U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37895345

Date: MAY 28, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an entrepreneur, requests classification under the employment-based, first-preference (EB-1) immigrant visa category as an alien with "extraordinary ability." *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). Successful petitioners for U.S. permanent residence in this category must demonstrate "sustained national or international acclaim" and extensively document recognition of their achievements in their fields. Section 203(b)(1)(A)(i) of the Act.

Service Center Operations (SCOPS) denied the petition, concluding that the Petitioner met two of ten initial evidentiary requirements – one less than needed for a final merits determination. On appeal, the Petitioner contends that he also satisfied the following seven evidentiary criteria:

- Membership in associations in his field requiring outstanding achievements of their members;
- Published material about himself and his work;
- Participation as a judge of other's work in the field;
- Original contributions of major significance in the field;
- Display of his work at artistic exhibitions or showcases;
- Performance in a leading or critical role for organizations with distinguished reputations; and
- Commandment of a high salary or significantly high remuneration relative to others in the field.

8 C.F.R. § 204.5(h)(3)(ii), (iii), (iv), (v), (vii), (viii), (ix).

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 reverse some of SCOPS' findings and conclude that the Petitioner met the requisite number of evidentiary requirements. We will therefore withdraw SCOPS' decision and remand the matter for a final merits determination and entry of a new decision consistent with the following analysis.

I. LAW

To qualify for this immigrant visa category, a petitioner must demonstrate that they:

- Have "extraordinary ability in the sciences, arts, education, business, or athletics;"
- Seek to continue work in their field of expertise in the United States; and
- Would substantially benefit the country as an immigrant.

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

The term "extraordinary ability" means 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). Unless a petitioner received "a major, international recognized award," they must satisfy at least three of ten lesser evidentiary criteria. 8 C.F.R. § 204.5(h)(3).[1]

If a petitioner meets either evidentiary standard and the requirements at section 203(b)(1)(A)(ii), (iii) of the Act, U.S. Citizenship and Immigration Services (USCIS) must then make a final merits determination. To merit approval, the record – as a whole – must establish a petitioner's "sustained national or international acclaim" and recognized achievements placing them among the small percentage at their field's very top. *See Amin v. Mayorkas*, 24 F.4th 383, 391 (5th Cir. 2022) (finding USCIS' two-step extraordinary ability analysis "consistent with the governing statute and regulation"); *see generally* 6 *USCIS Policy Manual* F.2(B), www.uscis.gov/policy-manual.

II. ANALYSIS

A. The Petitioner and His Field

The record shows that Colombian universities awarded the Petitioner a bachelor of science degree in aeronautical administration and a master's degree in operational safety management. He served as a pilot in the Colombian air force for about 12 years, including as a: squadron group commander; military teacher; and training director.

While in the air force, the Petitioner founded a mobile application/digital platform for peer-to-peer car, boat, and airplane rentals in Latin America. Now retired from the military, he states that he seeks to expand his business by offering shared charter flights in the United States.

B. The Evidentiary Requirements

On appeal, the Petitioner notes that SCOPS found that his prior petition in this same category met three initial evidentiary requirements:

- participation as a judge of others' work in his field;
- performance in a leading or critical role for organizations with distinguished reputations; and

[1] If an evidentiary criterion does not "readily apply" to a petitioner's occupation, they may submit "comparable evidence" to establish eligibility. 8 C.F.R. § 204.5(h)(4).

- commandment of a high salary or significantly high remuneration relative to others in the field.

See 8 C.F.R. § 204.5(h)(3)(iv), (viii), (ix).

Based on substantially the same evidence, SCOPS found that his most recent filing did not satisfy the three criteria met in the prior petition but rather met two other evidentiary requirements instead:

- receipt of lesser nationally or internationally recognized awards; and
- authorship of scholarly articles in his field.

See 8 C.F.R. § 204.5(h)(3)(i), (vi).

We lack jurisdiction to review the decision denying the Petitioner's prior petition.[2] But, in light of SCOPS' seemingly contradictory evidentiary findings in this matter, we will review not only the additional evidentiary requirements that the Petitioner claims to have met but also those SCOPS most recently found to be satisfied.

To satisfy evidentiary criteria, the Petitioner's documentation must objectively meet the parameters of the applicable regulatory descriptions. *See generally* 6 *USCIS Policy Manual* F.2(B). "[N]either USCIS nor [the] AAO may unilaterally impose novel substantive or evidentiary requirements beyond those set forth at 8 C.F.R. § 204.5." *Kazarian v. USCIS*, 596 F.3d 1115, 1121 (9th Cir. 2010) (citation omitted).

