



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF A-A-H-C-

DATE: AUG. 10, 2016

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a post production designer and animator who works in advertising, media, television and film, seeks classification as an individual of extraordinary ability in the arts. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This classification 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 Director, Nebraska Service Center, denied the petition. 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 necessitates either 1) documentation of a one-time major achievement, or 2) fulfillment of at least three of the ten regulatory criteria listed under 8 C.F.R. § 204.5(h)(3)(i)-(x).

The matter is before us on appeal. In his appeal, the Petitioner submits no new evidence but argues that the Director erred in concluding that he did not meet the lesser nationally or internationally recognized prizes or awards criterion, the published material about the Petitioner criterion and the original contributions of major significance criterion. *See* 8 C.F.R. § 204.5(h)(3)(i), (iii), (v).

Upon *de novo* review, we will dismiss the appeal.

I. LAW

The Petitioner may establish his eligibility by demonstrating extraordinary ability through sustained national or international acclaim and achievements that have been recognized in the field through extensive documentation. Specifically, section 203(b)(1)(A) of the Act states, in pertinent part:

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.

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." 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 his sustained acclaim and the recognition of his achievements in the field through a one-time achievement (that is a major, internationally recognized award). If a petitioner does not submit this documentation, then he must provide sufficient qualifying evidence indicating that he meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

Satisfaction of 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 documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011); *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 United States Citizenship and Immigration Services (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. Previous O-1 Approval

On appeal, the Petitioner notes he is in the United States in O-1 status and indicates his current nonimmigrant visa and the requested immigrant visa are based on the Petitioner's "extraordinary ability as a post production producer/ animator." While USCIS has approved at least one O-1 nonimmigrant visa petition filed on behalf of the Petitioner, the prior approval does not preclude USCIS from denying an immigrant visa petition based on a different, if similarly phrased, standard. The regulatory standard and requirements for an immigrant and nonimmigrant alien of extraordinary ability in the arts are different. The regulation at 8 C.F.R. § 214.2(o)(3)(ii) defines extraordinary ability in the arts (including the performing arts) as simply "distinction," which is defined as:

Distinction means a high level of achievement in the field of arts evidenced by a degree of skill and recognition substantially above that ordinarily encountered to the extent that a person described as prominent is renowned, leading, or well-known in the field of arts.

The regulation relating to the immigrant classification, 8 C.F.R. § 204.5(h)(2), however, defines extraordinary ability in any field as “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.” While the ten criteria set forth in the regulation at 8 C.F.R. § 204.5(h)(3) appear in the nonimmigrant regulation, 8 C.F.R. § 214.2(o)(3)(iii), they refer only to aliens who seek extraordinary ability in the fields of science, education, business or athletics. Separate criteria for nonimmigrant aliens of extraordinary ability in the arts are set forth in the regulation at 8 C.F.R. § 214.2(o)(3)(iv). The distinction between these fields and the arts, which appears in the regulation at 8 C.F.R. § 214(o), does not appear in the regulation at 8 C.F.R. § 204.5(h). As such, the petitioner’s approval for a nonimmigrant visa under the lesser standard of “distinction” is not evidence of his eligibility for the similarly titled immigrant visa.

Moreover, many I-140 immigrant petitions are denied after USCIS approves prior nonimmigrant petitions. *See, e.g., Q Data Consulting, Inc. v. INS*, 293 F. Supp. 2d 25 (D.D.C. 2003); *IKEA US v. United States Dep’t of Justice*, 48 F. Supp. 2d 22 (D.D.C. 1999); *Fedin Bros. Co. Ltd. v. Sava*, 724 F. Supp. 1103 (E.D.N.Y. 1989). We are 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 Int’l*, 19 I&N Dec. 593, 597 (Comm’r 1988). We need not treat acknowledged errors as binding precedent. *Sussex Engg. Ltd. v. Montgomery*, 825 F.2d 1084, 1090 (6th Cir. 1987), cert. denied, 485 U.S. 1008 (1988).

