(b)(6)

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

U.S. Citizenship and Immigration Services

DATE: MAR 23 2015 Office: TEXAS SERVICE CENTER FILE:

IN RE: Petitioner:
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)

ON BEHALF OF PETITIONER:

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 Director, Texas Service Center, denied the employment-based immigrant visa petition, which is now before the Administrative Appeals Office (AAO) on appeal. We will dismiss the appeal.

The petitioner seeks classification as an "alien of extraordinary ability" in the sciences, pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A). This statute makes visas available to those 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 petitioner 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 with previously submitted correspondence relating to this case and a U.S. Citizenship and Immigration Services (USCIS) policy memorandum. Within the appeal brief, the petitioner indicates that the director did not apply the appropriate standard of proof to the petitioner's evidence.

For the reasons discussed below, we find that the petitioner has not established his eligibility by a preponderance of the evidence for the exclusive classification sought. Specifically, the petitioner has not submitted qualifying evidence of a one-time achievement pursuant to 8 C.F.R. § 204.5(h)(3), evidence that, as of the date of filing, satisfies at least three of the ten regulatory criteria set forth in the regulations at 8 C.F.R. § 204.5(h)(3)(i)-(x), or comparable evidence pursuant to 8 C.F.R. § 204.5(h)(4). As such, the petitioner has not demonstrated that he is one of the small percentage who are at the very top in the field of endeavor, and that he has sustained national or international acclaim. *See* 8 C.F.R. § 204.5(h)(2), (3). Accordingly, we will dismiss the petitioner's appeal.

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.

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

The regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate the foreign subject'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 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 (9th 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 (9th 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. Preponderance of the Evidence

Within the appellate brief, the petitioner indicates that the director did not apply the appropriate standard of proof, the preponderance of the evidence. The brief cites to *Matter of Chawathe*, 25 I&N Dec. at 376, and references a USCIS memorandum explaining that the proper standard of proof is the preponderance of the evidence, and also cites to *I.N.S. v. Cardoza-Fonseca*, 480 U.S. 421, 421, 107 S. Ct. 1207, 1208, 94 L. Ed. 2d 434 (1987), which defines the preponderance as more likely than not as a greater than 50 percent probability of some action occurring.

The petitioner does not discuss or point to any specific occurrences in which the director applied an elevated standard of proof to the petitioner's evidence. Within the appellate brief, the petitioner states: "The Texas Service Center denied the underlying I-140 on one ground: that [the petitioner] failed to prove by a preponderance of the evidence that he is a scientist of extraordinary ability in the area of biomedical drug discovery research." The director, however, ultimately came to this conclusion

because the petitioner had not meet his burden of production to satisfy at least three of the regulatory criteria at 8 C.F.R § 204.5(h)(3) or established his ability to rely on comparable evidence pursuant to 8 C.F.R. § 204.5(h)(4). Additionally, the petitioner does not provide any specific examples of how the director applied a standard higher than the preponderance of the evidence standard of proof to any of the petitioner's evidence.

A review of the record and the director's decision does not reveal that the director applied a higher standard of proof than the preponderance of the evidence.

B. Evidentiary Criteria[1]

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

The director discussed the evidence submitted for this criterion and found that the petitioner did not establish his eligibility. The petitioner did not provide a response for this criterion within the Request for Evidence (RFE) response, nor does he assert eligibility under this criterion on appeal. As the petitioner does not contest the director's findings for this criterion or offer additional discussion, he has abandoned his claims under this criterion. *Sepulveda v. U.S. Att'y Gen.*, 401 F.3d 1226, 1228 n. 2 (11th Cir. 2005); *Hristov v. Roark*, No. 09–CV–27312011, 2011 WL 4711885 at *1, 9 (E.D.N.Y. Sept. 30, 2011) (the court found the plaintiff's claims to be abandoned as he failed to raise them on appeal to the AAO). Accordingly, the petitioner has not submitted qualifying evidence under this criterion.

Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.

