



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

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

MATTER OF M-R-D-S-B-

DATE: OCT. 2, 2019

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Petitioner, a foreign trade executive, seeks classification 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 Texas Service Center denied the Form I-140, Immigrant Petition for Alien Worker, concluding that the Petitioner had satisfied only one of the ten initial evidentiary criteria, of which he must meet at least three.

On appeal, the Petitioner submits additional documentation and a brief, arguing that he meets at least three of the ten criteria.

Upon *de novo* review, we will dismiss 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). If that petitioner does not submit this evidence, then he or she must provide documentation that meets at least three of the ten categories listed at 8 C.F.R. § 204.5(h)(3)(i) – (x) (including items such as awards, published material in certain media, and scholarly articles). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable material if he or she is able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)-(x) do not readily apply to the individual’s occupation.

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 record indicates that at the time of filing the Petitioner was working as the shareholder and CEO of [REDACTED], an international trading company based in Brazil. He states that he is an expert in the field of foreign trade, with expertise in identifying business segments, markets, companies, and trademarks “that have potential to grow and become an asset for foreign trade.” Because the Petitioner has not indicated or established that he has received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x).

A. Evidentiary Criteria

The Director found that the Petitioner met only one of the initial evidentiary criteria, judging under 8 C.F.R. § 204.5(h)(3)(iv). The Petitioner’s documentary evidence indicates that in 2013 he performed as a judge for the [REDACTED] project developed by the [REDACTED]. Accordingly, we agree with the Director that the Petitioner fulfilled the judging criterion.

On appeal, the Petitioner maintains that he meets six additional criteria, discussed below: the awards criterion at 8 C.F.R. § 204.5(h)(3)(i), the membership in associations criterion under 8 C.F.R. § 204.5(h)(3)(ii), the published material criterion at 8 C.F.R. § 204.5(h)(3)(iii), the original

contributions criterion under 8 C.F.R. § 204.5(h)(3)(v), the leading or critical role criterion under 8 C.F.R. § 204.5(h)(3)(viii), and the high salary criterion at 8 C.F.R. § 204.5(h)(3)(ix). He further argues that he has demonstrated his sustained national or international acclaim and that he is among the small percentage at the very top of the field of endeavor. We have reviewed all of the evidence in the record and conclude that it does not support a finding that the Petitioner satisfies the requirements of at least three criteria.

Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. 8 C.F.R. § 204.5(h)(3)(i).

The Petitioner provided evidence regarding the following awards, which he highlights on appeal:

- Order of Business Merit 2009 from the [redacted] (awarded to the Petitioner)
- Quality Award – South America 2009 from the [redacted]
- Top Quality Award – Export of Packaging Materials 2009 from the [redacted]
- Brazilian National Quality Award 2009, [redacted]
- Top Quality and Excellence Award 2009, [redacted] and the [redacted]
- Top Quality Brazil Award - Export 2008, [redacted]

The Director determined that the evidence the Petitioner provided regarding these awards did not meet the regulatory criteria because it did not establish that the awards are nationally or internationally recognized. On appeal, the Petitioner maintains that the evidence he provided regarding these awards does in fact meet the regulatory requirements.

Regarding the Petitioner's receipt of the Order of Business Merit, the record contains his award certificate. In addition, the record includes information from the webpage www.ordens.presidencia.pt and from Wikipedia about the Order of Entrepreneurial Merit awarded by the Portuguese Republic.¹ However, the Petitioner has not explained, and the record does not establish, how this evidence pertains to the award certificate he received from the [redacted]. Therefore, the Petitioner has not established that the award he received rises to the level of a nationally recognized prize or award for excellence in the field.

¹ We note that Wikipedia is an online, open source, collaborative encyclopedia that explicitly states it cannot guarantee the validity of its content. See Wikipedia, General Disclaimer, https://en.wikipedia.org/wiki/Wikipedia:General_disclaimer; see also *Badasa v. Mukasey*, 540 F.3d 909 (8th Cir. 2008).

For the remaining awards listed by the Petitioner, we note that they were awarded to [redacted] not to the Petitioner himself. According to the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(i), the evidence must establish that a petitioner is the recipient of the prizes or the awards. The Petitioner asserts that as [redacted]'s shareholder and CEO the company's award "resulted solely from [his] exceptional knowledge, expertise and management" and emphasizes that "[t]he success of a CEO is deeply linked to the success of the company." While the Petitioner may have been instrumental to the success of the company, it remains that he is not the recipient of the award. Even if we, in principle, determined that the Petitioner may rely on awards his company received, the Petitioner has not provided sufficient corroborating evidence that he, as the founder of the company, was responsible for the recognized achievements.

