



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

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

In Re: 29048144

Date: DEC. 8, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a business executive, seeks classification under the employment-based, first-preference (EB-1) immigrant visa category as a noncitizen with “extraordinary ability.” See Immigration and Nationality Act (the Act) section 201(b)(1)(A), 8 U.S.C. 1153(b)(1)(A). Noncitizens may obtain U.S. permanent residence in this category if they demonstrate “sustained national or international acclaim” and provide “extensive documentation” of recognition they received for achievements in their fields. *Id.*

The Acting Director of the Texas Service Center denied the petition. The Director concluded that the Petitioner met only one of 10 initial evidentiary criteria, two less than required before U.S. Citizenship and Immigration Services (USCIS) would conduct a final merits determination for classification under the requested immigrant visa category. On appeal, the Petitioner contends that the Director erred in finding insufficient evidence of: published material about the Petitioner; his original contributions to his field; and his receipt of a high salary for his services.

The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Exercising de novo appellate review, see *Matter of Christo’s, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we conclude that, while the Petitioner has submitted qualifying published materials about himself, he has not demonstrated that he meets a third evidentiary requirement. We will therefore dismiss the appeal.

## I. LAW

To qualify as a noncitizen with extraordinary ability, a petitioner must demonstrate that:

- They have “extraordinary ability in the sciences, arts, education, business, or athletics;”
- They seek to continue work in their field of expertise in the United States; and
- Their work would substantially benefit the country.

Section 203(b)(1)(A)(i)-(iii) of the Act.

The term “extraordinary ability” means a level of expertise commensurate with “one of that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). Evidence of extraordinary ability must demonstrate a noncitizen’s receipt of either “a major, international recognized award” or satisfaction of at least three of 10 lesser evidentiary standards. 8 C.F.R. § 204.5(h)(3)(1-x).<sup>1</sup>

If a petitioner meets either of the initial evidentiary requirements discussed above, USCIS then determines whether the record, as a whole, establishes sustained national or international acclaim and recognized achievements placing a noncitizen among the small percentage at the very top of their field. *See Kazarian v. USCIS*, 596 F.3d 1115, 1119-20 (9th Cir. 2010) (requiring a two-part analysis of extraordinary ability).

## II. ANALYSIS

The record shows that the Petitioner, a Chinese national and citizen, earned two master’s degrees in management and a doctorate in engineering in his home country. He has more than 20 years of business management experience and currently serves as the chief executive officer (CEO) of an outdoor sporting goods company in China. He seeks to continue working as a business manager in the United States.

The record does not indicate - nor does the Petitioner claim - his receipt of a major international award. He must therefore meet at least three of the 10 evidentiary requirements listed at 8 C.F.R. § 204.5(h)(3)(i-x).

The record supports the Director’s finding that the Petitioner submitted evidence that he “performed in a leading or critical role for organizations or establishments that have a distinguished reputation.” *See* 8 C.F.R. § 204.5(h)(3)(viii). On appeal, the Petitioner contends that he also provided evidence of: published materials about himself; his original contributions to his field; and his receipt of a high salary for his services. *See* 8 C.F.R. § 204.5(h)(3)(iii), (v), and (ix).

### A. Published Material About the Petitioner

This evidentiary standard requires “[p]ublished 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.” 8 C.F.R. § 204.5(h)(3)(iii). The evidence must include the title, date, and author of the material, and any necessary translations. *Id.*

USCIS first considers whether published material relates to a petitioner and their specific work in their field. *See generally* 6 *USCIS Policy Manual* F.(2)(B)(1), [www.uscis.gov/policy-manual](http://www.uscis.gov/policy-manual). If so, the Agency then determines whether the material’s source qualifies as a professional or major trade publication, or other major medium. *Id.*

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<sup>1</sup> If the ten standards do not readily apply to a petitioner’s occupation, the noncitizen may submit comparable evidence to establish their eligibility. 8 C.F.R. § 204.5(h)(4).

