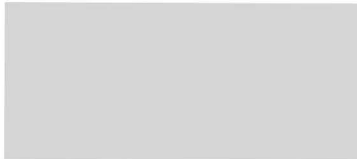




U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: JUL 24 2015

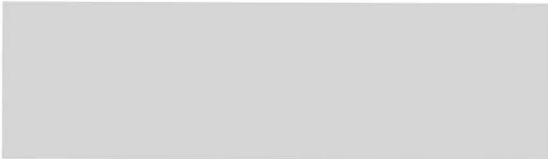
FILE #: [REDACTED]

PETITION RECEIPT #: [REDACTED]

IN RE: Petitioner: [REDACTED]  
Beneficiary: [REDACTED]

PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

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

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Nebraska Service Center, denied the employment-based immigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. We will sustain the appeal.

The petitioner, a high-end hardwood flooring company, seeks to classify the beneficiary as an “alien of extraordinary ability” as a master craftsman and woodworker, pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), which makes visas available to aliens who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation. The director determined that the beneficiary had not satisfied the initial evidence requirements set forth at 8 C.F.R § 204.5(h)(3), which requires documentation of a one-time achievement or evidence that meets at least three of the ten regulatory criteria.

On appeal, the petitioner submits a brief and copies of previously submitted documents. The petitioner asserts that the beneficiary meets the regulatory criteria for classification as an alien of extraordinary ability. For the reasons discussed below, we find that the beneficiary meets the statutory and regulatory requirements for the classification sought.

## I. LAW

Section 203(b) of the Act states, in pertinent part, that:

(1) Priority workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with extraordinary ability. -- An alien is described in this subparagraph if --

(i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,

(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

(iii) the alien’s entry into the United States will substantially benefit prospectively the United States.

U.S. Citizenship and Immigration Services (USCIS) and legacy Immigration and Naturalization Service (INS) have consistently recognized that Congress intended to set a very high standard for individuals seeking immigrant visas as aliens of extraordinary ability. See H.R. 723 101<sup>st</sup> Cong., 2d Sess. 59 (1990); 56 Fed. Reg. 60897, 60898-99 (Nov. 29, 1991). The term “extraordinary ability” refers only to those individuals in that small percentage who have risen to the very top of the field of endeavor. *Id.*; 8 C.F.R. § 204.5(h)(2).

The regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate the beneficiary's sustained acclaim and the recognition of his achievements in the field through evidence of a one-time achievement (that is, a major, internationally recognized award). If the petitioner does not submit this evidence, then a petitioner must submit sufficient qualifying evidence that the beneficiary meets at least three of the ten categories of evidence listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

The submission of evidence relating to at least three criteria, however, does not, in and of itself, establish eligibility for this classification. *See Kazarian v. USCIS*, 596 F.3d 1115 (9<sup>th</sup> Cir. 2010) (discussing a two-part review where the evidence is first counted and then, if satisfying the required number of criteria, considered in the context of a final merits determination). *See also Rijal v. USCIS*, 772 F.Supp.2d 1339 (W.D. Wash. 2011) (affirming USCIS' proper application of *Kazarian*), *aff'd*, 683 F.3d 1030 (9<sup>th</sup> Cir. 2012); *Visinscaia v. Beers*, 4 F.Supp.3d 126, 131-32 (D.D.C. 2013) (finding that USCIS appropriately applied the two-step review); *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010) (holding that the "truth is to be determined not by the quantity of evidence alone but by its quality" and that USCIS examines "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").

## II. ANALYSIS

### A. Evidentiary Criteria

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

The director determined that the petitioner had not established the beneficiary's eligibility for this regulatory criterion.

The petitioner submitted documentary evidence reflecting that [REDACTED] magazine selected "[REDACTED]" for a [REDACTED] Best of Year Product Award in the "Hard Flooring" category.<sup>1</sup> As evidence of the award's national recognition, the petitioner submitted a [REDACTED] article in [REDACTED], the magazine of the [REDACTED], reporting that [REDACTED] received "a 'Best of Year Product Award' in the hard flooring category from [REDACTED] magazine." Furthermore, the petitioner submitted [REDACTED] articles in [REDACTED] magazine and [REDACTED] reporting on [REDACTED] award from [REDACTED] and stating that contest winners were chosen by the magazine's "editor in chief along with a jury of industry design leaders."

In addition, the petitioner submitted documentary evidence reflecting that [REDACTED] was "selected in the third annual [REDACTED] Awards: Best Products of [REDACTED]." As evidence of the award's national recognition, the petitioner submitted

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<sup>1</sup> The petitioner, [REDACTED], serves as the umbrella company overseeing [REDACTED]

articles in [REDACTED] and [REDACTED] mentioning the selection of [REDACTED]

The petitioner also submitted an August 2014 letter from [REDACTED] Owner and President, [REDACTED] stating that his company “partnered up with [the beneficiary] who designs all our products and finishes which are then produced in large quantities.” Mr. [REDACTED] further states: “Designed by [the beneficiary] many of our products have been awarded significant honors and awards. . . . We attribute our success, prizes and awards to [the beneficiary’s] innovative vision for hardwood floor designs and the craftsmanship of his products.” In addition, Mr. [REDACTED] asserts that the end-product designed by the beneficiary “cannot be duplicated by anyone else,” that his hardwood creations “are the product of his direct touch and careful finishing,” and that the beneficiary “develops his own colors by exposing the wood to different treatments.”