In addition, as noted by the Director, the Petitioner has not established that these awards are nationally or internationally recognized awards for excellence in the field.² The award letter from the [redacted] [redacted] indicates that the award "seeks to recognize and highlight the dedication of the organizations that constantly care about the professional quality of [their] products and services," but the record does not contain evidence establishing that the award is recognized nationally or internationally for excellence in the field beyond the awarding entity. The Petitioner submitted a case study dated 2001 from a quality management research group titled, "[redacted]" [redacted] comparing the evaluation criteria of five "internationally recognized quality awards" with those of the [redacted] quality management program. The study does not address the level of national or international recognition of the [redacted] [redacted]

Information submitted about [redacted] describes it as "a non-profit organization whose purpose is to support, guide, congregate, defend and promote companies and institutions about quality" in all fields, not just in the area of foreign trade. The [redacted] award certificate states "[t]his acknowledgement of Quality Incentive is obtained via Public Opinion." An accompanying Evaluation Report shows the company received a score based upon completion of a questionnaire rating the company on such criteria as consumer satisfaction and suppliers' relationship. These materials indicate the [redacted] award was based upon the high praise earned by the Petitioner's company from individual clients and suppliers. Similarly, materials submitted regarding the Top Quality Brazil Award shows that the award was based upon responses obtained from [redacted]'s customers, suppliers, collaborators, and partners. Further, the award certificate for the [redacted] award states that it is for "services rendered to our entity." This documentation does not demonstrate the recognition that any of those awards received in the field beyond those awarding entities. For example, the record does not contain media coverage regarding the awards in the trade or general media. Without additional evidence, the Petitioner has not demonstrated that the field recognizes the aforementioned awards at a national or international level as awards for excellence. In light of the above, the Petitioner has not satisfied the requirements of this criterion.

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 6 (Dec. 22, 2010), <https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/i-140-evidence-pm-6002-005-1.pdf>.

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.
8 C.F.R. § 204.5(h)(3)(ii).

The Petitioner asserts that he meets the requirements of this criterion through his position as a member, founder, and former [redacted] of the [redacted] Council for Import and Export Companies (CECIEx). The Director held that while the Petitioner had established his membership in CECIEx, he had not shown that CECIEx requires outstanding achievements of its members as judged by recognized national or international experts in their disciplines or fields.

The Petitioner states that the Director did not recognize his status as founding member and based his conclusion on the requirements for general membership contained in CECIEx's bylaws. He contends that he meets this criterion through the documentation in the record regarding the distinguished background of the CECIEx [redacted]. He asserts that the [redacted] Members of CECIEx are recognized national and international experts in international trade and, "[t]hus, the [P]etitioner is not just a member, but a member judged by experts in the field and appointed as [redacted] of a distinguished institution." He argues his "founding membership level and [redacted] [redacted] nomination, judged and approved by unanimous vote of experts in international trade, qualifies as a membership that requires outstanding achievements." On appeal, the Petitioner provides an article and a publicity release discussing CECIEx's activities, a list of its 40 founding members that includes the Petitioner, and a CV and/or articles pertaining to its founding members [redacted], [redacted] [redacted] and [redacted]. We find that the Petitioner has not met his burden of proof in establishing that he meets this criterion.

Articles in the record indicate the activities of CECIEx include advocating in the interests of the import and export sector and promoting [redacted] foreign trade, and that it "comprises over 400 import and export companies, with particular emphasis on small and mid-size companies." According to the CECIEx's bylaws, "membership can be given to import and export companies, or [companies] with potential in foreign trade" located in [redacted] as well as "natural persons" whose activities cover foreign trade. In addition, the bylaws indicate there are several levels of membership, including founders, meritorious, supporters, aggregate taxpayers, and its institutional member the [redacted] [redacted], described in the record as the largest Chamber of Commerce in Latin America. The bylaws state that founding members "are those who were invited by the institution who participated in its creation," while general members must submit an application to the executive board.

The Petitioner provided a copy of the minutes of the 2012 board meeting at which he was elected [redacted] [redacted] of CECIEx. The Petitioner also provided a letter dated 2016 from CECIEx's [redacted] [redacted] confirming that the Petitioner is a member of the organization. He states that in 2012 he "suggested [the Petitioner] to be part of [redacted] CECIEx" and that the recommendation "was submitted to and approved by all [redacted] [redacted]" The record does not demonstrate, however, the organization's criteria for board membership or its selection process. While the Petitioner provided documentation establishing the expertise and recognition of several founding members, a comparison

alone to the other members of the board is insufficient to meet this criterion. While the individual members of the board may be highly qualified, the record does not demonstrate that CECIEx requires outstanding achievements, as judged by recognized national or international experts, to be appointed to its board. Therefore, the Petitioner has not established that he meets 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. 8 C.F.R. § 204.5(h)(3)(iii).

