity as a "Professional Horse Jockey." In addition, the first Employment Agreement states that the beneficiary's duties will include "all other tasks essential to maintaining the horses' ability to compete at the highest level in equestrian competitions." This combined with the petitioner's statement in response to the RFE that the beneficiary will "provide normal and reasonable care to maintain health and well-being of said horses," suggests that the beneficiary will also engage in duties not solely related to the athletic competition of horse racing, but lesser duties as well, such as feeding, grooming, and stall maintenance.

In addition, the record fails to establish that the beneficiary's putative performance of these unspecified lesser duties would be consistent with and be included in the standard duties of a "Professional Horse Jockey." Absent such evidence, the record indicates that the beneficiary may not be exclusively performing as an athlete, i.e., a horse jockey, in the United States as required by section 214(c)(4)(A)(ii)(I) of the Act. In such case, the petition would have to be denied on this additional ground even if eligibility for the benefit sought had been otherwise established.