Furthermore, our authority over the service centers is comparable to the relationship between a court of appeals and a district court. Even if a service center director had approved the nonimmigrant petitions, we would not be bound to follow the contradictory decision of a service center as the law is clear that an agency is not bound to follow an earlier determination as to a visa applicant where that initial determination was based on a misapplication of the law. *Glara Fashion, Inc. v. Holder*, 11 CIV. 889 PAE, 2012 WL 352309 *7 (S.D.N.Y. Feb. 3, 2012); *Royal Siam v. Chertoff*, 484 F.3d 139, 148 (1st Cir. 2007); *Tapis Int’l v. INS*, 94 F. Supp. 2d 172, 177 (D. Mass. 2000) (Dkt.10); *Louisiana Philharmonic Orchestra v. INS*, 44 F. Supp. 2d 800, 803 (E.D.La. 1999), aff’d, 248 F.3d 1139 (5th Cir. 2001), cert. denied, 534 U.S. 819 (2001).

B. Evidentiary Criteria¹

Under the regulation at 8 C.F.R. § 204.5(h)(3), the Petitioner, as initial evidence, may present a one-time achievement that is a major, internationally recognized award. In this case, the Petitioner has not claimed or shown that he is the recipient of a qualifying award at a level similar to that of the Nobel Prize. As such, the Petitioner must provide at least three of the ten types of documentation listed under 8 C.F.R. § 204.5(h)(3)(i)-(x) to meet the basic eligibility requirements.

¹ We have reviewed all of the Petitioner’s evidence and will address those criteria he indicates he meets or for which he has submitted relevant and probative documentation.

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The Director concluded that the Petitioner met the criteria pertaining to performing in a leading or critical role under 8 C.F.R. § 204.5(h)(3)(viii) and commanding a high salary or other significantly high remuneration under 8 C.F.R. § 204.5(h)(3)(ix). The record does not support these findings and for the reasons set forth below, we are withdrawing the Director's determinations for these two criteria.

On appeal, the Petitioner specifically challenges the Director's findings relating to the lesser nationally or internationally recognized prizes or awards criterion under 8 C.F.R. § 204.5(h)(3)(i), the published material about the Petitioner criterion under 8 C.F.R. § 204.5(h)(3)(iii), and the original contributions of major significance criterion under 8 C.F.R. § 204.5(h)(3)(v). As discussed below, the Petitioner has not demonstrated that he meets these criteria.

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

The basis of the Petitioner's claim to meet this criterion is awards that his company received rather than awards that he personally received. It is the Petitioner's burden to establish that the evidence meets every element of this criterion. Not only must the Petitioner demonstrate his receipt of prizes and awards, but he must also demonstrate that those prizes and awards are nationally or internationally recognized for excellence in the field of endeavor, which, by definition, goes beyond the awarding entity.

In his appellate brief, the Petitioner claims that his company received the [REDACTED] the [REDACTED] awards presented by the [REDACTED] multiple awards granted by the [REDACTED] various [REDACTED] awards, and awards from the [REDACTED]. As evidence of many of the claimed awards, the Petitioner submitted screen prints of websites such as [REDACTED] and [REDACTED]. However, the content of the screen prints is in a foreign language and the certifications associated with the accompanying translations do not attest that they are "full," "complete and accurate," in accordance with 8 C.F.R. § 103.2(b)(3). Because the Petitioner did not submit properly certified translations of the documents, he did not demonstrate that the evidence supports his claims.

Additionally, the Petitioner did not provide sufficient information on the events, the entities hosting the competitions, or other material to demonstrate that the prizes or awards are nationally or internationally recognized. Further, in many instances, the Petitioner did not submit evidence to demonstrate that the awards were granted due specifically to his work on the projects. In his initial filing, the Petitioner offered a list of accolades that he claimed met this criterion. The list included projects that did not win, but were on the "shortlist," "nominated" or were "official selection[s]" of certain film festivals. Recognition short of the Petitioner's actual receipt of qualifying awards or prizes, however, is insufficient under the plain language of the criterion.

