



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

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

In Re: 16775641

Date: MAY 27, 2021

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Extraordinary Ability)

The Petitioner, an investment firm, seeks classification of the Beneficiary as an alien of extraordinary ability in the field of 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 petition, concluding that the record did not establish that the Beneficiary met the initial evidence requirement of this classification through evidence of a major internationally recognized award or by meeting at least three of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3). The Petitioner then filed a combined motion to reopen and reconsider, asserting that the Director did not consider all of the evidence in the record and submitting additional reference letters and other evidence. The Director dismissed both motions.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *See* Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

I. LAW

Section 203(b)(1) 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 a multi-part analysis. First, a petitioner can demonstrate international recognition of his or her achievements in the field through 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 sufficient qualifying documentation that meets at least three of the ten criteria 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).

II. ANALYSIS

The Beneficiary is business executive with several years of experience in investment banking. His most recent employment abroad involved the management of an investment fund focused on agribusiness in Russia, and he served on the board of agribusiness companies. He is currently employed by the Petitioner in the United States as its Chief Investment Officer, and intends to continue in this role.

A. Evidentiary Criteria

Because the Petitioner has not indicated or established that the Beneficiary has received a major, internationally recognized award, it must show that he satisfies at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Director found that the Beneficiary met one of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), relating to published material written about him and his work as an investment executive. On appeal,¹ the Petitioner asserts that the Beneficiary also meets an additional five criteria.² After reviewing all of the evidence in the record, we find that the

¹ The Petitioner indicated on Form I-290B and in an accompanying letter that it would submit a brief within 30 days of filing its appeal. The appeal was submitted on June 23, 2020, and as of the date of this decision, an appeal brief has not been received by our office. Our decision will therefore be based upon the basis statement included on Form I-290B.

² The Petitioner’s basis statement submitted on appeal does not challenge or address the Director’s conclusion that the evidence did not establish that the Beneficiary met the criterion at 8 C.F.R. § 204.5(h)(3)(vi). We therefore consider this issue to be abandoned. *See Sepulveda v. U.S. Att’y Gen.*, 401 F.3d 1226, 1228 n. 2 (11th Cir. 2005); *Hristov v. Roark*, No. 09-CV-27312011, 2011 WL 4711885 at *1, *9 (E.D.N.Y. Sept. 30, 2011) (the court found the plaintiff’s claims to be abandoned as he failed to raise them on appeal to the AAO).

Petitioner has not established that the Beneficiary has met the initial evidentiary requirement for the requested classification and is not eligible as an individual of extraordinary ability.

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 claimed in its motion and in response to the Director's request for evidence (RFE), that honors received by two companies that employed the Beneficiary, [REDACTED] and [REDACTED] were sufficient to meet this criterion. In his initial decision, the Director found that the record did not include evidence of the Beneficiary's receipt of these awards, that they were granted based upon excellence in the field of business, or that they were nationally or internationally recognized.

On appeal, the Petitioner asserts that the new evidence submitted with his motion established that the Beneficiary meets this criterion. This new evidence, which was listed but not analyzed in the Director's most recent decision, included a reference letter from [REDACTED] CEO of [REDACTED] [REDACTED] and what appear to be press releases concerning the awards for [REDACTED]. He states that in 2007, the self-regulating organization National Association of Stock Market Participants (NAUFOR) awarded [REDACTED] and [REDACTED] three diplomas: [REDACTED], [REDACTED], and [REDACTED]. However, we note that the record does not include evidence of these diplomas, and an apparent press release article posted on the website finmarket.ru and dated [REDACTED] 2007 only lists [REDACTED] as a nominee in the three categories mentioned by [REDACTED] with the headline stating that the winners of the [REDACTED] [REDACTED] will be announced on [REDACTED]. This evidence does therefore not confirm [REDACTED]'s statement, as [REDACTED] is not named in the article, and [REDACTED] is not named as an award winner but a nominee. In addition, even if these awards had been confirmed, the Beneficiary's employer is named as a nominee, not the Beneficiary.³ For all of these reasons, the record does not include evidence showing that the Beneficiary received the [REDACTED] [REDACTED] awards.

