(b)(6)

U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF Y-W-

DATE: OCT. 30, 2015

APPEAL OF TEXAS SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a choreographer, sport dance judge, coach and instructor, seeks classification as an "alien of extraordinary ability" in the arts and athletics. *See* Immigration and Nationality Act (the Act) § 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). The Director, Texas Service Center, denied the employment-based immigrant visa petition. The matter is now before us on appeal. The appeal will be dismissed.

The classification the Petitioner seeks makes visas available to foreign nationals 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 Petitioner asserts that he intends to "join the management" of the [redacted] in [redacted], California to continue his work in the sport dance (competitive ballroom dancing) field. 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 and additional evidence. In the brief, the Petitioner asserts that he meets the categories of evidence at 8 C.F.R. § 204.5(h)(3)(i) – (v), (vii), and (viii). For the reasons discussed below, the Petitioner has not established his eligibility 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 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 has 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 sustained acclaim and the recognition of his achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If the petitioner does not submit this evidence, then he 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. 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.*

[1] We have reviewed all of the evidence the Petitioner has submitted and will address those criteria the Petitioner asserts that he meets or for which the Petitioner has submitted relevant and probative evidence.

The Petitioner submitted an "Extraordinary Achievement Award" (2011) from the [redacted] In addition, the Petitioner provided material from the [redacted] website listing the organization's objectives and sporting events, but the submitted material did not mention the Petitioner's award or demonstrate its national or international significance. The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(i) specifically requires that the Petitioner's awards be nationally or internationally recognized in the field of endeavor, and it is his burden to establish every element of this criterion. There is no documentary evidence showing that the Petitioner's Extraordinary Achievement Award was recognized at a level commensurate with a nationally or internationally recognized award for excellence in the sport dance field.

The Petitioner also submitted four "Outstanding Art Talent Awards" (2009, 2010, 2011, and 2012) and a "Special Artistic Contribution Award" (2012) from the [redacted] In addition, the Petitioner provided material from the [redacted] website introducing the association and identifying its executive leadership. The submitted material did not mention any of the Petitioner's awards or demonstrate that they are recognized nationally or internationally as denoting excellence in the field. The Petitioner was the president of the [redacted] the aforementioned awards are indicative of institutional recognition from the organization that he served rather than nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

On appeal, the Petitioner contends that a February 2015 letter from [redacted] demonstrates "the national scope of the awards given by the [redacted] In his letter, [redacted] asserted that the [redacted] "has made great contributions in revolutionizing sport dancing over the past decades." However, according to the information submitted from the [redacted] website, the association was founded in December 2008, and had existed just over six years at the time [redacted] authored his letter. As [redacted] assertion regarding the [redacted] contributions "over the past decades" is inconsistent with the evidence of record, we cannot assign any evidentiary weight to his statement. Where an opinion is not in accord with other information or is in any way questionable, USCIS is not required to accept or may give less weight to that evidence. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm'r 1988).

In light of the above, the Petitioner has not established that he meets this regulatory 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 Petitioner submitted two certificates from the [redacted] dated December 2012. The first certificate states that the Petitioner was "awarded FELLOWSHIP by [redacted] The second certificate states that the Petitioner was appointed "Executive President" [redacted]

[2] We note that the word "international" is misspelled in the circular seal on both certificates.

According to Chapter IV, Article 27 of the bylaws provided by the Petitioner, the requirements for becoming "chairman, vice chairman, president and vice president" of the council are:

1. Must have highly professional skills with good morality, and be qualified to be recommended, selected, and appointed;
2. Must have great impact in the industry;
3. The highest age is less than 70 years old;
4. Must have normal work capacity with healthy condition;
5. Must have not been deprived of political rights of criminal punishment;
6. Must have full capacity for civil conduct; and
7. Must have high-level professional knowledge regarding the business of the

Requirements 1 and 3 – 6 are not indicative of outstanding achievements. With regard to requirements 2 and 7, the bylaws do not define the terms "great impact in the industry" or "high-level professional knowledge," and the submitted documentation contains no specific examples or any further explanation. Accordingly, the Petitioner has not demonstrated that having "great impact in the industry" and "high-level professional knowledge" constitute outstanding achievements. Furthermore, there is no documentary evidence showing that council members' achievements are judged by recognized national or international experts in their disciplines or fields.