In evaluating whether a submitted publication is a professional publication, major trade publication, or major medi[um], relevant factors include the intended audience (for professional and major trade publications) and the relative circulation, readership, or viewership (for major trade publications and other major media).

*Id.*

The Petitioner submitted copies of articles about himself published in four Chinese magazines from 2020 to 2022. The articles relate to him and his work as a business manager. But the Director found that the materials do not establish the magazines as “professional or major trade publications, or other major media.” *See* 8 C.F.R. § 204.5(h)(3)(iii). The Director also questioned the authenticity of two of the magazine articles, finding that the Petitioner printed them “from websites that allow for anyone to create an account and publish articles.”

In response to the Director’s request for additional evidence (RFE), the Petitioner submitted original issues of the magazines in which the articles about him appear. These original issues establish the articles’ authenticity. The Petitioner also demonstrated that the magazines constitute professional publications. He submitted copies of online information from the publications describing the magazines’ intended audience as entrepreneurs and business managers.

Consistent with 8 C.F.R. § 204.5(h)(3)(iii), the Petitioner has submitted evidence of published materials in professional publications about him and his business management work. We will therefore withdraw the Director’s contrary finding.

#### B. Evidence of the Petitioner’s Original Contributions

This criterion requires “[e]vidence 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). USCIS first considers whether a petitioner made original contributions in their field. *6 USCIS Policy Manual* F.(2)(B)(1). If so, the Agency then determines whether the contributions have major significance in the field. *Id.* Relevant evidence may include: published materials about the significance of a petitioner’s original work; letters and affidavits about their work; documentation citing their work at a significant level in the field; and patents and licenses stemming from the work or evidence of the work’s commercial use. *Id.*

The Petitioner submitted letters and copies of news articles regarding acquisitions and financial results that companies achieved under his management. The Director, however, found that he did not demonstrate “how his contributions amounted to original work and how his work impacted the field as a whole in a major and significant way.”

Assuming *arguendo* that the Petitioner’s management activities constitute original business-related contributions in his stated field of business management, we agree with the Director that the Petitioner has not sufficiently established the significance of his work in the field. The record shows that his companies’ acquisitions and financial results affected the businesses and their individual industries. But the Petitioner does not explain how his achievements impacted the business management field as a whole.

Under 8 C.F.R. § 204.5(h)(3)(v), we reasonably interpret the phrase “major significance in the field” to require impact “on the field *as a whole*.” *Krasniqi v. Dibbins*, 558 F. Supp. 3d 168, 187 (D.N.J. 2021) (emphasis in original) (citations omitted). In *Krasniqi*, a federal court agreed with us that a petitioner who founded a film festival did not sufficiently demonstrate the event’s significance in her designated field of cinematography. *Id.* The court found that the petitioner did not show that others in the field widely viewed or regarded the festival or that it introduced new cinematographic methods or ideas. *Id.* at 188.

The Petitioner contends that his managerial decisions leading to successful acquisitions and profitable financial results constitute original contributions in the business management field. But, like the petitioner in *Krasniqi*, he has not sufficiently demonstrated the significance of his contributions in the field as a whole. Like the petitioner in *Krasniqi*, he has not shown that his achievements generated widespread interest in the field or introduced new business management methods, strategies, or ideas.

The Petitioner submitted a copy of a 2022 award for [REDACTED] from the Chinese edition of the *Harvard Business Review*, a respected business management magazine. But the award bears the name of the Petitioner’s company, not his, and the record does not explain why the company received the award. Thus, the award does not sufficiently reflect widespread regard in the business management field for the Petitioner’s contributions.

The Petitioner also submitted recommendation letters from former supervisors of his and other business leaders. The letters recount his achievements. But they do not sufficiently explain the achievements’ significance in the business management field. Thus, contrary to 8 C.F.R. § 204.5(h)(3)(v), the Petitioner has not submitted evidence of original business-related contributions of major significance in his field.