The director discussed the evidence submitted for this criterion and found that the petitioner did not establish his eligibility. The petitioner did not provide a response for this criterion within the RFE response, nor does he assert eligibility under this criterion on appeal. As the petitioner does not contest the director's findings for this criterion or offer additional discussion, he has abandoned his claims under this criterion. *Sepulveda* 401 F.3d at 1228 n.2; *Hristov*, 2011 WL 4711885, at *9. Accordingly, the petitioner has not submitted qualifying evidence under this 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 director discussed the evidence submitted for this criterion and found that the petitioner did not establish his eligibility. The petitioner did not provide a response for this criterion within the RFE

[1] We have reviewed all of the evidence the petitioner has submitted and will address those criteria the petitioner claims to meet or for which the petitioner has submitted relevant and probative evidence.

response, nor does he assert eligibility under this criterion on appeal. As the petitioner does not contest the director's findings for this criterion or offer additional arguments, he has abandoned his claims under this criterion. *Sepulveda* 401 F.3d at 1228 n.2; *Hristov*, 2011 WL 4711885, at *9. Accordingly, the petitioner has not submitted qualifying evidence under this criterion.

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

The director determined the petitioner met the requirements of this criterion. The petitioner has submitted sufficient evidence, including his review of Ph.D. dissertations and as a peer reviewer and editor for various scholarly journals, to 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.*

The plain language of this regulatory criterion contains multiple evidentiary elements that the petitioner must satisfy. The first is evidence of the petitioner's contributions in his field. These contributions must have already been realized rather than being potential, future contributions. The petitioner must also demonstrate that his contributions are original. The evidence must establish that the contributions are scientific, scholarly, artistic, athletic, or business-related in nature. The final requirement is that the contributions rise to the level of major significance in the field as a whole, rather than to a project or to an organization. The phrase "major significance" is not superfluous and, thus, it has some meaning. *Silverman v. Eastrich Multiple Investor Fund, L.P.*, 51 F. 3d 28, 31 (3rd Cir. 1995) *quoted in APWU v. Potter*, 343 F.3d 619, 626 (2nd Cir. Sep 15, 2003). At issue is not the importance of the petitioner's field or the potential for the petitioner to make contributions to an important field in the future. Contributions of major significance connotes that the petitioner's work has already significantly impacted the field. *See* 8 C.F.R. § 204.5(h)(3)(v); *see also Visinscaia*, 4 F. Supp. 3d at 135-136. The petitioner must submit evidence satisfying all of these elements to meet the plain language requirements of this criterion.

Moreover, a petitioner must establish eligibility at the time of filing; a petition cannot be approved at a future date after the petitioner becomes eligible under a new set of facts. *See* 8 C.F.R. § 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). *See also Matter of Izummi*, 22 I&N Dec. 169, 176 (Assoc. Comm'r 1998) (adopting the holding in *Matter of Bardouille,* 18 I&N Dec. 114 (BIA 1981), that USCIS cannot "consider facts that come into being only subsequent to the filing of a petition.") Accordingly, at issue is whether his influence and citation record at the time of filing were indicative of recognized contributions of major significance at that time.

The petitioner initially submitted testimonial letters from experts in the field. The director requested additional evidence within the RFE and provided examples of forms of evidence that might assist the petitioner in demonstrating his eligibility. The petitioner's response to the RFE referenced his citation record as provided with the initial petition. Within his decision, the director discussed the expert letters, acknowledged the petitioner's citation record, and indicated that although the petitioner's research

findings had been helpful to the field, he had not demonstrated that his research had sufficiently impacted the field. The director provided quotes from two expert letters and concluded that although the letter's authors described the petitioner's original contributions, they did not demonstrate that his contributions were of major significance in the field. The director ultimately determined that the petitioner did not meet the requirements of this criterion.

On appeal, the petitioner indicates that the director's RFE stated that if the petitioner had been cited, that would be probative evidence of his original contributions and that the citations the petitioner submitted, along with the letters, serve to satisfy this criterion. The director's RFE, however, stated: "To assist in determining whether the beneficiary's contributions are original and of major significance, you may submit: . . . Evidence that the beneficiary's major significant contribution(s) has provoked widespread public commentary in the field or has been widely cited." First, the director referenced widespread commentary or citation. Regardless, that the director indicated a form of evidence might assist the petitioner is not an indication that the submission of such evidence would necessarily result in the petitioner establishing eligibility under this criterion. On appeal, the petitioner mentions his citations and the expert letters but does not explain the significance of his citation record or discuss examples where the expert letters demonstrate his impact within the field.