1. Lesser nationally or internationally recognized awards

This criterion requires "[d]ocumentation 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).

When adjudicating this requirement, USCIS first determines whether petitioners – as opposed to their employers, for example – received prizes or awards. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 1. If so, the Agency then determines whether the awards honored excellence in the applicable fields and have national or international recognition. *Id.*

The Petitioner submitted evidence that he won a business innovation award in 2021 and an "entrepreneur of the year" award in 2022.

Contrary to SCOPS' finding, the record does not demonstrate that either award has national or international recognition. The Petitioner submitted evidence that a Colombian government ministry annually issues the business innovation award to promote new ideas and increase business productivity and competitiveness in the country. A national government agency's issuance of an award, however, does not alone establish a prize's national recognition. *See Krasniqi v. Dibbins*, 558 F. Supp. 3d 168, 183 (D.N.J. 2021) ("[A]s reflected in the regulation's plain text, the focus is on the *award,* not the awarding organization.") (emphasis in original). The Petitioner must show how others beyond the Colombian government ministry viewed his award. *See Visinscaia v. Beers*, 4 F. Supp. 3d 126, 136

[2] Even if we could review the prior decision, it does not specify its reasonings for its evidentiary findings. Rather, the decision discusses all the evidence together in a final merits determination.

(D.D.C. 2013) ("Without evidence of how a larger audience viewed Plaintiff's awards, there was no way for the agency to evaluate whether those awards were recognized widely enough to satisfy this criterion.")

The Petitioner submitted copies of online news articles about the business innovation award. But the record lacks evidence demonstrating that the publications have national or international readerships. The record therefore does not establish the award's receipt of national or international recognition. Also, the record lacks evidence that the 2022 entrepreneur of the year award received recognition.

The Petitioner's evidence does not demonstrate that his awards for excellence in his field have national or international recognition. We will therefore withdraw SCOPS' contrary decision.

2. Membership in Associations

To meet this evidentiary requirement, a petitioner must submit "[d]ocumentation 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 submitted evidence of his membership in two Colombian associations: one for businesspersons; and the other for business administrators. SCOPS found insufficient evidence that either organization requires outstanding achievements of their members or that recognized experts judge their members.

On appeal, the Petitioner contends that SCOPS undervalued documentation and misinterpreted one association's member selection process. He claims that, to attain membership in the businesspersons' association, "a rigorous process must be completed, reviewed, and judged by the members of the board of directors and [the association's] president, [who is an] international recognized expert in the field of business."

The record, however, contains inconsistent descriptions of the association's member selection process. In response to the Director's request for additional evidence, the Petitioner submitted a letter from the association's president stating that "the selection process and the final decision to grant membership to a new businessman are the **exclusive responsibility of [the association's] President**." (emphasis in original). As previously indicated, the Petitioner contends on appeal that review and judgment of new association members falls to not only the organization's president but also to members of its board of directors. He further claims that the association's general assembly of members and fiscal auditor have roles in selecting members. He states: "Within the process to be a member, each phase of the study must be approved by [all] these groups of people." The record, however, does not support any of the Petitioner's descriptions of the selection process. A copy of the association's bylaws omits member selection among the duties of the president, directors, general assembly, or fiscal auditor. *See Marllantas, Inc. v. Rodriguez*, 806 F. App'x 864, 869 (11th Cir. 2020) (citing *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988)) (requiring "the petitioner to resolve any inconsistencies in the record by independent objective evidence.")

Further, if others besides the president judge new association members, the Petitioner has not established their recognition as experts in their fields. *See Nelson v. USCIS*, No. CV 21-10334-LTS, 2022 WL 20583561, at *5 (D. Mass. June 15, 2022) (finding that this criterion "demands membership in an organization that requires 'outstanding achievement' as judged by experts, and not merely membership in selective organizations in the field").

For the foregoing reasons, evidence does not demonstrate that the associations in the field to which the Petitioner belongs require outstanding achievements of their members as judged by recognized experts. We will therefore affirm SCOPS' decision regarding this evidentiary criterion.