The Petitioner provided a certificate dated 2008 stating that he was "appointed Vice President of According to Chapter IV, Article 29 of the bylaws submitted by the Petitioner, the "requirements for being President and Vice President" of the council are:

1. Recommending, Selecting and Appointing members who possess good moral integrity and strong professionalism;
2. Having great impact in
3. Should not exceed maximum age of 70 years;
4. Having good health and be able to complete regular work;
5. Have not been deprived of political rights for criminal punishment;
6. Possessing full capacity for civil conduct; and
7. Having a high level of expertise in business.

Requirements 1 and 3 – 6 do not reflect outstanding achievements. Regarding requirements 2 and 7, the bylaws do not define the term "great impact in and "high level of expertise," and the submitted documentation contains no specific examples or any further explanation. Accordingly, the Petitioner has not demonstrated that having a "great impact in the and demonstrating a "high level of expertise" are commensurate with outstanding achievements. In addition, there is no documentary evidence showing that council members' achievements are judged by recognized national or international experts in their disciplines or fields.

The Petitioner submitted a June 2011 certificate from the [redacted] stating that he was "admitted into membership as an Associate of the [redacted] In addition, the Petitioner submitted information from the [redacted] website stating that individuals who gain a professional dance teaching qualification with the [redacted] are accepted into membership. The [redacted] website information further states: "There are three levels of teaching qualification, the first being Associate level, progressing to Licentiate and finally Fellowship." There is no documentary evidence demonstrating that Petitioner's entry level "Associate" membership in the [redacted] required outstanding achievements, as judged by recognized national or international experts.

The Petitioner provided a November 2011 certificate from the [redacted] stating that he was "appointed President of [redacted] The Petitioner also submitted the "Bylaws of the [redacted]." Chapter IV, Article 22 of the Federation's bylaws state that the "selection requirements for President, Vice President and Secretary" are:

1. Follow the government's policy;
2. Have a special expertise in our Association's business scope and have great influence in the industry;
3. The age should not exceed 70 years old as required by Ministry of Civil Affairs;
4. Having good health and be able to complete regular work;
5. Have not been deprived of political rights for criminal punishment;
6. Possessing full capacity for civil conduct; and
7. As required by the [redacted] government officials above the leading roles of divisions or equivalents should not serve as the leader in an Association.

We note that the Petitioner was appointed as President of the [redacted] of the [redacted] and not of the entire Federation. There is no indication that requirements 1 – 7 apply to the [redacted] multiple regional branches and not just the national Federation. Regardless, requirements 1 and 3 – 7 are not indicative of outstanding achievements. With regard to requirement 2, the bylaws do not define the terms "special expertise" and "great influence in the industry," and the submitted documentation contains no specific examples or any further explanation. Accordingly, the Petitioner has not demonstrated that having "special expertise" and "great influence in the industry" constitute outstanding achievements. Furthermore, there is no documentary evidence showing that Branch officers' achievements are judged by recognized national or international experts in the field.

The Petitioner submitted a February 2013 People's Republic of China Civil Affairs Department registration certificate identifying him as the [redacted] "Legal Representative," an October 2013 certificate from the [redacted] stating that he was selected as the association's President in 2008, and a printout from the [redacted] website listing him as President. On appeal, the Petitioner mentions a letter from [redacted] Deputy Chairman of the [redacted] who asserts that "under [the Petitioner's] leadership, the [redacted] has developed and expanded significantly, hosting competition, events, and training and brought significant impact to the Chinese Ballroom industry." The regulations have a separate category of evidence for performing in a leading or critical role for an organization or

establishment, 8 C.F.R. § 204.5(h)(3)(viii), and the Petitioner's role for the will be further addressed under that criterion. While commented on the Petitioner's leading role for the he did not discuss the association's specific membership requirements. There is no documentary evidence showing that the requires outstanding achievements of its members, as judged by recognized national or international experts in their disciplines or fields.

In light of the above, the Petitioner has not established that he 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 Petitioner submitted a March 2014 article entitled that was posted on the website. The author of the article was not identified as required by this regulatory criterion. In addition, the article is about the aforementioned conference and meeting, and not the Petitioner. The plain language of the regulation requires "published material about the alien." While the article briefly mentions the Petitioner's speech, the article is not about him. Articles that are not about the petitioner do not meet this regulatory criterion. *See, e.g., Negro-Plumpe v. Okin*, 2:07-CV-00820 at *1, *7 (D. Nev. Sept. 2008) (upholding a finding that articles about a show are not about the actor). Furthermore, although the Petitioner provided information about the from its website, there is no evidence showing that the website is a professional or major trade publication or other form of major media.