The new evidence submitted on motion also included two articles, one dated [REDACTED] 2010 and another dated [REDACTED] 2008, which name [REDACTED] Company as a "laureate" of the Russian Collective Investment Market competition. The 2010 article states that the company won in the [REDACTED] category, and the 2008 article indicates that it won in the [REDACTED] category. We again note that the evidence indicates that a company received these awards, not the Beneficiary. In addition, no information is provided regarding the source and publication of these articles. Neither lists an author, and there is no indication that the 2010 article was posted on a website or was published in print form. The 2008 article was obtained from the website tatcenter.ru, but no information is provided about the nature of this website. We therefore conclude that this evidence does not show that the Beneficiary received either award.

³ See USCIS Policy Memorandum PM 602-0005.1, *Evaluation of Evidence Submitted With Certain I-140 Petitions; Revisions to the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM Update AD11-14*. Page 6 (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html>.

In addition, a letter was submitted with the motion which was signed by [redacted], CEO of [redacted] and a professional associate of the Beneficiary. He writes that the Beneficiary was a member of the board of directors of [redacted] the managing company of [redacted] and that “thanks to the personal contribution of [the Beneficiary] and his team,” the company’s products were awarded the [redacted] sign. This is similar to the statement made in a letter from [redacted], managing partner at [redacted], a Russian investment and management fund, who indicates that both this designation and a [redacted] were bestowed on [redacted] as a result of the Beneficiary’s work for the company. However, as with the awards discussed above, the record does not include evidence of any certificate, diploma or other physical evidence verifying that [redacted] received these awards. Also, these awards, like those above, are asserted to have been granted to the Beneficiary’s employer, not to him personally. Finally, there is no indication in the record that these awards are granted based upon excellence in the field of business, or that they are nationally or internationally recognized.

Turning to an award which the Petitioner asserted was given to the Beneficiary, we note that it did not specifically address its previous claim to this criterion based upon the his designation as a [redacted] on motion or appeal. However, we agree with the Director’s determination in his initial decision that the evidence does not sufficiently establish that the Beneficiary received this award, or that it is nationally or internationally recognized.

Accordingly, after review of the evidence submitted, we conclude that the Petitioner has not established that the Beneficiary meets this criterion.

Documentation of the alien’s membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.
8 C.F.R. § 204.5(h)(3)(ii)

The Petitioner contends that the Beneficiary’s membership in NAUFOR and his election as a board member of that association qualifies under this criterion. Concerning membership in the association, it submitted articles from several sources which supplement the information included in its regulations and articles of association, which were submitted in response to the Director’s RFE. An article from the website opentrainer.ru states that in addition to being a resident of the Russian Federation and having a securities license from the Central Bank of Russia, members must “submit an application for membership, pay a contribution of 30,000 rubles, and also pay annual fees, which for various organizations range from 100 to 540 thousand rubles per year...” Another article, from investlb.com, states that “contributions are differentiated depending on the available licenses.” However, membership requirements based only on employment or activity in a given field, minimum education or experience, standardized test scores, grade point average, recommendations by colleagues or current members, or payment of dues, do not satisfy this criterion, as such requirements do not constitute outstanding achievements. In addition, the record does not include information regarding the requirements for obtaining a securities license from the Central Bank of Russia. We therefore conclude that the Beneficiary’s membership in NAUFOR does not meet this criterion.

As for his service as a board member for this organization, the Petitioner refers again to the letter from [redacted] who indicates that he was a member of the board of directors from 2004 to 2008, and

that Beneficiary served in the same role from 2005 to 2008.⁴ He writes that the board is elected every two years by members during the association's general meeting, and consisted of 22 members during this period. This evidence repeats information contained within NAUFOR's regulations, articles of association, and press release submitted in response the Director's RFE, and does not specify any outstanding achievements that board members must have completed in order to be nominated as a candidate or elected as a member of the board of directors. Although the Petitioner focused on the reputation of the association in his motion brief, this is not one of the elements found in the plain language of this criterion. Accordingly, the Petitioner has not established that the Beneficiary meets this criterion through either his general membership or his election to the board of NAUFOR.