3. Published Material About the Petitioner

This criterion 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). "Such evidence shall include the title, date, and author of the material, and any necessary translation." *Id.*

When adjudicating this criterion, USCIS first determines whether published material relates to a petitioner and their specific work in the field. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 3. Material covering a broader topic meets the criterion if the material includes "a substantial discussion of the person's work in the field and mentions the person in connection to the work." *Id.*

USCIS then considers whether a publication qualifies as a professional publication, major trade publication, or major media publication. *Id.* Relevant factors include, for professional and major trade publications, their intended audiences and, for major trade publications and other major media, their relative circulations, readerships, or viewership. *Id.*

The Petitioner submitted copies of online articles. SCOPS found that the material does not sufficiently relate to his work in his field.

As SCOPS found, some of the articles do not meet this evidentiary criterion because, while they discuss the Petitioner's company, they do not mention him. *See Mussarova v. Garland*, 562 F. Supp. 3d 837, 847 (C.D. Cal. 2022) (affirming USCIS' finding that articles about a petitioner's water-polo team did not satisfy this criterion where they did not reference her); *see also* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 3 (requiring qualifying published material to "mention[] the person in connection to the work").

The Petitioner, however, also submitted a copy of a January 2024 article that appeared on a major Colombian financial website regarding his selection to attend a [redacted] forum. The article discusses him, his company, and a school for entrepreneurs that he founded. *See* 6 *USCIS Policy Manual* F.2(B) ("[A]lthough some of the regulatory language relating to evidence occasionally uses plurals, it is entirely possible that the presentation of a single piece of evidence in a specific evidentiary category may be sufficient.")

The Petitioner submitted published material about himself in a major medium relating to his work in his field. We will therefore withdraw SCOPS' contrary finding.

4. Judge of Others' Work in the Field

To meet this criterion, a petitioner must submit "[e]vidence of the[ir] participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought." 8 C.F.R. § 204.5(h)(3)(iv).

The Petitioner submitted evidence that, as a "jury" member, he evaluated business-related research papers of graduate and undergraduate students at a Colombian university. He specifically provided documentation that he judged the thesis of a master of business administration student in 2022.

SCOPS found the evidence insufficient to link the Petitioner's entrepreneurial field to economic sciences, the field of the university department that asked him to judge. SCOPS also stated: "USCIS recognize[s] judging the work of others for [doctoral] dissertation only and not at the graduate level. Therefore, this criterion has not been met."

By distinguishing the judging of graduate theses from that of doctoral dissertations, SCOPS imposed an evidentiary requirement unstated in 8 C.F.R. § 204.5(h)(3)(iv). The regulation requires evidence of only "participation . . . as a judge of the work of others in the same or an allied field of specification." 8 C.F.R. § 204.5(h)(3)(iv). Contrary to SCOPS' finding, the regulation does not require judged work of any particular level. *See Kazarian*, 596 F.3d at 1121 (barring USCIS from imposing evidentiary requirements beyond those stated in the regulation). Under Agency policy, evidence of "[s]erving as a member of a Ph.D. dissertation committee that makes the final judgment as to whether a candidate's body of work satisfies the requirements for a doctoral degree" would meet this criterion. 6 *USCIS Policy Manual* F.2(B)(1), Criterion 4. But, like the regulation, USCIS policy does not exclude evidence of graduate work evaluation from satisfying this requirement. While the difference between judging Ph.D. and graduate work may be relevant in a final merits determination, neither the regulation nor USCIS policy require judgment of work at a doctoral level. *See Kazarian*, 596 F.3d at 1121-22 (finding this criterion met by evidence of an alien's participation as "a judge of graduate-level diploma works").

Also, the regulation specifically allows for the judgment of others' work "in . . . an allied field of specification for which classification is sought." 8 C.F.R. § 204.5(h)(3)(iv). The Petitioner submitted copies of scholarly articles indicating a close relationship between the business and economics fields. The evidence therefore shows that he judged others' work in "an allied field." *Cf. Sarin v. United States*, No. 2:22-CV-07498-SVW-JS, 2023 WL 5667531, at *11 (C.D. Cal. July 27, 2023) (affirming USCIS' conclusion that the judging of a personality contest "was not in the field of acting or in an 'allied field' to acting").

The Petitioner met this criterion by submitting evidence of his participation as a judge of others' work in an allied field. We will therefore withdraw SCOPS' contrary finding.