The director discussed the letters from and Associate Director of provided two letters. The first letter, dated February 16, 2012, indicated the petitioner has made significant contributions that will lay the groundwork for the development of new drugs in the future. also indicates that the petitioner's expertise led to the discovery of several novel compounds "that have the ability to impact" work in his field. Although characterizes the petitioner's work as "truly significant," he primarily explains the novel nature of the petitioner's work, rather than describing how this novel work has already made an impact in the field. Not every researcher who performs original research that adds to the general pool of knowledge has inherently made a contribution of major significance to the field as a whole. letter dated October 9, 2013 also discusses how the petitioner's work will have "valuable utility in drug discovery research and the pharmaceutical industry," but does not explain how the petitioner's research is currently impacting the field at large.

Vice President of also discusses the petitioner's work, and although he indicates that the petitioner has made "highly original and erudite contributions to the field of biomedical research," he too does not identify the petitioner's contributions that have already been realized. Instead, identifies contributions that have the potential to have such impacts within the field. Future prospective benefits that the petitioner's findings may have in the field are not elements that will qualify him under this criterion. The regulation requires that the petitioner has already made major and significant impacts within the field.

The petitioner also submitted several other letters initially and in response to the RFE. These letters further discuss the novelty of the petitioner's findings, but the letters do not establish that his work has already made a significant impact within his field. For example, the August 30, 2013 letter from Chief Editorial Director of the publication, indicates the petitioner

performed peer-review on a single article for the journal. letter reflects that the publication selects reviewers based on three criteria: (1) possession of a doctoral degree or status in the senior stage of a doctoral program; (2) a national and/or an international reputation in the field; (3) significant contributions in the field as evidenced by peer-reviewed journal and/or conference publications. Although indicates that the petitioner meets the publication's criteria for making significant contributions in the field, she did not explain the criteria for significant contributions other than publication and did not provide examples of the petitioner's impact the field. Therefore, this conclusory letter is not sufficient evidence to demonstrate that the petitioner's selection as a peer reviewer for this publication should be considered beyond the judging criterion at 8 C.F.R. § 204.5(h)(3)(iv). More specifically, merely repeating the language of the statute or regulations does not satisfy the petitioner's burden of proof. *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.). Similarly, USCIS need not accept primarily conclusory assertions. *1756, Inc.,* 745 F. Supp. at 15.

Regarding the petitioner's citation record, although the petitioner indicates that citations to his work demonstrate a contribution of major significance, he has not established that the number of citations is significant or that a notable number of the citing authors placed unusual reliance on his work. It is commonplace for articles to cite other published works without the cited work being influential or serving as a foundational basis for their work. On appeal, the petitioner relies on the total number of citations in the aggregate. More probative of the influence of an individual contribution, however, is the number of citations for a specific article. Regarding the petitioner's most cited article, ' this work had a moderate citation record at the time he filed the petition. The petitioner has not demonstrated that, at the time of filing, the work reported in this article was already recognized as a contribution of major significance in the field. If the petitioner had wanted to demonstrate that the citations themselves, rather than the number of citations, are significant, he would need to submit the necessary evidence to establish the context of a selection of citations. The petitioner, however, provided the cover page of each citing article and the portion of the references section listing his work without any examples of the text for which the author cited the petitioner's work. Accordingly, he did not establish that the context of the citations is particularly notable.

The petitioner must have already demonstrably impacted his field at the time of filing in order to meet this regulatory criterion. *See* 8 C.F.R. § 204.5(h)(3)(v); *see also Visinscaia*, 4 F. Supp. 3d at 134. The reference letters included in the director's decision discuss the petitioner's skills and research activities, but they do not provide specific examples of how the petitioner's work has significantly impacted the field at large or otherwise constitutes original contributions of major significance.