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)

The Director concluded that the record included evidence of published material which met this criterion. Upon review, we note that many of the articles which were submitted include quotations from the Beneficiary, but are not about him. For example, an article posted on the website agroinvestor.ru on [redacted] 2015 titled "[redacted]" quotes him as the managing partner of [redacted] which owns the subject company. The Beneficiary explains the market conditions in China, but the article is not about him, but about the company's desire to enter the Chinese pork market. Another example was an article published in *Vedomosti* titled "[redacted]" in which the Beneficiary is one of several interviewed regarding the raising of the minimum equity standard for management companies in Russia. Articles that are not about the petitioner do not meet this regulatory 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).

One article submitted by the Petitioner is about the Beneficiary, as it focuses on him and his career in the field. An interview which appeared in the [redacted] 2015 print edition of [redacted] as well as on the magazine's website, features him on the cover and includes a short biography, and goes into great depth regarding the investment plans of [redacted]. As to whether [redacted] is a professional or major trade publication or other major media, the Petitioner did not submit information about its print circulation, but included a website report from SimilarWeb. The report indicates that [redacted] has a country rank of 32,227 and a category rank (Business and Industry) of 41,296, with over 89,000 monthly visits. In comparison, the same report for vedomosti.ru shows a country rank of 315, with more than 11.2 million monthly visits. This evidence regarding [redacted] is insufficient to establish that it is a major professional trade medium, given its ranking in the business category, or a major medium, especially when compared with vedomosti.ru. We therefore disagree with the Director's decision and conclude that the Petitioner has not shown that the Beneficiary meets this criterion.

⁴ We note that an article posted on the website mfd.ru on [redacted], 2005 indicates that the Beneficiary elected to the board of [redacted] along with 16 others for a one-year term, and that [redacted] is not listed as one of the other board members. This evidence, in addition to other evidence in the record regarding NAUFOR, is therefore inconsistent in several ways with [redacted]'s statement about the Beneficiary's term of service as a NAUFOR board member, and we will consider only his two-year term beginning on [redacted] 2006 as evidenced by the submitted press release from NAUFOR's website.

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)

In order to meet this criterion, an individual must establish that they served in either a leading or critical role, and that the organization or establishment for which they served in such a role had a distinguished reputation. If a leading role, the evidence must establish that the individual was a leader. A title, with appropriate matching duties, can help to establish if a role was leading. On the other hand, if the individual claims to have served in a critical role, the evidence must establish that they have contributed in a way that is of significant importance to the outcome of the organization or establishment's activities. Here, it is not the title of the individual's role, but rather their performance in the role that determines whether the role was critical.⁵

The Petitioner asserts that the Beneficiary's role with [redacted] and its holdings [redacted] and [redacted] [redacted] as well as with [redacted] and [redacted] and NAUFOR, were leading or critical for those organizations. In his initial decision, the Director acknowledged the recommendation letters in the record which described the Beneficiary's work and role, but concluded that they lacked sufficient detail to show that his role was leading or critical. On motion, the Petitioner submitted three additional reference letters in support of this criterion, while asserting that the previously submitted letters included details regarding the Beneficiary's role.

Per a reference letter from [redacted] Managing Partner of [redacted] and Chairman of [redacted]'s board of directors, the Beneficiary was a board member for both [redacted] and its corporate parent [redacted] as well as a managing partner for [redacted]. According to [redacted], his duties in these roles included raising financing, researching suppliers and domestic and overseas partners, supervising merger and acquisition transactions, and financial management of the two companies. He states that under the Beneficiary's "close involvement in the management of [redacted]" three pork production and processing complexes were developed. In addition, "due to the personal contribution of [the Beneficiary] and his team," [redacted] became the [redacted] largest pork producer in the Russian Federation and earned the [redacted] recognition. Copies of minutes of several meetings of the [redacted] board of directors confirms that the Beneficiary took part in such decisions, and that he thus played a leading role for the company. However, the record does not include further information about the [redacted] seal and its requirements or prestige which would demonstrate that it brought a distinguished reputation to the company. In addition, the record indicates that the award given to the company which is translated as both [redacted] and [redacted] is given to "consumers of electricity from the regional energy retail companies of the Inter RAO Group," but also does not include further information which show that it is a prestigious or coveted award in the industry. Although the Petitioner has shown that the Beneficiary played a leading role for [redacted] it has not established that the company enjoyed a distinguished reputation.

