U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536

U.S. Citizenship and Immigration Services

B5

[redacted]

FILE: [redacted] Office: VERMONT SERVICE CENTER Date: APR 26 2004

IN RE: Petitioner: [redacted]
Beneficiary:

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)

PUBLIC COPY

ON BEHALF OF PETITIONER:

[redacted]

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

INSTRUCTIONS:

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

Elizabeth O'Brien
for Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Vermont Service Center. The petition is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as an alien of extraordinary ability in education. The director determined the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability. The petitioner's motion to reopen and reconsider, on in the alternative an appeal, was forwarded to the AAO pursuant to 8 C.F.R. § 103.3(a)(2)(iv).

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 to the United States will substantially benefit prospectively the United States.

As used in this section, the term "extraordinary ability" means a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2). The specific requirements for supporting documents to establish that an alien has sustained national or international acclaim and recognition in his or her field of expertise are set forth in the regulation at 8 C.F.R. § 204.5(h)(3). The relevant criteria will be addressed below. It should be reiterated, however, that the petitioner must show that he has sustained national or international acclaim at the very top level.

This petition, filed on March 8, 2002, seeks to classify the petitioner as an alien with extraordinary ability as an expert in the field of the organization and administration of higher education. The regulation at 8 C.F.R. § 204.5(h)(3) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major, international recognized award). Barring the alien's receipt of such an award, the regulation outlines ten criteria, at least three of which must be satisfied for an alien to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability.

In his letter accompanying the response to the director's request for evidence (RFE) dated December 30, 2002, counsel indicates that the petitioner is an alien of extraordinary ability in public administration and higher education. On appeal, counsel notes that the petitioner's key expertise is in the administration of higher education, and that his "lifelong quest is to find ways for universities and governments to work cooperatively toward improving the lives of people." Some of the petitioner's evidence addresses his "extraordinary ability" only in the field of public administration. As the visa preference classification authorized by section 203(b)(1)(A) of the Act, 8 U.S.C. § 1153(b)(1)(A), does not extend to aliens who solely claim to possess extraordinary ability in public administration and government, the petition will be considered as applying for classification as an alien with extraordinary ability in education. Further, as the petitioner's field of expertise includes business administration and the record reflects that his current employment in the United States is in a business related capacity, we will also consider his application as applying for classification as an alien of extraordinary ability in business.

Through counsel and his employer, Sylvan Learning Systems, Inc., the petitioner has submitted evidence that, he claims, meets the following criteria.

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

The petitioner relies upon his receipt of the Acalá Research Prize to establish that he meets this criterion. The record reflects that the petitioner received the INAP's II Research Award Accesit in 1987 for his work "Compared analysis of the selection and training systems for Public Administrators in Latin America." According to counsel, at the time of his award, the petitioner was director of planning in the Colombian Attorney General's office.

A letter from the secretary general of the International Federation of Former INAP, indicates the Acalá Research Prize is awarded as a result of an annual competition sponsored by the National Institute of Public Administration (INAP), a ministry of the Spanish government. Mr. states the purpose of the award was to "encourage scholarly work and investigation in the fields of public administration and civil service among outstanding Latin American public officials and scholars." A letter from who states he is an independent scholar and university professor in Madrid and familiar with the Acalá Prize, states that it is "one of the few truly Iberian American specialized academic awards in the field of public administration." He states that the judging panel consists of "prominent experts in the field of public administration."

While the Acalá Research Prize appears to be a nationally or internationally recognized award, the evidence is clear that the prize is an award in the field of public administration. The criterion requires that the petitioner establish that he has won an award in the field of endeavor for which he seeks visa preference classification. The petitioner submits no evidence to establish that the Acalá Research Prize is related to the fields of education, education administration or business. Further the petitioner submits no evidence that he has won a nationally or internationally recognized award for excellence in education or business.

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

The petitioner claims to meet this criterion based on his participation, during his tenure as of the College of Higher Learning in Administration (CESA), on panels that reviewed and judged undergraduate theses in the field of business administration. As evidence, the petitioner submitted a letter from , president of Sensus Consultants, an program manager for the Internet Strategies Latin America at the Yankee Group Research. They write that the petitioner was "part of the expert review panels in charge of judging the theses presented by students in their senior year as a requisite for obtaining the degree in business administration." Neither Mr nor Mr served on the CESA staff, and do not indicate the basis of their knowledge of the petitioner's participation in academic review panels. The petitioner submits no evidence beyond these statements.

Regardless, the petitioner's review of the theses was part of his job duties as a vice rector at CESA. Merely doing one's job is not indicative that one has achieved acclaim or that he has been requested to judge others work as a result of that acclaim.

The petitioner's evidence does not establish that he meets this criterion.

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

According to a letter from the petitioner's current employer, Sylvan Learning Systems, Inc., the petitioner meets this criterion based on his authorship of several "scholarly papers, articles and handbooks." an assistant general counsel with Sylvan Learning Systems, Inc., states:

> [The petitioner] has authored or co-authored original research papers for internal distribution at the Harvard university Graduate School of Education, for handbooks used for training public officials, and for journals, conference proceedings and conference presentations. These papers are significant because they address topics of great importance and relevance within the fields of higher and adult education and training in public and private organizations.

Ms. refers to the petitioner's curriculum vitae as evidence to support her statements. The petitioner submits no primary evidence of the documents he claims to have written. Simply going on record without supporting documentary evidence is not sufficient for the purpose of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972). Ms. also refers to letters written in support of this petition by Dr. a professor at Harvard University's Graduate School of Education; Dr. Director of Higher Education Programs, Harvard University Graduate School of Education; and Dr., Senior Vice President, Sylvan International Universities.

