



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

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

MATTER OF J-M-C-&Co.

DATE: JUNE 25, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a global financial services firm, seeks classification of the Beneficiary as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant 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 of the Nebraska Service Center denied the Form I-140, Immigrant Petition for Alien Worker, concluding that the Petitioner had shown that the Beneficiary met only two of the ten initial evidentiary criteria, of which he must meet at least three.

On appeal, the Petitioner submits additional evidence and contends that the Beneficiary qualifies as an individual of extraordinary ability.

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

I. LAW

Section 203(b)(1)(A) of the Act makes visas available to immigrants with extraordinary ability 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 implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth two options for satisfying this classification’s initial evidence requirements. First, a petitioner can demonstrate that the beneficiary has a one-time achievement (that is a major, internationally recognized award). Alternatively, the petitioner must provide documentation showing that the beneficiary meets at least three of the ten categories of evidence listed at 8 C.F.R. § 204.5(h)(3)(i)-(x) (including items such as awards, memberships, and published material in certain media).

Where a beneficiary meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *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). This two-step analysis is consistent with our holding that the “truth is to be determined not by the quantity of evidence alone but by its quality,” as well as the principle that we examine “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.” *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

II. ANALYSIS

The Petitioner is a global financial services firm. As the Petitioner has not established that the Beneficiary has received a major, internationally recognized award, he must satisfy at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x).

A. Evidentiary Criteria

In denying the petition, the Director found that the Beneficiary met the criteria for the authorship of scholarly articles under 8 C.F.R. § 204.5(h)(3)(vi) and high salary under 8 C.F.R. § 204.5(h)(3)(ix) but not for awards, membership, published material, judging, original contributions of major significance, and leading or critical role under 8 C.F.R. § 204.5(h)(3)(i), (ii), (iii), (iv), (v), and (viii), respectively. On appeal, after conceding the point on the membership criterion, the Petitioner asserts that the Beneficiary meets these other criteria.

Here, we agree with the Director that the Beneficiary meets the criteria for scholarly articles and high salary based on the evidence submitted showing his authorship of scholarly articles in the field of quantitative finance and his high salary in relation to others in his field. However, we disagree with the Director’s conclusion regarding the leading or critical role criterion. We find that the record establishes that he meets this criterion for his role as a senior member of the Petitioner’s prime services business, which generates significant income for the company, and as a member of the [REDACTED] [REDACTED] the Petitioner’s managing director of equity finance, states in his letter that “[the Beneficiary] is currently an Executive Director within the [REDACTED] Services business . . . [and]

a senior member of the highly regarded and pivotal [redacted] formed from among a large pool of quantitative financial analysts at [the Petitioner's organization]." He states, "[t]he [redacted] [redacted] is a critical division . . . and includes only the most accomplished senior executives with diverse quantitative backgrounds," noting that "[t]he people in this group are all mavens in their respective fields and together, they play a key role in managing the risk and profitability of the [redacted] brokerage business." In a letter from [redacted] the Petitioner's managing director of [redacted] brokerage, he states that the Beneficiary led the company in responding to new guidelines for capital requirements that were issued in 2013 following the credit crisis of 2008. [redacted] notes that the Beneficiary devised strategies to address the impacts of the guidelines on the company's businesses, optimized the use of capital, and repriced its client business, which resulted in an increase in market share and profitability over a five year period of his leadership. [redacted] also indicates that "[the Beneficiary] is continuously tasked with business critical decision making that often form the basis of multibillion dollar transactions." When viewed together, the Beneficiary's senior executive position in the [redacted], the significant results he obtained leading the company through the new capital requirement guidelines in 2013, and his high level decision making establishes that he performs a leading or critical role for the Petitioner's organization, which the record demonstrates has a distinguished reputation. Accordingly, the Beneficiary meets three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3). We will evaluate the totality of his documentary evidence in the context of the final merits determination below.

B. Final Merits Determination

As the Petitioner has submitted the requisite initial evidence, we will evaluate whether it has demonstrated, by a preponderance of the evidence, that the Beneficiary has sustained national or international acclaim and is one of the small percentage at the very top of the field of endeavor, and that his achievements have been recognized in the field through extensive documentation. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2)-(3); *see also Kazarian*, 596 F.3d at 1119-20. In this matter, we conclude that the Petitioner has established the Beneficiary's eligibility for this classification.

The record reflects that the Beneficiary earned his bachelor's degree from the [redacted] Institute of Technology [redacted] in 2002, his master of business administration degree from the University of [redacted] in 2005, and his master's degree in finance from [redacted] University in 2006. The Beneficiary began his employment for the Petitioner in 2008, and in 2012, he joined its [redacted] division where he now serves as an executive director. As mentioned above, he has authored scholarly articles, performed in a leading or critical role for an organization with a distinguished reputation, and has commanded a high salary in relation to others in his field.

The Petitioner submitted evidence of several *Institutional Investor* awards, which demonstrates that the Beneficiary and his research team received the top rankings among [redacted] teams in 2010, 2011, and 2012,¹ among other awards. [redacted], a professor of finance at the University of [redacted] at [redacted] discusses these awards and states that "*Institutional Investor* is one of the world's foremost financial publications," noting that "[i]t is widely read and highly regarded by industry leaders and insiders and its awards and rankings are considered important and prestigious." [redacted] the

¹ These first place awards are designated as being second team awards in 2010 and 2011 and a first team award in 2012.