### C. Evidence of the Petitioner’s High Salary

This standard requires “[e]vidence 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). Relevant evidence may include: tax returns, pay statements, or other evidence of past salary or remuneration for services; contracts, job offer letters, or other evidence of prospective salary or remuneration for services; and comparative wage or remuneration data for a petitioner’s field, such as geographical or position-appropriate compensation surveys. 6 *USCIS Policy Manual* F.(2)(B)(1).

The Petitioner initially stated that he received annual incomes of: 2,687,000 RMB<sup>2</sup> in 2019; 2,873,000 RMB in 2020; and 3,128,000 RMB in 2021. But, in response to the Director’s RFE, he changed those amounts to: 2,498,314.57 RMB in 2019; 2,925,122.58 RMB in 2020; 3,893,894.83 RMB in 2021; and \$3,137,609.46 RMB in 2022.<sup>3</sup>

The Petitioner also provided copies of compensation surveys and income tax records. The initial compensation surveys show that, as of 2021, 90% of CEOs of outdoor sporting goods companies received total annual cash benefits of less than 1,943,455 RMB. The Petitioner’s RFE response

<sup>2</sup> RMB stands for Chinese yuan renminbi.

<sup>3</sup> Based on current exchange rates, the Petitioner’s 2022 annual income equates to about \$440,729. XE Currency Converter, [www.xe.com/currencyconverter](http://www.xe.com/currencyconverter).

included a 2022 compensation report listing the top salaries of a chief officer in the sales industry as 2,400,000 RMB and of a general manager of a daily consumer goods company in the retail industry as 3,500,000 RMB.

The Petitioner's initial filing included a first set of tax records, "Payment Records of Individual Income Tax." These records show income tax amounts he paid from January 2019 through April 2022. The Petitioner's RFE response included a second set of tax records, "Beijing Tax Characteristic Applications." These records show both income tax amounts he paid and income amounts he received in 2019 through 2022.

The second tax record set supports the Petitioner's claimed annual income amounts of 2,498,314.57 RMB in 2019 and 2,925,122.58 RMB in 2020. But the 2021 annual income amount listed in the second set totals 2,223,061.50 RMB, not 3,893,894.83 RMB as the Petitioner most recently claims. Also, as the Director found, the Petitioner's tax record sets do not list the same tax amounts paid over the same periods, thus casting further doubt on his claimed annual income amounts. Specifically, the first tax record set lists a June 6, 2021 tax payment of 730,715 RMB for income from wages and salaries that the second set omits.

In his RFE response, the Petitioner stated that his 2021 annual income increased from the initial amount he provided because he received a delayed bonus payment from his prior employer. But that statement does not explain why the first tax record set indicates that he paid more taxes that year while earning less income.

Although the Director's decision mentions discrepancies in the amounts of taxes paid, the Petitioner has not explained them. Rather, he urges us to use the second tax record set. But, because the paid 2021 tax amounts in the second set differ from those in the first, he has not established the second set's accuracy, including the income amounts listed in it. *See Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988 (requiring a petitioner to resolve inconsistencies of record with independent, objective evidence pointing to where the truth lies). Thus, not only is the Petitioner's claimed income amount for 2021 - which the second set does not support - unreliable, but his claimed annual income amounts for 2019 and 2020 - which the second set supports - also lack credibility. Because the Petitioner has not reliably established his annual income amounts, he has not demonstrated that he has commanded a high salary in relation to others in the business management field.

The Petitioner has not demonstrated that he meets at least three of 10 initial evidentiary requirements for the requested immigrant visa category. Thus, we need not make a final merits determination as to whether he qualifies as a noncitizen with extraordinary ability in his field. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies need not make "purely advisory findings" on issues unnecessary to their ultimate decisions); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternate issues on appeal where an applicant does not otherwise qualify for relief).

### III. CONCLUSION

The Petitioner met a second initial evidentiary requirement by submitting copies of articles in professional publications about his work in the business management field. But he did not establish his satisfaction of a third evidentiary criterion as required for the requested immigrant visa category. We will therefore affirm the petition's denial.

**ORDER:** The appeal is dismissed.