5. Original Contributions of Major Significance

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 determines whether a petitioner made original contributions in their field. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 5. If so, the Agency then considers whether the original contributions are of major significance to the field. *Id.*

To meet this criterion, the Petitioner relied on evidence that he founded his company and a school for entrepreneurs. The evidence indicates that his company, which was established in 2012, employs 26 people and that the school, founded in 2017, has trained 378 entrepreneurs. SCOPS, however, found insufficient evidence that these original contributions have major significance in his field.

We agree with the Petitioner that SCOPS erroneously disregarded support letters he submitted. SCOPS discounted two letters because they lack dates, stating that "is one of the requirements for a letter to be considered evidence under USCIS regulations." Contrary to SCOPS' decision, however, no applicable regulation requires dating of evidentiary letters.

SCOPS disregarded a third letter because it was dated after the petition's filing. SCOPS stated: "There is no evidence on record explaining why this letter was not available or did not exist prior to [the petition's] filing date."

A petitioner must establish their eligibility "at the time of filing the benefit request." 8 C.F.R. § 103.2(b)(1). But that regulation does not bar evidence that post-dates a petition's filing if the documentation relates to the petitioner's eligibility at the time of filing. As the Petitioner states, SCOPS should have considered the letters on his behalf because "they all refer to accomplishments, activities, and contributions made prior to the initial filing of my [Form] I-140 petition."

Although SCOPS should have considered the support letters, they do not demonstrate the major significance of the Petitioner's original contributions to his field. Support letters:

> should explain in specific terms why the witnesses believe the [petitioner] to be of the caliber of a person with extraordinary ability. Letters that merely reiterate USCIS' definitions relating to this classification or make general and expansive statements regarding the [petitioner] and [their] accomplishments are generally not persuasive.

6 *USCIS Policy Manual* F.2(B)(3).

The support letters for the Petitioner contain conclusory statements and do not specifically explain his contributions' significance to his field. For example, a letter from a founder of a start-up business accelerator states: "What truly sets [the Petitioner] apart is his ability to solve complex problems with creative and viable solutions, his capacity to adapt to fast-changing and challenging environments, and his commitment to creating value that is not just economic but also social." But the letter does not provide examples of these purported abilities or explain their significance to the field. Also, a letter from a Colombian entrepreneur states that "[the Petitioner's] impact on the global entrepreneurial landscape, particularly in fostering inclusive and socially responsible business practices, has been transformative." But the letter does not detail the Petitioner's contributions or explain how they have purportedly transformed his field. *See Guida v. Miller*, No. 20-CV-01471-LB, 2021 WL 568850, at *9 (N.D. Cal. Feb. 16, 2021) ('[T]he agency may reject supporting letters that lack 'specific evidence' about how the plaintiff's contribution was a major contribution.")

The record lacks evidence that the Petitioner's original contributions have major significance in his field. We will therefore affirm SCOPS' finding regarding this evidentiary criterion.

6. Authorship of Scholarly Articles

To meet this requirement, a petitioner must submit "[e]vidence of the[ir] authorship of scholarly articles in the field, in professional or major trade publications or other major media." 8 C.F.R. § 204.5(h)(3)(vi).

USCIS first determines whether petitioners authored scholarly articles in applicable fields. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 6. "[A] scholarly article reports on original research, experimentation, or philosophical discourse. . . . Scholarly articles are also generally peer reviewed by other experts in the field of specialization" and contain footnotes, endnotes, or bibliographies. *Id.*

USCIS then considers a publication's qualifications as a professional publication, major trade publication, or major media publication. *Id.* As previously indicated, relevant factors for professional and major trade publications include their intended audiences and, for major media, their circulations or readerships relative to other media in the field. *Id.*

The Petitioner submitted copies of an online book and various articles he wrote about entrepreneurship and business. The record, however, does not establish any of these writings as "scholarly articles." They lack footnotes, endnotes, or bibliographies and do not demonstrate their pre-publication review by experts in the business field. The website that published most of the writings states that it allows writers to submit their own original articles for publication on the site. The Petitioner's book provides advice on starting businesses and comprises more than 50 pages. But the remaining articles run only a page or two each, and none of the writings report on original research, experimentation, or philosophical discourse. The evidence therefore does not establish the Petitioner's writings as scholarly articles.

Also, the record lacks evidence that the writings' publishers are professional or major trade publications or other major media. The website containing most of the articles describes itself as "a powerful marketing tool for both businesses and webmasters." It further states its publication of articles in a variety of fields, from "animals and insects" to "travel," indicating that it targets a general audience rather than entrepreneurs and business researchers/experts.