The Board of Immigration Appeals (BIA) has stated that testimony should not be disregarded simply because it is "self-serving." *See, e.g., Matter of S-A-*, 22 I&N Dec. 1328, 1332 (BIA 2000) (citing *Matter of M-D-*, 21 I&N Dec. 1180 (BIA 1998); *Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998); *Matter of Dass*, 20 I&N Dec. 120 (BIA 1989); see also *Matter of Acosta*, 19 I&N Dec. 211, 218 (BIA 1985)). The Board clarified, however: "We not only encourage, but require the introduction of corroborative testimonial and documentary evidence, where available." *Matter of S-A-*, 22 I&N Dec. at 1332. If

testimonial evidence lacks specificity, detail, or credibility, there is a greater need for the petitioner to submit corroborative evidence. *Matter of Y-B-*, 21 I&N Dec. at 1136.

Vague, solicited letters from local colleagues that do not specifically identify contributions or provide specific examples of how those contributions influenced the field are insufficient. *Kazarian v. USCIS,* 580 F.3d 1030, 1036 (9th Cir. 2009) *aff'd in part* 596 F.3d 1115 (9th Cir. 2010). In 2010, the *Kazarian* court reiterated the conclusion that "letters from physics professors attesting to [the alien's] contributions in the field" was insufficient was "consistent with the relevant regulatory language." 596 F.3d at 1122. The opinions of experts in the field are not without weight and we have considered them above. While such letters can provide important details about the petitioner's skills, they cannot form the cornerstone of a successful assertion of extraordinary ability. 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; *see also Matter of V-K-,* 24 I&N Dec. 500, n.2 (BIA 2008) (noting that expert opinion testimony does not purport to be evidence as to "fact"). Additionally, each letter submitted in support of the petitioner's eligibility appears to have been drafted in response to the petitioner's efforts in attaining permanent resident status in the United States. While letters authored in support of the petition have probative value, they are most persuasive when supported by evidence that already existed independently in the public sphere. Such independent evidence might include but is not limited to letters from independent industry experts with firsthand knowledge of the petitioner's impact in the field, media coverage, and widespread citation to the petitioner's work as of the date of filing.

Based on the foregoing, the petitioner has not submitted evidence that demonstrates that, at the time of filing, the petitioner met the plain language requirements of this criterion.

Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.

The director determined the petitioner met the requirements of this criterion. The petitioner has submitted sufficient evidence, including multiple published articles, abstracts, and conference proceedings, to establish that he meets this criterion.

Evidence of the display of the alien's work in the field at artistic exhibitions or showcases.

The petitioner indicates that the display of his work at scientific conferences and conference proceedings is evidence comparable to this criterion. The regulation at 8 C.F.R. § 204.5(h)(4) allows the petitioner to submit comparable evidence if he is able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)-(x) do not readily apply to his occupation. Therefore, the petitioner must demonstrate that the criterion does not readily apply and that the evidence is, in fact, comparable, to properly apply for comparable evidence.

While artistic exhibitions and showcases may not be readily applicable to the petitioner's occupation in the sciences, the petitioner must also establish that presentations at scientific conferences are comparable to displays of work at artistic exhibitions or showcases. Scientific conferences facilitate the dissemination of research among scientists and are not comparable to artistic showcases or exhibitions designed to showcase work to the public. Although the petitioner submits this evidence as comparable to the display criterion, conference presentations are typically published in conference proceedings, serve the same purpose as scholarly articles in journals, and, therefore, fall under the scholarly articles criterion. In fact, the petitioner's initial brief included evidence of conference proceedings under the scholarly articles criterion at 8 C.F.R. § 204.5(h)(3)(vi), which the director credited him for under that criterion. Consistent with the regulatory requirement for evidence that meets three separate criteria, evidence relating to or even meeting the scholarly articles criterion is not presumptive comparable evidence to a different criterion. *See Kazarian,* 596 F.3d at 1122 (upholding our determination not to consider conference presentations of scholarly findings under this criterion).

Therefore, the petitioner may not rely on comparable evidence under this criterion.

