



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

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

MATTER OF K-A-, LLC

DATE: MAR. 7, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, an automotive company, seeks classification of the Beneficiary as an individual of extraordinary ability in business. *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 one 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 meets three criteria.

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 a one-time achievement (that is a major, internationally recognized award). Alternatively, he or she must provide documentation that 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 petitioner 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, an automotive company, seeks classification of the Beneficiary, its chief executive officer, as an individual of extraordinary ability. As the Petitioner has not established that the Beneficiary has received a major, internationally recognized award, it must demonstrate that the Beneficiary satisfies 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 only met the leading or critical role criterion at 8 C.F.R. § 204.5(h)(3)(viii). On appeal, the Petitioner asserts that the Beneficiary meets the following criteria: awards at 8 C.F.R. § 204.5(h)(3)(i), published material at 8 C.F.R. § 204.5(h)(3)(iii), contributions of major significance at 8 C.F.R. § 204.5(h)(3)(v), authorship of scholarly articles at 8 C.F.R. § 204.5(h)(3)(vi), and high salary at 8 C.F.R. § 204.5(h)(3)(ix). We agree with the Director’s conclusion that the Beneficiary meets the leading or critical role criterion for his role as CEO and president of [REDACTED]. We also find that the evidence in the record sufficiently establishes that the Beneficiary meets the criteria for awards, leading or critical role, and high salary.

The Director held that the Petitioner had not established that the Beneficiary met the awards criterion, noting that the evidence submitted did not show that he was the recipient of the awards claimed. On appeal, the Petitioner states that the evidence in the record demonstrates that the Beneficiary personally accepted the awards at issue and that his leadership is the reason the awards

were given. The record contains evidence that as the general manager of [REDACTED] the Beneficiary received the company's award for its [REDACTED] truck which won [REDACTED] award. In addition, while serving as chief executive officer (CEO) and president of the [REDACTED] he received the company's award for its [REDACTED] truck which won the [REDACTED] at the 2017 at the [REDACTED] the executive vice president of [REDACTED] states in his letter that "[t]he importance of [the Beneficiary's] leadership in earning the [REDACTED] cannot be overstated," noting that during the time of his service as CEO of the company from 2015 to 2017, "he led the strategic vision, contributed novel automotive models, developed the necessary workflows, implemented cutting-edge technologies, oversaw groundbreaking research and development, and launched award-winning product lines to market." We find that the evidence in the record demonstrates that the Beneficiary played a vital role in [REDACTED] receipt of this award to be considered a recipient of the award. In addition, the record contains sufficient evidence demonstrating that these awards are nationally or internationally recognized award for excellence in the field under 8 C.F.R. § 204.5(h)(3)(i). For example, the documentation submitted about the [REDACTED] indicates that it is "one of the world's most influential automobile exhibitions" with a press release indicating that there were 9,549 reporters attending the exhibition and 660,000 estimated visitors. Thus, the Petitioner has established that the Beneficiary meets the requirements for the awards criterion.

The Director found that the Beneficiary did not meet the high salary criterion because it had not shown that he commanded a high salary in relation to others in the field. On appeal, the Petitioner contends that the Beneficiary's salary need not be compared to other executives "at the top level of the field," as the Director held. We agree; the regulation requires a comparison to the field, not to only the highest paid chief executives. The record contains a letter from the vice president of human relations indicating that the Beneficiary's offer of employment indicates that his base compensation for 2018 is \$800,000 with an initial signing bonus of \$250,000. The Petitioner has submitted documentation from the U.S. Department of Labor, demonstrating that the Beneficiary's salary is high in relation to others in the field.

Accordingly, the Petitioner has demonstrated that the Beneficiary meets three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3). We will evaluate the totality of the 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 has been in the automobile manufacturing industry since 1992 and that prior to being named the Petitioner's CEO and president, he served as the CEO and president of [REDACTED] which the record reflects is a joint venture between [REDACTED] and [REDACTED]. He earned his bachelor's degree in forging, pressing technology and equipment in 1989 and a master's degree in pressing engineering from [REDACTED] in 1992 followed by another master's degree in industrial engineering in 1999 and a doctorate degree in management engineering from [REDACTED] in 2003. The evidence submitted indicates that the Beneficiary has served in prominent leadership positions, including roles within [REDACTED] as executive deputy general manager in 2003 and as vice president and general manager of the International Operations Business Unit in 2005. Then, from 2009 to 2014, he served as the board director and general manager of [REDACTED] before joining [REDACTED] as CEO and president.

The Petitioner has submitted sufficient evidence demonstrating that the Beneficiary has risen to the very top of his field. The record contains a letter from [REDACTED] the executive vice chairman of the [REDACTED] indicating that the Beneficiary "has cemented his status as one of the preeminent leaders in high-growth automotive manufacturing, sales and distribution." [REDACTED] adds that "[the Beneficiary] is internationally recognized as an expert following his numerous successes at scaling-up businesses into thriving enterprises." He states that in the Beneficiary's roles at [REDACTED], he "successfully increased sales from 2,222 units to 45,000 units," and he raised the company's market share from nearly zero percent to thirteen percent. [REDACTED] indicates that in the Beneficiary's leadership positions at [REDACTED] he "singlehandedly spearheaded the company's international strategy and built the international service network from scratch."