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Other evidence submitted is also insufficient to show that the Petitioner meets this criterion. For example, the Petitioner provided confirmation of a 2013 [REDACTED] which was presented to [REDACTED] by the [REDACTED]. The Petitioner stated that he “worked as the Director of animation” for this project. However, the award does not contain the names of any individual recipients. Additionally, the Petitioner provided no documentary evidence demonstrating that he functioned as the director of animation for this project and his own claims do not constitute evidence. See *Matter of Obaighena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1,3 n.2 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). The Petitioner did not provide background information on either the [REDACTED] or the [REDACTED]. In addition, the record includes a copy of a 2013 [REDACTED]. The award, itself, indicates that it honors “outstanding local, regional and cable television commercials and programs” Thus, on its face, it is not a nationally or internationally recognized award. The Petitioner also provided evidence of the nomination of a cartoon episode, [REDACTED] [REDACTED] for the [REDACTED] for 2012 by the [REDACTED]. A nomination, as noted, is not an award.

In his initial filing, the Petitioner provided a screenshot from the [REDACTED] website, which offered information on the film [REDACTED]. The Petitioner indicated that he worked as the film’s director of animation and that the film won the [REDACTED] 2010. The record, however, lacks evidence substantiating the Petitioner’s claim regarding this award, or explaining the nature of the award. Moreover, the Petitioner has not presented materials about the festival or its awards that demonstrate their national or international recognition. Similarly, on appeal, the Petitioner indicated he won the [REDACTED] 2012, but did not submit evidence of the award, or sufficiently verify the award’s national or international recognition.

The Petitioner provided evidence of several [REDACTED] awards that were presented to [REDACTED] a company he states he owns and for which he functioned as the “Director of Animation” for the audiovisual pieces recognized by each award. Articles of Incorporation for [REDACTED] confirm that the Petitioner is a co-owner of the company. However, ownership of a company is, without more, insufficient to establish that the Petitioner was involved in the creation of the winning advertisements. None of the awards identify members of the team who were responsible for the audiovisuals that won the awards, and there is no other documentation in the record to demonstrate who was responsible for the works that received the awards.

Further, the Petitioner submitted a document stating that the [REDACTED] “aims to develop academic training to professionals working in advertising, through seminars, workshops and courses,” and that [REDACTED] awards are the “most prestigious awards in the advertising industry of Venezuela.” The Petitioner, however, provided no evidence other than the entity’s own statement to substantiate the recognition or prestige of the [REDACTED] awards. Unsubstantiated statements are not sufficient for the 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)).

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The Petitioner provided copies of five awards for a video, [REDACTED] which the Petitioner wrote, directed and produced while he was a university student. The awards represent the [REDACTED] conducted by the [REDACTED]. The Petitioner has not offered any evidence, such as media coverage or acknowledgment from the field, showing that the award was nationally or internationally recognized as awards of excellence in his field.

As evidence of [REDACTED] awards, the Petitioner submitted a letter from [REDACTED] project coordinator, awards and global competitions, [REDACTED]. In his letter, [REDACTED] stated that the Petitioner “has been credited in the creation of the following award winning entries honored in the [REDACTED] Competitions” and identified nine awards that were granted to television programs such as [REDACTED] and [REDACTED]. The Petitioner also included a letter from [REDACTED] executive creative director, [REDACTED] who stated that while he was the senior art director at [REDACTED] he worked with the Petitioner, and that jobs on which they worked together were recipients of the [REDACTED] awards. However, neither [REDACTED] nor [REDACTED] explained what the Petitioner did for the various television programs or how his work was integral to the success of the various projects that won the awards. The Petitioner has not provided copies of the awards and has not demonstrated that he was the actual recipient.