Turning more broadly to the Beneficiary's role for [redacted] and [redacted], the Petitioner also submitted a reference letter from [redacted] Director of [redacted]. He writes that he worked with the Beneficiary in his role as head of [redacted]'s audit committee and member of its board of directors

⁵ See USCIS Policy Memorandum PM 602-0005.1, *Evaluation of Evidence Submitted With Certain I-140 Petitions; Revisions to the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM Update AD11-14*. P. 10 (Dec. 22, 2010), <https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2>.

from 2011, and that the Beneficiary was “instrumental to [redacted]’s growth.” [redacted] states that the Beneficiary’s “expertise in investment management, financial control and agribusiness has been invaluable to growing the holding company...” However, he does not describe with sufficient detail how the Beneficiary led [redacted] or [redacted] or played a critical role in the successes enjoyed by these companies. Similarly, a letter from [redacted] President and CEO of [redacted] also does not provide details to support his assertion that the Beneficiary played a critical role for [redacted] and [redacted], nor does he explain how he gained personal knowledge of the internal decisions and processes of these companies.

Regarding the Beneficiary’s role for [redacted] the Petitioner also references letters from the Beneficiary’s business associates who state that they are familiar with this aspect of his career in business. [redacted] chairman of the board of [redacted] confirms that the Beneficiary served as head of the bank’s investment division and also as General Director of [redacted] [redacted] from 2006⁶ to January 2008. He writes that the Beneficiary’s duties in these positions included development of business plans for these businesses, organizing and coordinating the issuance of the bank’s Eurobonds, and developing and introducing index-based funds and portfolio management products. He also notes the award nominations for [redacted] and [redacted] [redacted] which include six regional award nominations in addition to the three national nominations discussed above.

A very similar letter was written by [redacted] Senior Vice President at [redacted]. He notes that the Beneficiary “made it possible to establish of [redacted] and [redacted] from the ground up...,” noting that the two companies employed 150 workers at the end of 2007 and managed assets of more than 10 billion rubles. Based on these reference letters, evidence regarding the nomination of [redacted] and its subsidiary for regional and national awards, and other evidence regarding the company, we conclude that the Beneficiary’s employment with this company meets the requirements of this criterion.

In addition, the Petitioner also focused in its motion on the Beneficiary’s service with NAUFOR, as supported by the reference letter from [redacted] and other evidence about the organization. As previously noted, the evidence shows that the Beneficiary was elected as a board member for a two-year term beginning on [redacted] 2006. [redacted] states that the Beneficiary was a member of two subcommittees, which he indicates “developed a number of the most important operation standards for brokerage, dealer and management companies” as well as “regulatory documents for the stock market.” He goes on to indicate that these standards “formed the basis for federal legislation on securities and markets.” However, he does not indicate that the Beneficiary served in a leadership role as one of 22 members of NAUFOR’s board of directors, nor does the letter or other evidence in the record provide specifics about his role in the drafting of standards and regulatory documents for the securities field.

Based upon the evidence of the Beneficiary’s role with [redacted] and [redacted] we disagree with the Director’s decision and find that the Beneficiary meets this criterion.

⁶ An employment contract between [redacted] and the Beneficiary, submitted in response to the Director’s RFE, is dated August 10, 2006.