For the foregoing reasons, the Petitioner did not submit evidence of his authorship of scholarly articles in his field. We will therefore withdraw SCOPS' contrary finding.

7. Display of the Petitioner's Work in Artistic Exhibits or Showcases

This criterion requires "[e]vidence of the display of the alien's work in the field at artistic exhibitions or showcases." 8 C.F.R. § 204.5(h)(3)(vii).

USCIS first determines whether displayed work constitutes petitioners' work products. *See generally* 6 *USICS Policy Manual* F.2(B)(1), Criterion 7. The Agency next considers whether the display venues

– including virtual venues – constitute artistic exhibitions or showcases. *Id.* The term "exhibition" ordinarily means "a public showing (as of works of art, objects of manufacture, or athletic skill)." *Exhibition*, Merriam-Webster Online Dictionary, www.merriam-webster.com.

The Petitioner submitted evidence that, in June 2023, he served as a panelist on an episode of a business reality television program. The episode involved entrepreneurs pitching ideas for businesses to a panel of investors who then decided whether to personally invest in the proposed ventures.

As SCOPS' found, the evidence does not establish the business reality TV show as an artistic exhibition or showcase. The regulation requires display "at *artistic* exhibitions or showcases." *See* 8 C.F.R. § 204.5(h)(3)(vii) (emphasis added). In this context, the word "artistic" ordinarily means "relating to or characteristic of art or artists." *Artistic*, Merriam-Webster Online Dictionary, *supra*. The Petitioner has not demonstrated the artistic nature of considering proposals for new businesses. *See Kazarian*, 596 F.3d at 1122 (finding that self-publishing a textbook, lectures at a community college, and presentations at conferences did not constitute displays at artistic exhibitions or showcases); *see also* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 7. ("[T]he plain language of the criterion includes the modifier 'artistic' and explicitly requires that the exhibitions or showcases be artistic in nature.")

On appeal, the Petitioner argues that the TV show "is not merely an entertainment program; it is a platform where real businesses and investment proposals are presented." The entertaining nature of the TV show, however, is not at issue. Rather, contrary to the governing regulation, the record does not establish the show as "artistic" in nature. "USCIS only considers non-artistic exhibitions or showcases as part of a properly supported claim of comparable evidence." 6 *USCIS Policy Manual* F.2(B)(1), Criterion 7. Contrary to 8 C.F.R. § 204.5(h)(4), the Petitioner has not claimed the inapplicability of this criterion to his occupation. *See Goncharov v. Allen*, No. 3:21-CV-1372-B, 2022 WL 17327304, at **4-5 (N.D. Tex. Nov. 29, 2022) (finding that USCIS properly disregarded proposed alternate comparable evidence where a petitioner "did not argue" the inapplicability of the applicable evidentiary requirement to his field).

The Petitioner neither submitted evidence of his work's display at artistic exhibitions or showcases nor claimed the inapplicability of this evidentiary requirement to his occupation. We will therefore affirm SCOPS' finding regarding this criterion.

8. Performance in a Leading or Critical Role

To meet this requirement, a petitioner must provide "[e]vidence 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).

USCIS first considers whether a petitioner performed in a leading or critical role for an organization, establishment, or a division or department of an organization or establishment. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 8. A leading role means that a petitioner is (or was) a leader within an organization, establishment, division, or department. *Id.* In contrast, a critical role means "that the person has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities." *Id.*

USCIS next considers whether an organization, establishment, department, or division for which a petitioner holds or held a leading or critical role has a distinguished reputation. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 8. The word "distinguished" ordinarily means "marked by eminence, distinction, or excellence" or "befitting an eminent person." *Distinguished*, Merriam-Webster Online Dictionary, *supra*. Relevant considerations include not only an organization's relative size and longevity but also other factors, such as the scale of its customer base or relevant media coverage of it. *Id.*

The Petitioner submitted evidence of his founding and management of his company and service, for a three-month period in 2023, as dean of a Colombian university's economic sciences faculty.

As SCOPS found, the record lacks sufficient evidence that the Petitioner's company and the university faculty where he served as a dean have distinguished reputations. He submitted evidence that the school is [redacted] university. He also provided evidence that its recent global university rankings have ranged from [redacted] But the record shows that the Petitioner led the school's economic sciences faculty, not the entire university. Thus, he must specifically demonstrate the distinguished reputation of the university department that he led rather than that of the entire school. Even assuming that the university has a distinguished reputation, the Petitioner has not demonstrated the distinguished reputation of the school's department that he led. *See* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 8 ("USCIS determines whether the organization or establishment, or the department or division *for which the person holds or held a leading or critical role*, has a distinguished reputation.") (emphasis added).