Moreover, the Petitioner offered no evidence to demonstrate that [REDACTED] awards are nationally or internationally recognized. The Petitioner presented a document stating that the [REDACTED] awards “stand for marketing excellence in the media marketing space” and “are regarded as the most prestigious awards for creative endeavor in this field.” He included the organization’s website in the document. However, the Petitioner offered no documentation, outside of the awarding entity, verifying the prestige of the awards. As noted, unsubstantiated statements are not sufficient for the purposes of meeting the burden of proof in these proceedings. *Soffici*, 22 I&N Dec. at 165. For these reasons, the Petitioner has not satisfied the plain language of 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 Petitioner maintains that he meets this criterion because he initially submitted published articles that referenced him or his work. In general, in order for published material to meet this criterion, it must be about the petitioner and, as stated in the regulations, be printed in professional or major trade publications or other major media. To qualify as major media, the publication should have significant national or international distribution. Some newspapers, such as the *New York Times*, nominally serve a particular locality but would qualify as major media because of significant national distribution, unlike small local community papers.² Furthermore, the plain language of the

² Even with nationally-circulated newspapers, consideration must be given to the placement of the article. For example, an

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regulation at 8 C.F.R. § 204.5(h)(3)(iii) requires that “[s]uch evidence shall include the title, date, and author of the material, and any necessary translation.”

On appeal, the Petitioner identifies eight previously submitted articles that he characterizes as “major.” With the articles, the Petitioner submitted translations which the translator did not certify as “full,” “complete” or “accurate,” in accordance with 8 C.F.R. § 103.2(b)(3). Because the Petitioner did not submit properly certified translations of the documents, he has not demonstrated that the evidence supports his claims. Further, the Petitioner provided no information about the publishers or the websites on which the articles appeared. The Petitioner indicates that “[t]hese publications are major industry trade publications as evidenced in the RFE response.” The Petitioner identified circulation levels for each of the publications but did not document the source of the figures, other than to include a website address for each publication. A website address is not sufficient evidence to demonstrate that a publication qualifies as a professional or major trade publication or other major medium. It is the Petitioner’s burden to demonstrate that the publications in which his works appear enjoy significant national or international distribution. Without such evidence, the Petitioner has not shown that the articles were published in qualifying publications or major media.

In addition, most of the published materials that the Petitioner submitted in support of this criterion are not about him. While they referenced the Petitioner, they are about the industry in which the Petitioner works or films or television stations where he has worked. As a result, the Petitioner has not met the plain language of this criterion.

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

The Petitioner’s claim to meet this criterion rests upon four testimonial letters, the publication of some of his works in textbooks and other publications, and presentations which he made at various symposia. To satisfy this criterion, a petitioner’s contributions must be both original and of major significance in the field. 8 C.F.R. § 204.5(h)(3)(v). The term “original” and the phrase “major significance” are not superfluous and, thus, they have some meaning. *Silverman v. Eastrich Multiple Investor Fund, L.P.*, 51 F. 3d 28, 31 (3d Cir. 1995), *quoted in APWU v. Potter*, 343 F.3d 619, 626 (2d Cir. 2003). Regardless of the field, the phrase “contributions of major significance in the field” requires substantiated impacts beyond one’s employer, clients or customers. *See Visinscaia*, 4 F. Supp. 3d at 134-35 (upholding a finding that a ballroom dancer had not met this criterion because she did not demonstrate her impact in the field as a whole).

██████████ referred to the Petitioner as a “visionary capable of producing influential artwork for any kind of media.” ██████████ stated that he worked with the Petitioner on a number of projects involving “show openings and logos,” for a number of television programs such as ██████████

article that appears in a section that is distributed only in Fairfax County, Virginia, for instance, does not meet the plain language of the criterion.

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_____ and _____ maintained that the Petitioner “stands out as a world leader in the field of designs and post production” However, although _____ identified specific projects upon which he worked with the Petitioner, he did not describe the nature of the Petitioner’s contribution. Further, _____ did not explain how the Petitioner’s work on these projects impacted the field of design and post production.