In determining that the beneficiary did not meet this regulatory criterion, the director stated that “the Beneficiary’s employer, the petitioner, received these awards” and that they were not shown “to recognize the Beneficiary’s excellence.” In addition, the director stated that the record lacked “objectively verifiable evidence that the beneficiary is solely responsible for the petitioner’s success and therefore for the awards given to the petitioner.”

On appeal, the petitioner asserts that the “work product to which the awards were given” was recognized because of the “beneficiary’s talents, skills, and creativity.” The petitioner points to Mr. [REDACTED] statements and trade publications mentioning the beneficiary’s role as the company’s master craftsman and product designer. The petitioner also requests that USCIS consider [REDACTED] awards as comparable evidence of the beneficiary’s recognition pursuant to the regulation at 8 C.F.R. § 204.5(h)(4).

With regard to the beneficiary’s responsibility for [REDACTED] awards, an [REDACTED] article in [REDACTED] identifies the beneficiary as [REDACTED] “product development director.” In addition, a [REDACTED] article in [REDACTED] states that the beneficiary is the “Master craftsman behind [REDACTED] hardwood flooring styles,” that “[REDACTED] evolved from the techniques and flooring designs of [the beneficiary],” and that “[e]very [REDACTED] style originates from [the beneficiary’s] unique expertise.” Furthermore, an [REDACTED] article in [REDACTED] states:

[REDACTED] is a manufacturer of wide-plank hardwood flooring that offers the look, feel and longevity of old-world European surfaces crafted centuries ago. . . . In developing new wood flooring styles, the company’s master craftsman, [the beneficiary], experiments with traditional processing methods that challenge and manipulate the structure inside the wood to produce natural reactions.

The petitioner also submitted [REDACTED]’ company literature referring to the beneficiary as “our master craftsman from Holland.” A review of the record of proceeding, including the statements from Mr. [REDACTED], published material, and company literature, reflects that the petitioner submitted sufficient documentary evidence establishing that [REDACTED] awards are primarily attributable to the beneficiary’s work. Therefore, the director’s determination on this issue will be

withdrawn. Accordingly, the petitioner has established that the beneficiary meets this regulatory criterion.

*Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.*

The evidence supports the director's finding that the beneficiary meets this regulatory criterion.

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

The evidence supports the director's finding that the beneficiary meets this regulatory criterion.

#### B. Summary

The petitioner has submitted the requisite initial evidence, in this case, evidence that satisfies three of the ten regulatory criteria.

#### C. Final Merits Determination

The next step is a final merits determination that considers all of the evidence in the context of whether or not the petitioner has demonstrated: (1) a "level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the[ir] field of endeavor," 8 C.F.R. § 204.5(h)(2); and (2) "that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise." Section 203(b)(1)(A) of the Act; 8 C.F.R. § 204.5(h)(3). *See also Kazarian*, 596 F.3d at 1119-20.

In the present matter, the petitioner has submitted extensive documentation of the beneficiary's achievements as a master craftsman and woodworker, and has demonstrated his "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990). The submitted evidence, in the aggregate, is sufficient to demonstrate the beneficiary's sustained national and international acclaim as a wood flooring developer and that his achievements have been recognized in the field of expertise. Furthermore, the submitted documentation shows that the beneficiary is among that small percentage who has risen to the very top of the field of endeavor.

The beneficiary's flooring styles have received nationally recognized awards in his industry and he has performed in a critical role for distinguished flooring companies. In addition, the beneficiary and his work have been the subject of articles in major trade publications. For example, a May 2013 article in [REDACTED] states:

[REDACTED] evolved from the techniques and flooring designs of [the beneficiary] who has been working in the wood flooring industry in Europe for more than 23 years creating and installing floors. His many works include the [REDACTED]

and numerous hotels and restaurants from the hottest restaurant in [REDACTED]  
[REDACTED]

\* \* \*

[The beneficiary] has been instrumental in introducing oiled floors to the United States market through [REDACTED]. A pioneer of this movement, [REDACTED] is one of the first manufacturers to make these floors accessible to those residing outside of Europe – largely thanks to [the beneficiary].

In light of the evidence discussed above and other corroborating evidence of record, the beneficiary's achievements in the aggregate are commensurate with sustained national and international acclaim at the very top of his field.

### III. CONCLUSION

The petitioner has submitted evidence for the beneficiary qualifying under at least three of the ten categories of evidence and established a "level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the[ir] field of endeavor" and "sustained national or international acclaim." The beneficiary's achievements have been recognized in his field of expertise. The petitioner has established that the beneficiary seeks to continue working in the same field in the United States. The petitioner has established that the beneficiary's entry into the United States will substantially benefit prospectively the United States. Therefore, the petitioner has established the beneficiary's eligibility for the benefit sought under section 203 of the Act.

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 been met.

**ORDER:** The appeal is sustained and the petition is approved.