Dr. writes that he taught the petitioner in two courses and served as his doctoral dissertation adviser and chairman of his thesis committee. He states that in his "estimation," the petitioner has "unusual and unmatched talents." He describes the petitioner as a "particularly thoughtful analyst and observer of higher education," and "an astute strategist and manager as well. The papers that he wrote in his courses were

excellent and, even more impressive, has been the groundwork he has done for his doctoral dissertation." Dr. further states that the petitioner is a "rare blend of businessman and academician."

Dr. writes that she met the petitioner when he began his doctoral studies at Harvard. She states:

> Since then, I have had occasion to read the papers he has written, see him perform in class settings, and follow his professional career at Sylvan. In all of these areas, he has excelled . . . His knowledge of higher education in the U.S. and internationally, and his command of management and leadership theory, are impressive. He has strong analytic and organizational skills and is a superb writer . . . [H]e knows how to draw upon theory in the world of practice to combine the very best of scholarship with the very best of management.

Dr. writes that the petitioner has a "truly rare and tested ability to conceptualize and lead in reshaping higher education administration and faculty leadership in the direction of service and quality achievement."

Although the authors of the letters speak highly of the petitioner, none establish that he has made a contribution of major significance to education, education administration or business.

The petitioner submits several letters in which the authors attest to the importance of his "collection of manuals in select topics related to the administration of cities and towns in Colombia." In his response to the director's request for evidence (RFE) dated December 30, 2002, counsel states that the petitioner's "innovative guidebook series . . . strengthened the ability of universities and local governments to serve the needs of the local populations." On appeal, counsel states that the director didn't properly assess the significance of the petitioner's "influential guidebook series."

Colombia's Ambassador and Permanent Representative to the Organization of American States, states that he has known the petitioner since 1987, when he was Colombia's Attorney General and the petitioner worked as Director of Planning in the Attorney General's Office. Dr. writes

> Among the many contributions of [the petitioner's] . . . probably the most significant in terms of its positive impact on the realm of public service and local governments' administration in Colombia and Latin America [was] the publication of his work entitled "Municipal Administration." Municipal Administration is a 241-page collection of handbooks on different legal and managerial topics, intended to improve the ability of local governments in Colombia to better serve their communities. Municipal Administration was a significant milestone in Colombia's effort to strengthen local administrations, which had gained increased autonomy and power since the promulgation of a new Constitution in 1991 favoring government decentralization . . . The publication of Municipal Administration marked the beginning of a well-concerted effort among the government and universities to develop the managerial depth required in more than 1,000 cities and towns in Colombia . . . In summary, Municipal Administration is a groundbreaking achievement in the fields of higher education and public administration.

Despite Dr conclusion that the petitioner's work was an achievement in the field of higher education, the record does not contain corroborative evidence to support this. The petitioner provides no copies of the "guidebooks," and no corroborative evidence as to how these publications benefited education, the administration of higher education or business. The record suggests that these publications are used to train local government officials; however, the petitioner submits no evidence to establish the relationship of these publications to the administration of higher education. The resulting cooperation between government and the universities that is suggested by the authors of the testimonials does not establish that the results constituted a contribution of major significance to education or education administration. No evidence submitted indicates the impact of these publications on business.

Mr. also writes of the petitioner's organization of his country's first seminar on e-government. He states that this seminar occurred three years prior to "e-government initiatives in Latin America became a mainstream developmental initiative in other governments and international development agencies." Nonetheless, there is no evidence that the e-government initiatives were a contribution to education or higher education administration. The evidence does not establish that the petitioner meets this criterion.

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

To meet this criterion, the petitioner must show that he has performed a leading role for an organization or establishment and that the organization or establishment has a distinguished reputation.

The petitioner's employer references the letters by Dr Mr. and Mr. Mr and Mr. write of the petitioner's position as a Vice Rector at CESA. Both Mr. and Mr. worked in collaboration with CESA and the petitioner while the petitioner was affiliated with CESA. The evidence establishes that the petitioner, as an academic and administrative head of the school, played a leading role at CESA. The evidence does not establish that CESA has a distinguished reputation. No evidence was presented as to the school's standing in the field of education or business. Mr. states that the petitioner "led the development and accreditation process for the formation of innovative graduate programs in marketing and corporate finance that quickly became highly successful, sought after degrees by Colombian executives." However, Mr again does not state the basis for his statement and no other evidence in the record substantiates his statements.

In her letter, Ms. states that the petitioner serves as the director of strategic planning for Sylvan International Universities (SIU), a division of Sylvan Learning Systems, Inc. She states that the petitioner reports directly to the president and CEO of SIU. Dr. implies in his letter that the petitioner reports to him. Dr. does not indicate the nature of the petitioner's current role in the organization and does not state that the petitioner performs a leading or critical role for the organization.

Regardless of his position with SIU, the petitioner has not established that SIU is an organization with a distinguished reputation. The evidence indicates that Sylvan Learning Systems, Inc. established SIU in 1999 "to create an international network of for-profit universities to increase the capacity for higher education in key markets in Europe, Latin America, and Asia," and now operates five institutions on three continents. The

reputation of the parent company cannot, without more, be imputed to a division of that company. The petitioner submits no evidence of the standing and reputation of SIU in education.

No evidence establishes that the petitioner meets this criterion.

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 his field of endeavor.

Review of the record, however, does not establish that the petitioner has distinguished himself in the organization and administration of higher education to such an extent that he may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of his field. The evidence indicates that the petitioner has achieved some success and acclaim in public administration, but is not persuasive that the petitioner's achievements set him significantly above almost all others in his fields of education, education administration or business. 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 burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.