_____ a director, screenwriter, and producer, worked with the Petitioner on at least two projects and stated that he was impressed with the Petitioner’s “talent and artistic abilities.” According to _____ he recommended the Petitioner “to do the visuals for _____ an opera that was directed by _____” While working on this project, the Petitioner “made 5 animated sequences” which the _____ called “sophisticated and elaborate.” _____ characterizes the Petitioner as “an inspiration to the Venezuelan industry of films, advertising and entertainment” Although _____ noted favorable comments which an unidentified author made in the _____ the Petitioner provided no documentary evidence to substantiate the claimed positive review. Further, a favorable review does not equate to an original contribution. Moreover, the Petitioner provided no evidence showing that the Petitioner’s five animated sequences represented original artistic contributions which made a measurable impact upon his field, as a whole.

_____ the executive director of _____ remarked that the Petitioner is a valuable member of the organization evidenced by his “outstanding works,” “personal values,” and a “bright mind.” _____ characterized the Petitioner as an incredibly “talented and successful designer” who has provided “invaluable advice to _____ noted that the Petitioner was selected “to do an animated short film named _____ by the _____ However, _____ did not provide the basis for the Petitioner’s selection. Neither did she claim, nor has the Petitioner shown, that being a member of the _____ or being selected by the _____ to create an animated film constitutes an original contribution. Further, although _____ maintained that the Petitioner has been a valuable asset to her organization, she did not explain any impact which the Petitioner has made upon the field of post-production or animation.

_____ the director of _____ stated that a major factor in his company’s success is the work they did for the “Hispanic market in the United States.” _____ indicated that the Petitioner’s benefit to his company is his understanding of the needs of the “Hispanic and general market.” _____ also noted the Petitioner’s ability to stay abreast of technology which is used in the industry, namely “stereoscopy for 3D” which is a “technique for creating or enhancing the illusion of depth in an image by means of stereopsis for binocular vision.” _____ noted that the Petitioner adds to this work “with a new technology called immersive 360° VR videos.” While understanding the needs of a business’ market is certainly an advantage for the company’s

³ The name of the studio is styled in this fashion on the company’s letterhead.

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employees, the Petitioner has not demonstrated that this is somehow original. Further, while [REDACTED] spoke of the Petitioner's work with "stereoscopy for 3D" and "immersive 360° VR videos," he did not claim that the Petitioner is responsible for creating these technological advances or that his work with these technologies has been emulated by others in his field or has otherwise impacted the field on a broad scale.

The opinions of the Petitioner's references are not without weight and have been considered above. 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 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 alien's eligibility. See *id.* at 795-796; 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"). Thus, the content of the references' statements and how they became aware of the petitioner's reputation are important considerations. Even when written by independent experts, letters solicited by an alien in support of an immigration petition are of less weight than preexisting, independent evidence that one would expect of a post-production designer/ animator who has made original contributions of major significance in the field. Cf. *Visinscaia*, 4 F. Supp. 3d 131-32 (concluding that USCIS' decision to give little weight to uncorroborated assertions from professionals in the field was not arbitrary and capricious).

The Petitioner maintains that his works have been "selected for and published in text books and other prestigious publications." The Petitioner submitted pictures that he claims represent logos and animated designs which were published in various design books. However, none of the works are signed or otherwise attributed to the Petitioner. Further, the Petitioner provided no information about the publications in which the designs appear and no evidence to show why his designs were selected for publication. The record contains no evidence of the circulation of the volumes of illustrations. Moreover, while the Petitioner refers to the publications as "prestigious," he provided no evidence to substantiate this statement, and his statement alone is insufficient to show that he meets this criterion.

The Petitioner also claims that his invitations to speak and lecture are indicative of his original contributions to the field. The Petitioner's speaking engagements, without evidence of originality and impact in the field at the level of "major significance," do not meet this criterion. The Petitioner provided evidence of three conferences: "the [REDACTED] [REDACTED] and [REDACTED] [REDACTED] For the first two, the Petitioner's company, [REDACTED] was identified as a guest speaker for workshops conducted at the conferences. For the third event, the Petitioner was identified as participating in a forum for advertising media. The Petitioner identified no original contribution which formed the basis of his participation in the conferences and provided no documentary evidence of any influence which his presentations made in his industry.