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

A leading role should be apparent by its position in the overall organizational hierarchy and the role's matching duties. The petitioner has the responsibility to demonstrate that he actually performed the duties listed relating to the leading role. A critical role should be apparent from the petitioner's impact on the organization or the establishment's activities. The petitioner's performance in this role should establish whether the role was critical for the organization or establishment as a whole. The petitioner must demonstrate that the organizations or establishments have a distinguished reputation. While neither the regulation nor precedent speak to what constitutes a distinguished reputation, Merriam-Webster's online dictionary defines distinguished as, "marked by eminence, distinction, or excellence."[2] Dictionaries are not of themselves evidence, but they may be referred to as aids to the memory and understanding of the court. *Nix v. Hedden,* 149 U.S. 304, 306 (1893). Therefore, it is the petitioner's burden to demonstrate that the organizations or establishments on which he relies under this criterion are marked by eminence, distinction, excellence, or an equivalent reputation. The petitioner must submit evidence satisfying all of these elements to meet the plain language requirements of this criterion.

The petitioner relies on his positions as editor or reviewer for scientific journals to satisfy this criterion. The director determined that the petitioner had submitted insufficient evidence to demonstrate that he had satisfied this criterion's requirements. On appeal, the petitioner indicates that his performance as an editor for three journals demonstrates that he performed in a critical role for [redacted] are critical roles for those

[2] *See* http://www.merriam-webster.com/dictionary/distinguished, accessed on February 24, 2015, a copy of which is incorporated into the record of proceeding.

journals. The petitioner generally asserts that performing as an editor of a scientific journal is a critical role for any publication. At the outset we note that the petitioner's editorial roles are probative evidence for the classification sought and contributed to his satisfaction of the judging criterion at 8 C.F.R. § 204.5(h)(3)(iv). That said, evidence may be relevant to more than one criterion where a petitioner demonstrates such relevance.

General assertions that the position of journal editor at a scientific journal is inherently critical by its nature is not persuasive as not every editor for every scientific journal performs identical duties. The petitioner must submit evidence relating to each of the editorial positions that he has occupied to establish the duties he actually performed. Regarding the petitioner submits the journal's home website page, and an October 8, 2013 letter from an editorial staff member at the journal. The website printout reflects that the publication is a peer-reviewed, open access journal that covers a wide range of subjects. The journal's home website page is insufficient to demonstrate that this publication enjoys a distinguished reputation. We will not presume the reputation of an organization based on these common aspects as not every peer-reviewed, publicly accessible publication has earned a distinguished reputation. also indicates this journal has an impact factor of 1.73, but the petitioner did not provide the information or evidence demonstrating how this impact factor compares with other biomedical drug discovery journals, which might assist in demonstrating that this journal enjoys a distinguished reputation. The petitioner also did not provide evidence relating to the journal's impact factor before he joined the publication as an editor, which might assist in showing the petitioner's impact on the journal's activities.

In reference to the petitioner's role at the journal, provides a description of the value of journal editors in general instead of providing specific information about the role the petitioner performs for the publication. Notably, the petitioner submitted a partial list of 39 editors in with last names beginning with A-K. While we do not question the necessity for a journal to employ competent editors, the petitioner has not demonstrated that his role as one more than 39 editors was critical. As previously stated, we will not infer the nature of the petitioner's role solely from the job title. The letter falls short of specifying how the petitioner contributed to the organization in a way that is significant to the organization's outcome or what role he played in the organization's activities. *See Visinscaia,* 4 F. Supp. 3d at 135. The record does not establish that the petitioner served in a critical role for this organization and that this organization has a distinguished reputation as required under this regulatory criterion.

Regarding the reputation of the the petitioner submits the journal's home website page, the journal's editorial board, one issue of the journal's table of contents, a special issue editorial the petitioner authored, and a letter from the publication's publisher. Although the submitted evidence indicates this semi-annual publication is peer-reviewed, collected by major libraries, and is widely read across the scientific community, the record lacks evidence corroborating that the publication is marked by eminence, distinction, excellence, or an equivalent reputation. USCIS need not rely on the self-promotional material of the publisher. *See Braga v. Poulos,* No. CV 06 5105 SJO (C. D. CA July 6, 2007) *aff'd* 2009 WL 604888 (9th Cir. 2009) (concluding that the AAO did not have to rely on the assertions on the cover of a magazine as to the

magazine's status as major media). The petitioner has not provided evidence that corroborates the information from the website relating to the journal being collected by major libraries and being widely read across the scientific community. Further, the petitioner did not explain or provide evidence of how these elements factor into the journal having a distinguished reputation as it relates to similar publications.