In support of this criterion, the Petitioner submitted articles published between 2010 and 2013 in the newspaper *Bahia Industrial*, and on the websites www.valor.com.br, www.dcomercio.com.br, www2.pplanalto.gov.br, and www.univates.br. Upon review, the articles are not about the Petitioner but focus on projects, and mention or quote him in discussing those project. For example, the articles are about the formation of CECIEx, a CECIEx seminar, the trade meeting [REDACTED] and how [REDACTED] project intensified cargo inspection. In addition, the *Bahia Industrial* article contains an interview of the Petitioner conducted at a meeting organized by [REDACTED] [REDACTED], and is about the importance of negotiators in the globalization of [REDACTED] produced services and goods. Articles that are not about the Petitioner do not establish eligibility for this criterion. *See, e.g., Negro-Plumpe v. Okin*, 2:07-CV-820-ECR-RJJ at *1, *7 (D. Nev. Sept. 8, 2008) (upholding a finding that articles about a show are not about the actor). Further, the article published on the website www2.pplanalto.gov.br does not satisfy the requirements of the criterion, as it does not identify the author. For the reasons stated above, the Petitioner has not established eligibility under this criterion.

Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. 8 C.F.R. § 204.5(h)(3)(v).

In order to satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only has he made original contributions but that they have been of major significance in the field. For example, a petitioner may show that his contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance in the field. The Petitioner maintains that he has established his eligibility under this criterion based on his having “developed groundbreaking projects in order to promote the export of small business’ products and enhance their exporting potential,” in his work with CECIEx, and as a consultant and professor for the [REDACTED]. In support, he has submitted recommendation letters that discuss his work. Upon review, those letters do not demonstrate the impact or influence of his work to establish that he has made contributions of major significance in the field.³

The record contains two letters dated 2015 from [REDACTED] the president of [REDACTED] and the vice president of [REDACTED] and a letter dated 2015 from [REDACTED] vice president of [REDACTED]. The letters describe the Petitioner’s expertise in the field of international trade as “internationally recognized” and “outstanding.” The authors provide highlights of the Petitioner’s

³ Although we discuss a sampling of letters, we have reviewed and considered each one.

work with CECIEx and [redacted] including his position as a member of the Foreign Trade Council, where his work focused on simplifying [redacted] foreign trade operational procedures for micro, small and medium enterprises, and facilitating the access of foreign companies into the [redacted] market. The Petitioner also led the reception of foreign delegations on international missions to [redacted], with an aim to promote and develop trade and institutional relations for both [redacted] companies and the [redacted]. He was also involved in presentations at seminars and workshops at [redacted] aimed at empowering [redacted] companies to operate in international business and foreign trade, and he represented [redacted] with other organizations and governmental agencies worldwide.

The Petitioner provided two letters dated 2015 from [redacted], general manager of [redacted] who indicates that he met the Petitioner in 2007 through the “exporter companies qualification project” called [redacted]. He provides some highlights of the Petitioner’s work with [redacted] between 2012 and 2013. The Petitioner worked as a Professor/Instructor at [redacted] University on the project called the “Competitiveness Program - EAD.” He served on the [redacted] Superior Council as a representative of CECIEx, and presented at international conferences on international markets. He further participated in the [redacted] organized by the [redacted]. He explains that the Petitioner’s work focuses on what the Petitioner calls “indirect exportation,” exporting [redacted] products successfully via the use of exporter companies. [redacted] describes indirect exportation as “a method still unexplored in many countries including [redacted].” He credits the Petitioner with having created “many didactic materials” for [redacted].

The record also contains a copy of a training manual about export trade that Petitioner prepared for the [redacted] Competitiveness Program – EAD. The manual states that its purpose is to serve as “a reliable reference to companies and entrepreneurs who wish . . . to introduce their products in foreign markets . . . providing a better familiarization with export proceedings and international business practices.” As discussed previously, in order to satisfy this criterion, the Petitioner must establish not only that he has made original contributions but that they have been of major significance in the field. Here, while [redacted]’s letters indicate that the Petitioner’s manual has had an influence on [redacted]’s project, Competitiveness Program – EAD, it does not establish the manual’s significance to the greater field of foreign trade. Demonstrating ability as a skilled foreign trade executive is not itself a contribution of major significance; rather, the Petitioner must demonstrate that he has impacted the field of foreign trade as a whole. *See Visinscaia*, 4 F. Supp. 3d at 134-135 (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). Here, the record does not include documentary evidence showing the widespread implementation of the Petitioner’s training manual, that it has been seminal, or that it otherwise equates to an original contribution of major significance in the field.