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The Petitioner also provided a letter from [REDACTED] CEO [REDACTED] who indicated that he invited the Petitioner to speak at a conference, called AUDIO + VISUAL New Trends. According to [REDACTED] the Petitioner spoke about “animation and stereoscopic 3D,” being “the first to develop the stereoscopic technique” with excellent results for advertising. Although [REDACTED] claims that the Petitioner was the first to develop the “stereoscopic technique” with respect to its implementation in advertising, the record contains no evidence substantiating such claims, or explaining the “stereoscopic technique” or how it has been implemented. The Petitioner has not demonstrated that he is responsible for the development of this technique or its implementation in the field of advertising. Further, the Petitioner has not shown that the presentation resulted in others implementing his “stereoscopic technique.” Through these events, the Petitioner has disseminated his work and ideas, but without evidence of the field’s reception of the presentations, the Petitioner has not shown they constitute original contributions of major significance in the field.

In his appellate brief, the Petitioner claimed to have been involved in eight other speaking engagements but provided no evidence to describe these events or otherwise show that he actually participated in them. Without documentary evidence, the Petitioner has not substantiated his claims. *Soffici*, 22 I&N Dec. at 165. For these reasons, the Petitioner has not met the plain language of this criterion.

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

The Petitioner stated that he meets this criterion because he performed “lead work” for distinguished organizations. The Director found that the Petitioner met the plain language of this criterion. However, the evidence in the record does not support this finding and we withdraw the Director’s determination. A leading role should be apparent by its position in the overall hierarchy of an organization and the role’s corresponding duties. Similarly, a critical role is evidenced by its overall impact on the organization or establishment. Additionally, the organizations or establishments claimed under this criterion must be marked by eminence, distinction, excellence, or a similar reputation.

In this case, the Petitioner submitted 13 letters from individuals who either worked with the Petitioner or are familiar with his work in the field. We have reviewed all of the letters but will discuss a representative sample. [REDACTED] owned the [REDACTED] when he hired the Petitioner in 1997 “as a junior designer.” [REDACTED] noted that the Petitioner worked on several “publicity campaigns for the best brands of the country,” such as [REDACTED] and [REDACTED] and that “without [the Petitioner’s] input, visionary artistic talent and team leadership, [REDACTED] would not have existed and wouldn’t have had the success it had.” Filmmaker, [REDACTED] stated that he has known the Petitioner “for more than fifteen years in which we’ve worked on many successful projects.” According to [REDACTED] the Petitioner “supervised all the post-production work” on [REDACTED] master’s thesis project. Since then, they have collaborated on one short film and several music videos. [REDACTED] an actor and producer, explained that he worked with the Petitioner on two movie projects: [REDACTED] and [REDACTED] and that the

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Petitioner worked on the latter as co-producer. [REDACTED] a filmmaker and executive producer, maintained that he has worked with the Petitioner since they were students at the University. [REDACTED] [REDACTED] indicated that he established his own company, [REDACTED] and that the Petitioner worked for him on a commercial for [REDACTED]

This criterion requires the Petitioner to have performed in a leading or critical role for organizations or establishments with a distinguished reputation. Therefore, the Petitioner's work with individuals such as [REDACTED] and [REDACTED] would not meet the plain language of this regulatory criterion. [REDACTED] attributes a critical role to the Petitioner while he worked for [REDACTED]. However, the Petitioner provided no documentary evidence to demonstrate that [REDACTED] has a distinguished reputation. While [REDACTED] indicated that the Petitioner worked with his company [REDACTED] on a commercial, he did not identify the duties which the Petitioner performed for his organization. Further, the Petitioner provided no evidence to demonstrate the distinguished reputation of [REDACTED]. We have already discussed the Petitioner's co-founding of [REDACTED] and [REDACTED] entities for which he played a leading role. However, the Petitioner has provided no evidence demonstrating that either entity enjoys a distinguished reputation.