Petitioner's executive director of global [redacted] services, states that the Beneficiary "has been greatly instrumental in leading both [redacted] and the [redacted] business to the pinnacle of success." He subsequently noted that the publications the Beneficiary oversaw that were disseminated to thousands of clients played a significant role in the company receiving the first place ranking in the [redacted] Strategies category within the *Institutional Investor* awards for 2012. This evidence, together with the documentation discussed further below, is indicative of the Beneficiary's acclaim and recognition in the field.²

In discussing the evidence of the Beneficiary's original contributions, the Petitioner cites his publications and presentations, noting the specific details contained in the letters in the record. In a letter from [redacted] an associate director in the global markets division at [redacted] he discusses one of the publications in particular authored by the Beneficiary and his team entitled, [redacted] and states that "[t]his was a pioneering study of its time as no strategist had analyzed [redacted] in that much detail before." [redacted] notes that this was published on websites for the [redacted] Board of Options Exchange, the *Financial Times*, the *Wall Street Journal*, and Reuters. He adds, "[i]n the subsequent few months, [redacted] did decline sharply as predicted by [the Beneficiary and his team] and led to a massive re-pricing of risk assets globally." He then concludes, "[a]s a [redacted] on Wall Street, I was massively impressed by this breakthrough research, the depth of the analysis performed and the quality and accuracy of [the Beneficiary's] recommendations." With respect to the Beneficiary's presentations, [redacted] states that "[the Beneficiary] has been a key speaker on several panel discussions held by [the Petitioner] in cities such as [redacted] for a number of years." He indicates, "[the Beneficiary's] presentations have not only educated and enhanced the knowledge of key personnel at major [redacted] and [redacted] companies they have also left a vivid impact on attendees and deeply influenced thought leadership in the financial services industry." This demonstrates that the Beneficiary's original contributions have been recognized by the field.

The Petitioner has also provided additional evidence of the Beneficiary's scholarly articles in his field of [redacted] that the Petitioner publishes within its [redacted] publications that reaches its clients and investors in the field. [redacted] the director and the Europe head of financial resources group in the [redacted] division at Bank of America in [redacted] states in his letter, "One such area in which [the Beneficiary] has made great inroads is [redacted] . . ." He indicates, "[the Beneficiary] has published numerous such [redacted] ideas and structured [redacted] on the basis of these [redacted] many of which have been widely followed and read, and several have been talked about in the media." In addition, the record contains a letter from [redacted] the Petitioner's U.S. head of equity [redacted] sales and execution, attesting to the Beneficiary's authorship of scholarly articles that were "distributed to thousands of individuals at thousands of institutional clients globally, and were followed closely by the investor community." [redacted] head of asset allocation and risk management at [redacted] also adds that the Beneficiary "brings a wealth of knowledge to the financial industry and is excellent at disseminating his well-formed ideas and opinions to market participants and the general public." This

² See USCIS Policy Memorandum PM-602-0005.1, *Evaluation of Evidence Submitted with Certain Form I-140 Petitions; Revisions to the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM Update AD11-14 13* (Dec. 22, 2010), <https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/i-140-evidence-pm-6002-005-1.pdf>.

further establishes that the Beneficiary has sustained national or international acclaim and that his achievements have been recognized in the field of expertise.

As discussed above, the evidence pertaining to the Beneficiary's leading or critical roles reflects that he has served as a senior member of the Petitioner's [redacted] services business and the [redacted] [redacted] that the record establishes is a key division of only the most expert senior executives. [redacted] [redacted] indicates that "[the Beneficiary] is responsible for negotiating key commercial terms in various legal agreements that govern the attributes of large hundreds of millions of dollars of bilateral financing transactions between the bank and its [redacted] fund customers." [redacted] states that the Beneficiary routinely makes critical decisions, many of which "often form the basis of multibillion dollar transactions." He further adds that the Beneficiary "is a key contributor in driving new business whether organically or through origination." Each of these aspects of the Beneficiary's roles within the Petitioner's organization demonstrate that his achievements are commensurate with this classification.

Finally, the record contains evidence of the Beneficiary's high salary, which includes his annual compensation summaries from the Petitioner for 2001 through 2017, his W-2 forms and pay statements, including documentation from the U.S. Department of Labor and salary surveys from www.salary.com. This evidence demonstrates that his earnings are at a level reflecting that he is one of the small percentage who has risen to the very top of the field. 8 C.F.R. § 204.5(h)(2).

In the totality of the evidence, we conclude that the record sufficiently establishes that the Beneficiary has sustained national or international acclaim and that his achievements have been recognized in the field of expertise, indicating that he is one of that small percentage who has risen to the very top of the field of endeavor under 8 C.F.R. § 204.5(h)(2)-(3).

III. CONCLUSION

The Petitioner has shown that the Beneficiary meets at least three of the evidentiary criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). The record also reflects that the Beneficiary has sustained national and international acclaim and that his achievements have been recognized through extensive documentation. He therefore qualifies for classification as an individual of extraordinary ability.

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 Skirball Cultural Ctr.*, 25 I&N Dec. 799, 806 (AAO 2012). Here, that burden has been met.

ORDER: The appeal is sustained.

Cite as *Matter of J-M-C-&Co.*, ID# 2990281 (AAO June 25, 2019)