The Petitioner provided two articles that were posted on the website in 2010 and 2012. The October 2012 article, entitled mentions that the Petitioner organized the scoring for the competition, but the article is about the competition itself and not the Petitioner. With regard to the 2010 article, entitled the author was not identified. In addition, although the 2010 article states that the Petitioner gave a speech and served as co-chief examiner, the article is about the aforementioned training program and not the Petitioner. Furthermore, while the Petitioner submitted information about the from its website, he did not provide evidence demonstrating that the website is a professional or major trade publication or other form of major media.

The Petitioner also submitted an October 2012 article entitled that was posted on the website of the While the article briefly mentions the Petitioner among numerous other attendees and participants, the article is not about him. Furthermore, although the Petitioner provided information about the from its website, there is no evidence showing that the website is a professional or major trade publication or other form of major media.

The Petitioner provided a 2012 article entitled – that was posted on the website of the but the author of the material was not identified. While the article briefly mentions the Petitioner's welcome speech, the article is about the aforementioned ballroom dance event and not the Petitioner. In addition, the Petitioner submitted information about the from its website, but he did not submit evidence demonstrating that the website is a professional or major trade publication or other form of major media.

The documentation provided also included four articles that were posted at The author of the article entitled (2011) was not identified. In addition, the article mentions the Petitioner in just one sentence. The article is about the rather than the Petitioner. With regard to the articles entitled " (2011) and (2011), their authors were also not identified. While the articles stated that the Petitioner and two other officials gave speeches, the two articles are about the aforementioned ballroom dancing events and not the Petitioner. In addition, the Petitioner submitted an article entitled (2010) that also mentions the Petitioner in one sentence. The article is about the rather than the Petitioner.

In regard to the Petitioner submitted information printed from the website asserting that "[i]t is one of the most influential websites in China's dancing field." USCIS need not rely on self-promotional material. *See Braga v. Poulos,* No. CV 06 5105 SJO, *aff'd* 317 Fed. Appx. 680 (C.A.9) (concluding that the AAO did not have to rely on self-serving assertions on the cover of a magazine as to the magazine's status as major media). The Petitioner also provided an online printout from as a ' China Top Ten Well-known Dancing Website," but there is no documentary evidence indicating the process by which the websites were ranked. In addition, the Petitioner provided a website traffic report reflecting 1,007 daily unique visitors to the website. There is no evidence showing that the number of daily unique visitors to elevates the website to a form of major media relative to other online sources.

The Petitioner also submitted two articles entitled (May 2011) and (November 2012) that were posted on the website of the , but their authors were not identified. In addition, as the first article is about the , they do not constitute published material about the Petitioner. Furthermore, there is no evidence showing that the website is a professional or major trade publication or other form of major media.

In light of the above, the Petitioner has not established that he meets this regulatory 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 Petitioner submitted documentation reflecting that he has served as a judge at more than twenty sport dance competitions. Accordingly, the evidence supports the Director's finding that the Petitioner meets this regulatory criterion.

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

The Petitioner initially submitted a digital video disc (DVD) entitled [redacted] In addition, the Petitioner submitted the festival's program brochure reflecting that he was Director of the Organizing Committee and Chairman of the Judging Panel, a May [redacted] letter from the [redacted] granting permission to the [redacted] to hold the competition, information about the event sponsors, and the competition regulations. While the preceding information indicates that the Petitioner played an important role for the event as a primary organizer and lead judge, there is no documentary evidence showing that his work has affected the field in a substantial way or otherwise constitutes an original contribution of major significance in the sport dance field.

On appeal, the Petitioner asserts that his "record as a judge – and as a chief judge – in multiple national and international level competitions" meets this regulatory criterion. In addition, the Petitioner mentions his memberships and executive leadership positions as further evidence for this regulatory criterion.