Regarding the Petitioner's company, the record shows that: he founded it in 2012; it generated $420,000 in investment funding in 2022; and it recently employed 26 people. An online article described the company as "innovative," and a U.S. business research professor stated: "Under [the Petitioner]'s leadership, the company has garnered praise for its punctuality, comfort, and customer service, continually striving to innovate and improve the shared charter flight experience." But the evidence does not sufficiently demonstrate the company's eminence, distinction, or excellence. *See Distinguished*, Merriam-Webster Online Dictionary, *supra* (defining the word "distinguished" as "marked by eminence, distinction, or excellence").

The Petitioner did not submit evidence that the organizations he led have distinguished reputations. We will therefore affirm SCOPS' finding regarding this evidentiary criterion.

9. High Salary or Significantly High Remuneration

This criterion 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).

The Petitioner submitted evidence that, as chief executive officer (CEO) of his Colombian company in 2023 and 2024, he received a base monthly salary of 25,400,000 pesos (about $6,000). He provided 2024 salary information listing the average monthly salary for Colombian CEOs as 10,458,460 pesos (about $2,500). Thus, the evidence indicates that his salary is more than double that of the average Colombian CEO. *See Berardo v. USCIS*, No. 3:19-CV-01796-SB, 2020 WL 6161459, at *5 (D. Or. Oct. 20, 2020) ("[T]he appropriate test compares the petitioner's salary with the average salary of

others in the same position in the field."); *see also Buletini v. INS*, 860 F. Supp. 1222, 1232 (E.D. Mich. 1994) (finding this criterion met where a physician's salary "was twice the average salary of other Albanian doctors").

SCOPS found the Colombian CEO wage information inapplicable to the Petitioner because he stated his proposed occupation on the Form I-140, Immigrant Petition for Alien Workers, as an "entrepreneur, consultant, advisor, startup, and business developer." SCOPS also noted that monthly paystubs from his company list his job title as "general manager," not CEO, and questioned the reliability of the Colombian wage information.

Although the Petitioner described his proposed occupation as "entrepreneur" on the Form I-140, his written statement and business plan indicate that he would continue to serve as his company's CEO during its proposed expansion into the United States. We also credit his explanation that the terms "CEO" and "General Manager" are synonymous, both referring to a company's highest executive position. Thus, the Petitioner properly compares his salary to CEOs.

Also, the record does not support SCOPS' questioning of the Colombian wage data. Online information identifies the information's publisher as a reputable provider of recruitment and payroll services and data reports.

The Petitioner submitted evidence of his receipt of a high salary relative to others in his field. We will therefore withdraw SCOPS' contrary finding.

C. Final Merits Determination

The Petitioner has met the requested category's requisite number of evidentiary requirements. *See* 8 C.F.R. § 204.5(h)(3). Specifically, he submitted documentation of: published material about him and his work in his field; his participation as a judge of others' work in the field; and his commandment of a high salary or significantly high remuneration relative to others in the field. *See* 8 C.F.R. § 204.5(h)(3)(iii), (iv), (ix).

USCIS must now conduct a final merits determination regarding his claimed extraordinary ability. SCOPS did not make a final determination in this matter. Rather than make one in the first instance, we will remand the matter.

On remand, SCOPS must determine whether the Petitioner demonstrated sustained national or international acclaim and recognized achievements establishing him as one of that small percentage who has risen to his field's very top. *See generally* 6 *USCIS Policy Manual* F.2(B)(2). SCOPS should consider any potentially relevant evidence of record, even if it does not fit one of the regulatory criteria or was not presented as comparable evidence. *Id.* The Petitioner's burden of proof includes explaining the significance of his evidence and how it demonstrates his sustained national or international acclaim and recognition in his field. *Id.* The petition's approval or denial should depend on the evidence's type and quality. *Id.*

III. CONCLUSION

The Petitioner met the requisite number of evidentiary requirements. USCIS must now conduct a final merits determination.

ORDER: The decision is withdrawn. The matter is remanded for a final merits determination and entry of a new decision consistent with the foregoing analysis.