Similarly, [REDACTED] a member of the management board of [REDACTED] states that the Beneficiary is "without a doubt, one of the leading minds in automotive manufacturing, technological innovation, and international distribution, and his work has resulted in major advances in the field." In a letter from [REDACTED] managing director of [REDACTED] he states that the Beneficiary has an "innovative and groundbreaking approach to scaling-up struggling businesses," noting that he "assesses a company's existing product line, refines logistical frameworks, secures strategic partnerships, employs the latest automotive technologies, and launches pioneering products using novel distribution networks." As an example, [REDACTED] notes that the Beneficiary turned [REDACTED] from having losses equivalent to \$74 million (USD) to having profits equating to \$68 million during his tenure. The letters demonstrate that the Beneficiary has received recognition internationally for his business acumen within the automotive industry since 2003.

Regarding his national or international acclaim, the record reflects that the Beneficiary has been invited to speak at prominent conferences in the field and that the published material in the record demonstrates that he is a recognized expert in the automotive industry in China and internationally.

For example, the record reflects that the Beneficiary spoke at the 2011 [REDACTED] and the 2012 and 2013 [REDACTED] indicates that the Beneficiary “is regularly invited to present his work at prestigious conferences [noting the [REDACTED] where he presented expert findings related to [REDACTED] hybrid-electric vehicle strategies and technology development.”<sup>1</sup> [REDACTED] then adds, “[the Beneficiary’s] expertise in this regard [is] in high demand, as the effective integration of electric and hybrid vehicle technologies to future automotive product lines is a topic of major concern to auto manufacturers worldwide.” Similarly, the record demonstrates that the Beneficiary has published scholarly articles related to manufacturing and assembly line processing. He has also been interviewed by trade journals, such as China Automotive News, regarding his views on industrial trends in the automotive industry. As such, the record demonstrates that the Beneficiary has received recognition and acclaim for his expertise in the field.

Pertaining to additional evidence of his acclaim, [REDACTED] states, “As a result of his elite-level automotive company leadership, [the Beneficiary’s] innovative product lines have been recognized with a host of prestigious awards, such as the 2017 [REDACTED] award for the [REDACTED] awarded at the [REDACTED] and the 2013 and 2011 [REDACTED] Awards for the [REDACTED] models, awarded by the [REDACTED]. An article published in Autocar Professional regarding the 2017 [REDACTED] quotes the Beneficiary as stating, “The [REDACTED] embodies [REDACTED] advanced technologies and our strong commitment to providing trucks adapted to the specific requirements of Chinese customers.” He adds, “This award highlights the success of our [REDACTED] cooperation between [REDACTED] and [REDACTED].” The record reflects that Autocar Professional is a prominent professional magazine published in India, and this article is another indication of the Beneficiary’s international acclaim.

The record also contains an article published in the China Automotive News discussing [REDACTED] truck that won the [REDACTED] award in 2013 while the Beneficiary served as the general manager. [REDACTED] general manager of [REDACTED] in [REDACTED] North Carolina, states that these awards represent major honors in the Chinese automotive industry, which he notes “is the largest automotive industry in the world.” [REDACTED] the general manager of [REDACTED] states that the Beneficiary was “instrumental” in [REDACTED] trucks receiving these awards, noting his “outstanding leadership” and that the awards “would not have been possible without his wisdom, guidance and expertise.” [REDACTED] then states, “[t]he [REDACTED] Award is one of the top national honors in the Chinese automotive industry, presented by China Automotive News, one of the country’s most important automotive news agencies.” These awards provide a further basis for finding that the Beneficiary is one of the small percentage at the very top of the field of endeavor.

The record contains additional published material about the Beneficiary, such as an article entitled “[REDACTED]” published in 2011, in which he is interviewed

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<sup>1</sup> The record reflects that [REDACTED] is a joint venture between [REDACTED] and [REDACTED]

regarding his insights on energy saving and new energy vehicles in the automotive industry as well as the strategic plan for [REDACTED] as its general manager. An article entitled, “[REDACTED],” discusses the Beneficiary’s change in employment and recounts his successes. It notes, “[h]e was independently responsible for the construction of Guangxi’s largest forging enterprise . . . as well as the establishment of [REDACTED] comprehensive marketing system, which propelled [REDACTED] annual auto sales from 6,000 in 1997 to nearly 30,000 units.” When viewed together with the other publications in the record, this evidence demonstrates that the Beneficiary has enjoyed sustained national and international acclaim in the field.

In the totality of the evidence, we conclude that the record sufficiently establishes that the Beneficiary has sustained national or international acclaim and is among the small percentage at the very top of his field. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2).

### 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.

**ORDER:** The appeal is sustained.

Cite as *Matter of K-A-, LLC*, ID# 2091340 (AAO Mar. 7, 2019)