The Petitioner's memberships and multiple instances of participation as a judge have already been considered under the membership criterion at 8 C.F.R. § 204.5(h)(3)(ii) and the judging criterion at 8 C.F.R. § 204.5(h)(3)(iv). Furthermore, the regulations have a separate category of evidence for performing in a leading role for an organization, 8 C.F.R. § 204.5(h)(3)(viii), and the Petitioner's executive leadership positions will be addressed there. Evidence relating to or even meeting the aforementioned regulatory criteria is not presumptive evidence that the Petitioner also meets the original contributions of major significance criterion. Because separate criteria exist for membership, judging, performing in a leading role, and original contributions of major significance in the field, USCIS does not view them as being interchangeable. To hold otherwise would render meaningless the regulatory requirement that a petitioner meet at least three separate criteria. The plain language of the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(v) requires "[e]vidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions" that are "of major significance in the field." Here, the evidence must be reviewed to see whether it rises to the level of original artistic or athletic contributions "of major significance in the field." 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). There is no documentary evidence demonstrating that the Petitioner's aforementioned judging,

membership, and leadership positions constitute original artistic or athletic contributions of major significance in the field.

In addition, the Petitioner asserts that his DVD also meets this regulatory criterion. The cover of the DVD identifies the Petitioner as the DVD's "General Producer" and the as the publisher. Other individuals who contributed to the DVD are identified as choreographers, technical guides, commentators, and demonstrators. The Petitioner also provided information about the DVD from the website which states: "This tutorial was produced by [the and it's also [the internal material." Furthermore, the Petitioner submitted a November 2012 article entitled "[The self-promotional coverage of the DVD's release appearing on the website of the is not sufficient to demonstrate that the DVD has impacted the sport dance field beyond the such that the Petitioner's work constitutes an artistic or athletic contribution of major significance in the field. The plain language of the regulation requires that the original contributions be "of major significance in the field." The DVD's promotion on the website of the Petitioner's association is insufficient to show its contribution to the field or that it is of "major significance."

The documentation provided also included a list compiled by the entitled According to the submitted list, 186 DVDs were distributed to organizations in three were distributed to organizations in , and one was distributed to an organization in The Petitioner has not established that the distribution list reflecting that 190 copies of the DVD were sent to various dance organizations shows that the DVD has been utilized at a level commensurate with a contribution of major significance in the field. The list does not indicate that the DVD guide had substantial distribution outside of southwestern China or was otherwise of major significance to the sport dance field.

The Petitioner also submitted four letters of support mentioning the DVD. For example, asserted that the Petitioner "has successfully established a scientific evaluation system to instruct future dancing stars. which was supervised by [the Petitioner], has been widely used as the only and most authoritative guideline in southwestern China." While stated that the Petitioner's system has been utilized regionally as a "guideline in southwestern China," there is no evidence demonstrating the DVD guide has impacted the sport dance field as a whole, or otherwise constitutes an original contribution of major significance in the field. Regardless, as previous assertion concerning the contributions "over the past decades" was inconsistent with the evidence of record, we cannot assign any weight to his statement about the DVD guide. *See Matter of Ho*, 19 I&N Dec. at 591-92.

In addition, the letter of support from , Deputy Chairman of the stated that the Petitioner's video disc of dance instructions "is widely used across the nation for judging and evaluation standards" and that he uses the Petitioner's video "because it represents the best instruction material to teach world-class level dancing and the proper techniques in our highly

regimented field." Similarly, a letter from of the China, asserted that his organization uses the Petitioner's "instructive DVD for Ballroom Dancing as the main source of teaching guidelines provided by our training center." Lastly, of the China, stated that the DVD is the primary source of his organization's ballroom dancing teaching curriculum and that the DVD "is currently the most widely used instructive teaching tutorial of ballroom dancing in the China Sports Dance Industry." Although the aforementioned individuals indicate that they have utilized the DVD guide, there is no documentary evidence demonstrating that the DVD guide has affected the sport dance field at a level commensurate with a contribution of major significance in the field.

Furthermore, with regard to the letters from the letters did not include an address, a telephone number, or any other information through which the individuals can be contacted. The lack of proper contact information as a means for verifying the information in their letters diminishes the reliability of their statements.