In addition, the Petitioner provided evidence showing that he presented at several international conferences. Participation in a conference demonstrates that his findings were shared with others and may be acknowledged as original based on their selection for presentation. However, the Petitioner did not establish that the selection of Petitioner’s materials for presentation at conferences and requests for him to speak in-and-of-themselves show the major significance of his contributions. Publications and presentations are not sufficient under this criterion absent evidence that they were of “major significance.” *See Kazarian v. USCIS*, 580 F.3d 1030, 1036 (9th Cir. 2009), *aff’d in part*, 596 F.3d

1115. Here, the Petitioner did not demonstrate that his presenting and speaking engagements were majorly significant in the field.

The letters considered above primarily contain attestations of the Petitioner's status in the field without providing specific examples of contributions that rise to a level consistent with major significance. Letters that specifically articulate how a petitioner's contributions are of major significance to the field and its impact on subsequent work add value.⁴ Letters that lack specifics and use hyperbolic language do not add value, and are not considered to be probative evidence that may form the basis for meeting this criterion.⁵ USCIS need not accept primarily conclusory statements. *1756, Inc. v. The U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.C. Dist. 1990). The authors' assertions in the above-referenced letters do not contain sufficient detail, nor does the record include adequate supporting documentation, to establish specifically what the Petitioner's contributions were and how they represent contributions of major significance in the field. Without additional detail explaining his contributions, the record does not adequately demonstrate that the Petitioner's work in the field has had a demonstrable impact on the field as a whole commensurate with a contribution of major significance.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii).

The Director determined that although the record shows that the Petitioner has been employed in a leading or critical role for CECIEx as a [REDACTED] between 2012 and 2014, the Petitioner did not establish that CECIEx was a company with a distinguished reputation, as required by this criterion.⁶ The Petitioner has submitted recommendation letters detailing his role as a [REDACTED] of CECIEx, including that in those roles he has played a leading or critical role in shaping the future of the company by representing the company on the Foreign Trade Council, with business organizations and governmental agencies worldwide, and in the reception of foreign delegations on international missions to Brazil. On appeal, the Petitioner has provided additional evidence establishing the distinguished reputation of CECIEx. Therefore, we find that the Petitioner has satisfied this criterion.

Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field. 8 C.F.R. § 204.5(h)(3)(ix).

The Director held that the evidence in the record did not show that the Petitioner has commanded a high salary in relation to others in the field. The record reflects that the Petitioner is the CEO of [REDACTED]. In order to meet this criterion, a petitioner must demonstrate that his salary or remuneration is high relative to the compensation paid to others working in the field.⁷ The Petitioner submitted a 2010 Brazilian income tax return for [REDACTED], and several of the

⁴ See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9.

⁵ *Id.* at 9. See also *Kazarian*, 580 F.3d at 1036, *aff'd* in part 596 F.3d at 1115 (holding that letters that repeat the regulatory language but do not explain how an individual's contributions have already influenced the field are insufficient to establish original contributions of major significance in the field).

⁶ *Id.* at 10.

⁷ *Id.* at 11.

company's purchase orders. He also provided comparative wage data, specifically screenshots from bls.gov reflecting that the national median pay for "top executives" is \$104,700, and from the Occupational Outlook Handbook that shows the national mean wage for "chief executives" is \$196,050.

On appeal, the Petitioner maintains that he owns 50% of [redacted] and received 50% of the company's profits, which he asserts was "close to half million dollars in 2010." However, as noted by the Director, the income tax return from [redacted] does not indicate the salary or remuneration, if any, the Petitioner received from the company. Here, the Petitioner's evidence does not demonstrate that he earned a salary placing him at the high end of the spectrum for wages of other chief executives. In addition, while the regulatory language of the criterion also allows for evidence of "other significantly high remuneration for services in relation to others in the field," the Petitioner did not provide evidence showing these other incentives, and establishing that they are significantly high compared to other chief executives. For these reasons, the Petitioner did not show that he fulfills this criterion.

III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria. As a result, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has established his acclaim and recognition required for the classification sought.

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top. USCIS has long held that even athletes performing at the major league level do not automatically meet the "extraordinary ability" standard. *Matter of Price*, 20 I&N Dec. at 954. Here, the Petitioner has not shown that recognition of his work is indicative of the required sustained national or international acclaim or that it is consistent with a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that he has garnered national or international acclaim in the field, and he is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

For the foregoing reasons, the Petitioner has not shown that he qualifies for classification as an individual of extraordinary ability. 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 Skirball Cultural Ctr.*, 25 I&N Dec. 799, 806 (AAO 2012). Here, that burden has not been met.

ORDER: The appeal is dismissed.

Cite as *Matter of M-R-D-S-B-*, ID# 4266433 (AAO Oct. 2, 2019)