Regarding whether the petitioner's role was critical for the publication, describes how the special issue article that the petitioner authored, received wide publicity that also resulted in a significant increase in the publication's notoriety. The petitioner did not submit evidence to corroborate assertion that the journal's increased notoriety is due to the petitioner's special issue editorial. 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 (Assoc. Comm'r 1998) (citing *Matter of Treasure Craft of California,* 14 I&N Dec. 190 (Reg'l Comm'r 1972)). The petitioner has not established that he performed in a critical role for this publication, nor has he demonstrated that it enjoys a distinguished reputation in accordance with the regulation.

The final publication is The only evidence the petitioner submitted pertaining to this journal was a September 25, 2013 letter from the publication's Editor-in-Chief, which the petitioner submitted in response to the director's RFE. Within letter, he does not sufficiently establish that this publication has a distinguished reputation. only states that the journal is an internationally peer-reviewed journal in the field of natural product chemistry published by As such, the petitioner has not submitted evidence that this publication enjoys a distinguished reputation. Regarding the petitioner's role for the publication, indicates the petitioner is a reviewer for the journal and that he has performed peer review a total of eight times. provides a general description of the petitioner's duties as a reviewer as "working with the Editor to ensure that manuscripts published have the highest level of scientific integrity." He also indicates that the petitioner has contributed greatly to the success of the journal, but does not provide any details of the manner in which the petitioner's performance has positively impacted the publication. He does not explain how has progressed since the petitioner began working there in 2009. He also does not indicate how many reviewers the journal uses and how their role compares with that of the editors. USCIS need not accept primarily conclusory assertions. *1756, Inc. v. The Attorney General of the United States,* 745 F. Supp. 9, 15 (D.C. Dist. 1990).

Based on the foregoing, the petitioner has not demonstrated that he has performed in a critical role for publications that also enjoy a distinguished reputation.

Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.

The director discussed the evidence submitted for this criterion and found that the petitioner did not establish his eligibility. The petitioner did not provide a response for this criterion within the RFE response, nor does he assert eligibility under this criterion on appeal. As the petitioner does not contest

the director's findings for this criterion or offer additional arguments, he has abandoned his claims under this criterion. *Sepulveda* 401 F.3d at 1228 n.2; *Hristov*, 2011 WL 4711885, at *9. Accordingly, the petitioner has not submitted qualifying evidence under this criterion.

C. Summary

For the reasons discussed above, we agree with the Director that the petitioner has not submitted the requisite initial evidence, in this case, evidence that satisfies three of the ten regulatory criteria.

III. CONCLUSION

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

Had the petitioner submitted the requisite evidence under at least three evidentiary categories, in accordance with the *Kazarian* opinion, the next step would be 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 field of endeavor," and (2) "that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise." 8 C.F.R. § 204.5(h)(2) and (3); *see also Kazarian*, 596 F.3d at 1119-20. As the petitioner has not done so, the proper conclusion is that the petitioner has failed to satisfy the antecedent regulatory requirement of presenting evidence that satisfied the initial evidence requirements set forth at 8 C.F.R § 204.5(h)(3) and (4). *Kazarian*, 596 F.3d at 1122. Nevertheless, although we need not provide the type of final merits determination referenced in *Kazarian*, a review of the evidence in the aggregate supports a finding that the petitioner has not demonstrated the level of expertise required for the classification sought at the time of filing.[4]

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, the petitioner has not met that burden.

ORDER: The appeal is dismissed.

[4] We maintain *de novo* review of all questions of fact and law. *See Soltane v. United States Dep't of Justice*, 381 F.3d 143, 145 (3d Cir. 2004). In any future proceeding, we maintain the jurisdiction to conduct a final merits determination as the office that made the last decision in this matter. 8 C.F.R. § 103.5(a)(1)(ii); *see also* INA §§ 103(a)(1), 204(b); DHS Delegation Number 0150.1 (effective March 1, 2003); 8 C.F.R. § 2.1 (2003); 8 C.F.R. § 103.1(f)(3)(iii) (2003); *Matter of Aurelio*, 19 I&N Dec. 458, 460 (BIA 1987) (holding that legacy INS, now USCIS, is the sole authority with the jurisdiction to decide visa petitions).