The Petitioner submitted letters of limited probative value. We have addressed the specific assertions above. Generalized conclusory assertions that do not identify specific contributions or their impact in the field have little probative value. *See 1756, Inc. v. U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.D.C. 1990) (holding that an agency need not credit conclusory assertions in immigration benefits adjudications). In addition, uncorroborated assertions are insufficient. *See Visinscaia*, 4 F.Supp.3d at 134-35; *Matter of Caron Int'l, Inc.*, 19 I&N Dec. at 795 (holding that an agency "may, in its discretion, use as advisory opinions statements . . . submitted in evidence as expert testimony," but is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought and "is not required to accept or may give less weight" to evidence that is "in any way questionable"). The submission of reference letters supporting the petition is not presumptive evidence of eligibility; USCIS may evaluate the content of those letters as to whether they support the petitioner's eligibility. *Id. 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"). Without additional, specific evidence showing that the Petitioner's work has been unusually influential, substantially impacted the field, or has otherwise risen to the level of original contributions of major significance, the Petitioner has not established that he meets this regulatory criterion.

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

On appeal, the Petitioner asserts that the production and distribution of his DVD meets this regulatory criterion, and that the Director "failed to apply the law of the case doctrine."[3] The law of the case doctrine limits relitigation of an issue once it has been decided in an earlier stage of the same litigation. *Hamilton v. Leavy*, 322 F.3d 776,

[3] In a June 2014 decision on a previously filed Form I-140, , the Director, without any further discussion of the issue, stated that the sale and distribution of the Petitioner's DVD at events and competitions satisfied the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(vii).

786 (3d Cir. 2003). The Director's determination regarding an issue pertaining to a previously filed Form I-140, however, does not constitute an earlier stage of this proceeding, but rather a separate matter altogether. Each petition is a separate filing and must be decided on a case-by-case basis upon review of the evidence of record. The Director is not required to approve applications or petitions where eligibility has not been demonstrated, merely because of prior approvals that may have been erroneous. *See, e.g., Matter of Church Scientology International*, 19 I&N Dec. 593, 597 (Comm'r 1988). Furthermore, USCIS is not required to treat acknowledged errors as binding precedent. *See Sussex Eng'g Ltd. v. Montgomery*, 825 F.2d 1084, 1090 (6th Cir. 1987), *cert. denied*, 485 U.S. 1008 (1988).

In this instance, the Petitioner did not submit documentary evidence showing the manner in which the DVD was displayed at dancing events and competitions. In addition, as the Petitioner was the "General Producer" of the DVD, the specific artistic component of his work has not been established. Furthermore, the purpose of the DVD is instructional as opposed to an artistic display of the Petitioner's dance movements or choreography. Not every performance before an audience is an artistic exhibition or showcase. While we will evaluate evidence for this regulatory criterion on a case-by-case basis, generally, this criterion has not included performing artists. *See Negro-Plumpe v. Okin,* 2:07-CV-820-ECR-RJJ at *1, *7 (D. Nev. Sept. 8, 2008) (upholding an interpretation that performances by a performing artist do not fall under 8 C.F.R. § 204.5(h)(3)(vii)). *See also Visinscaia v. Beers*, 4 F.Supp.3d 126, 135-36 (D.D.C. 2013). As the Petitioner has not submitted sufficient documentation that his work was displayed at artistic exhibitions or showcases, he has not provided qualifying evidence that meets the plain language requirements of the regulation at 8 C.F.R. § 204.5(h)(3)(vii).

In light of the above, the Petitioner has not established that he 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 Petitioner submitted documentation indicating that he served as Deputy Director of the Organizing Committee of the 2014 Mainland China, and Director of the Organizing Committee of the 2014 Deputy Director of the Organizing Committee of the 2014 an Executive Member of the Chairman of Vice President of the Executive President of the and President of the While the Petitioner performed in a leading role for the aforementioned organizations, there is no documentary evidence demonstrating that any of them have a distinguished reputation. The program brochures, information from the organizations' websites, and media announcements concerning the competitions do not set the organizations apart from others' in the sport at a level indicative of a distinguished reputation. Furthermore, with regard to the letters from that mention the as previously discussed, letter provided conflicting information about the association's duration, and neither letter included

any information through which could be contacted. Accordingly, the reliability of their statements concerning the is diminished.

In light of the above, the Petitioner has not established that he meets this regulatory criterion.

B. 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 individual 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.[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.

[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).

ORDER: The appeal is dismissed.

Cite as *Matter of Y-W-*, ID# 14263 (AAO Oct. 30, 2015)