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)

In order to show that an individual meets this criterion, the evidence must establish that their salary is high relative to others working in the field working in the same occupation and location.⁷ The Petitioner submitted translated copies of Form 2-NDFL, Statement of Income of an Individual, for the years 2013, 2014, and 2015. Those forms indicate that in those years, the Beneficiary received a salary from the [redacted] and [redacted] of approximately ₱ 9.3M, ₱ 11.6M, and ₱ 11.2M, respectively. As previously noted, the record indicates that he served as a member of the [redacted] board of directors during this period, as well as a managing partner of [redacted] which was the main shareholder of [redacted]

Initially, the Petitioner submitted a salary report from payscale.com as a reference. That report, dated October 8, 2019, showed the annual salary range for a CEO in [redacted] with 10 years of experience. It indicated that the median salary for this position and location was ₱3M, and that 75% of those earned less than ₱11M. In response to the Director's RFE, the Petitioner submitted a second report from salaryexplorer.com. This report indicated that the median salary for CEOs in Russia was approximately ₱2.65M, and that salaries at the 75th percentile were approximately ₱3.42M. It also indicated that in [redacted] the average CEO salary was ₱3.02M, but did not provide figures for the high or low end of the salary range.

The Director found in his initial decision that this evidence was insufficient to show that the Beneficiary meets this criterion. On motion, the Petitioner referred to the report from salaryexplorer.com as new evidence, despite having already submitted it with its RFE response, and did not otherwise present new arguments. Upon review, we note that both salary reports indicate that the Beneficiary's salary in these three years was well above average for a CEO in [redacted] but are inconsistent regarding the highest salaries for this position, with the 75% salary from payscale.com greatly exceeding the maximum national salary from salaryexplorer.com of approximately ₱ 4M, and the payscale.com report not reflecting the salaries of top CEOs. We also note that it is not apparent whether the amounts paid to the Beneficiary by [redacted] included salary for his service as a board member alone or also included his pay as a managing partner of [redacted]. In addition, the different "income codes" displayed on the Forms 2-NDFL are not explained, which calls into question whether the forms show both salary and bonuses and other forms of remuneration which are not accounted for in the submitted salary reports. Therefore, after review, we agree with the Director conclude that the Petitioner has not established by a preponderance of the evidence that the Beneficiary's salary was high compared to other similarly situated individuals in the field of business.

B. O-1 Nonimmigrant Status

We note that the record reflects that the Beneficiary received O-1 status, a classification reserved for nonimmigrants of extraordinary ability. Although USCIS has approved at least one O-1 nonimmigrant visa petition filed on behalf of the Beneficiary, the prior approval does not preclude USCIS from denying

⁷ See *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994) (considering professional golfer's earnings versus other PGA Tour golfers); see also *Grimson v. INS*, 934 F. Supp. 965, 968 (N.D. Ill. 1996) (considering NHL enforcer's salary versus other NHL enforcers); *Muni v. INS*, 891 F. Supp. 440, 444-45 (N. D. Ill. 1995) (comparing salary of NHL defensive player to salary of other NHL defencemen).

an immigrant visa petition which is adjudicated based on a different standard - statute, regulations, and case law. Many Form 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. US Dept. of Justice*, 48 F. Supp. 2d 22 (D.D.C. 1999); *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *affid.*, 905 F. 2d 41 (2d. Cir. 1990). Furthermore, our authority over the USCIS service centers, the office adjudicating the nonimmigrant visa petition, is comparable to the relationship between a court of appeals and a district court. Even if a service center director has approved a nonimmigrant petition on behalf of an individual, we are not bound to follow that finding in the adjudication of another immigration petition. *See La. Philharmonic Orchestra v. INS*, No. 98-2855, 2000 WL 282785, at *2 (E.D. La. 2000).

III. CONCLUSION

As noted above, although we find that the Petitioner has established that the Beneficiary meets the criterion relating to his leading or critical role for an organization with a distinguished reputation, we withdraw the Director's conclusion that he meets the criterion regarding published material about him. In addition, we conclude that he also does not meet three additional criteria. Although the Petitioner asserts that the Beneficiary also meets the criterion at 8 C.F.R. § 204.5(h)(3)(v) relating to his contributions of major significance to the field, we need not reach these additional grounds. As the Petitioner cannot fulfill the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3), we reserve these issues.⁸ Accordingly, 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 the 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. 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. 953, 954 (Assoc. Comm'r 1994). Here, the Petitioner has not shown that the significance 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 the Petitioner has garnered national or international acclaim in the field, and that 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).

⁸ *See INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions unnecessary to the results they reach).

For the reasons discussed above, the Petitioner has not demonstrated his eligibility 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.

ORDER: The appeal is dismissed.