The Petitioner provided letters which attest to the Petitioner's involvement with companies such as [REDACTED] and [REDACTED]. However, the letters do not document the specific duties which the Petitioner performed for the named organizations and the Petitioner provided no evidence to indicate that the named entities are organizations or establishments having a distinguished reputation.

The record contains two letters which indicate that the Petitioner worked for organizations distinguished reputations. However, in these instances, the Petitioner did not demonstrate that he functioned in either a lead or critical role for such organizations. [REDACTED] stated that he worked at [REDACTED] as the senior art director, and while there, he and the Petitioner had "done many jobs that have won recognition" However, [REDACTED] provided no description of the Petitioner's role or the duties which the Petitioner performed, or further described how the Petitioner's involvement in the various jobs could be considered leading or critical to [REDACTED]. [REDACTED] ad sales marketing director for Latin America and Brazil at [REDACTED] states that the Petitioner "has been a key motion graphic vendor and has worked actively in several creative projects for the [REDACTED] in Latin America." While [REDACTED] notes that the Petitioner was a "powerful contributor" to "numerous projects," he does not describe the Petitioner as a lead or as critical to the operations of [REDACTED] in Latin America. He merely speaks to the Petitioner's involvement in "various projects." Evidence under this criterion must provide specifics relating to how the Petitioner's role was critical to the organization as a whole. *Noroozi v. Napolitano*, 905 F.Supp.2d 535, 545 (S.D.N.Y. 2012).

The remainder of the letters includes general reference to the Petitioner's talent and his work in the field of graphics and animation. However, none of the authors articulate how the Petitioner's role for each of the named organizations was leading or critical to the various establishments as a whole. For these reasons, the Petitioner has not met the plain language of this criterion.

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

The Petitioner claimed to have met this criterion because he signed a contract with [REDACTED] and because his company [REDACTED] earned a profit in 2013. The Director found that the Petitioner met the plain language of this criterion. However, the evidence in the record does not support this finding and we withdraw the Director's determination for this criterion.

The Petitioner provided a copy of a contract with [REDACTED] in which the Petitioner was offered the position of Creative Director at an annual salary of \$220,000. The contract was drafted one month prior to the filing of the I-140 petition. While the salary is on the higher end of Bureau of Labor Statistics' wage scale for art directors, the Petitioner did not provide documentary evidence, such as bank documents or earnings statements, demonstrating that [REDACTED] actually paid him this sum or that he has ever earned a salary similar to that noted in the contract.

The Petitioner makes reference to the annual income for [REDACTED] during 2013 and provided the income tax return for the company for that year. However, the income reflected on the tax return is for the company, not for an individual. In addition, the tax return submitted is in Spanish and the Petitioner provided no translation. The regulation at 8 C.F.R. § 103.2(b)(3) specifically requires that any foreign language document which the Petitioner submits to USCIS must include a full and certified English language translation. Because the Petitioner did not provide a translation for the tax return, he has not shown that the document supports his claims. Further, although the tax return reflects [REDACTED] income for 2013, the Petitioner has provided no comparative data to demonstrate that this income is high relative to the income of other corporations in the industry. Additionally, the Petitioner has provided no separate wage documentation to establish the amount of his own salary or remuneration. For these reasons, the Petitioner has not demonstrated that he received a high salary or other significantly high remuneration associated with his work for [REDACTED] and has not met the plain language of this criterion.

III. CONCLUSION

The documents submitted in support of extraordinary ability must show 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 provided evidence satisfying at least three evidentiary categories, the next step would be a final merits determination that considers all of the filings 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 individual "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), (3); *see also Kazarian*, 596 F.3d at 1119-20 (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). Although we need not provide the type of final merits determination referenced in *Kazarian*, a review of the record in the aggregate supports a finding that the Petitioner has not established the level of expertise required for the classification sought.

Matter of A-A-H-C-

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. 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.

Cite as *Matter of A-A-H-C-*, ID# 17404 (AAO Aug. 10, 2016)