

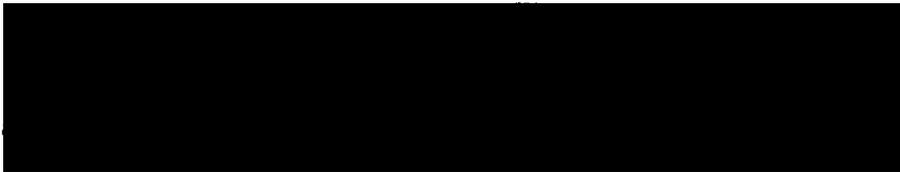
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
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Services

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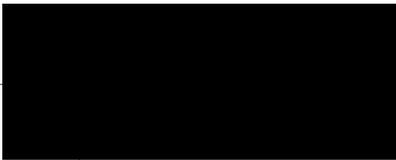
CI

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: DEC 16 2005
SRC 00 077 51786

IN RE: Petitioner: [redacted]
Beneficiary: [redacted]

PETITION: Immigrant Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Mari Johnson

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, initially approved the employment-based immigrant visa petition. Upon further review, the director determined that the petition had been approved in error. The director properly served the petitioner with a notice of intent to revoke, and subsequently revoked the approval of the petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained and the approval of the petition will be reinstated.

The petitioner is a subsidiary church of the Church of Scientology International. It seeks to classify the beneficiary as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), to perform services as a member of the Sea Organization (Sea Org), a religious order of the Church of Scientology. The director determined that the petitioner had not established (1) that the beneficiary's position qualifies as either a religious occupation or a religious vocation, (2) that the beneficiary had the requisite two years of continuous work experience immediately preceding the filing date of the petition, or (3) the petitioner's ability to compensate the beneficiary.

Section 205 of the Act, 8 U.S.C. § 1155, states: "The Secretary of Homeland Security may, at any time, for what he deems to be good and sufficient cause, revoke the approval of any petition approved by him under section 204."

Regarding the revocation on notice of an immigrant petition under section 205 of the Act, the Board of Immigration Appeals has stated:

In Matter of Estime, . . . this Board stated that a notice of intention to revoke a visa petition is properly issued for "good and sufficient cause" where the evidence of record at the time the notice is issued, if unexplained and unrebutted, would warrant a denial of the visa petition based upon the petitioner's failure to meet his burden of proof. The decision to revoke will be sustained where the evidence of record at the time the decision is rendered, including any evidence or explanation submitted by the petitioner in rebuttal to the notice of intention to revoke, would warrant such denial.

Matter of Ho, 19 I&N Dec. 582, 590 (BIA 1988) (citing *Matter of Estime*, 19 I&N 450 (BIA 1987)).

By itself, the director's realization that a petition was incorrectly approved is good and sufficient cause for the issuance of a notice of intent to revoke an immigrant petition. *Matter of Ho*. The approval of a visa petition vests no rights in the beneficiary of the petition, as approval of a visa petition is but a preliminary step in the visa application process. The beneficiary is not, by mere approval of the petition, entitled to an immigrant visa. *Id.* at 582.

The first issue to be addressed concerns the nature of the beneficiary's work. The regulation at 8 C.F.R. § 204.5(m)(2) offers the following pertinent definitions:

Religious occupation means an activity which relates to a traditional religious function. Examples of individuals in religious occupations include, but are not limited to, liturgical workers, religious instructors, religious counselors, cantors, catechists, workers in religious

hospitals or religious health care facilities, missionaries, religious translators, or religious broadcasters. This group does not include janitors, maintenance workers, clerks, fund raisers, or persons solely involved in the solicitation of donations.

Religious vocation means a calling to religious life evidenced by the demonstration of commitment practiced in the religious denomination, such as the taking of vows. Examples of individuals with a religious vocation include, but are not limited to, nuns, monks, and religious brothers and sisters.

The regulation reflects that positions whose duties are primarily administrative or secular in nature do not qualify as religious occupations. Citizenship and Immigration Services therefore interprets the term "traditional religious function" to require a demonstration that the duties of the position are directly related to the religious creed of the denomination, that the position is defined and recognized by the governing body of the denomination, and that the position is traditionally a permanent, full-time, salaried occupation within the denomination.

In an affidavit accompanying the initial filing of the petition, [REDACTED] the petitioner's personnel officer, states that the beneficiary joined the Sea Organization, a "religious fraternal order requiring a lifetime commitment," in March 1996 and has, since that time, worked as an auditor at the petitioning organization. Ms. [REDACTED] states: "As is true for all Church Sea Org staff, the church will provide her with all food, clothing, transportation and health care. In addition, she will receive \$50.00 per week spending allowance." The record indicates, elsewhere, that the petitioner also provides housing.

The director concluded that the petitioner did not establish that the beneficiary's work constitutes a religious occupation, or that the beneficiary is a full member of a *bona fide* religious order, and engaged in a religious vocation therein. On appeal, the [REDACTED] has provided various documents and affidavits discussing the Sea Org. Upon careful consideration of these materials, the AAO is satisfied that the Sea Org qualifies as a religious order, and that its members practice a religious vocation. Because a discussion of specific duties is germane to religious occupations, but not religious vocations, we need not analyze the beneficiary's exact duties in any detail.

Having concluded that the Sea Org is a religious order, we must now determine whether or not the beneficiary has been a full member of that order since at least two years prior to the petition's January 18, 2000 filing date, as required by section 101(a)(27)(C)(iii) of the Act, 8 U.S.C. § 1101(a)(27)(C)(iii), and 8 C.F.R. §§ 204.5(m)(1) and (3)(ii)(A).

The record contains copies of several certificates, including a "Sea Organization Contract of Employment," which reads, in part, "I contract myself to the Sea Organization for the next billion years," signed by the beneficiary and dated January 31, 1996. Ms. Dunham refers to the Contract as "a symbolic document." Subsequently, the petitioner has submitted materials concerning the various steps required to join the Sea Org, such as completion of the Estates Project Force (EPF) and review by a Fitness Board. From materials made available to us, we have concluded that an individual who has successfully passed review by the Fitness Board can be considered a member of the Sea Org (as opposed to a recruit, who is not a full member). Therefore, the petitioner can establish that the beneficiary possesses the relevant experience by submitting church records

showing that the beneficiary passed the Fitness Board at least two years before January 18, 2000 and continuously engaged in the vocation during that time.

In a supplement to the appeal, the petitioner submits copies of church documents, including a document indicating that the beneficiary passed the Fitness Board on March 10, 1996. This indicates that the beneficiary became a full member of the Sea Org nearly four years prior to the petition's January 2000 filing date. The director cites no contradictory evidence that would cast doubt on the information shown on the documents submitted on appeal, or show that the beneficiary engaged in disqualifying outside employment during the relevant two-year period.

The remaining issue concerns the petitioner's ability to compensate the beneficiary. The regulation at 8 C.F.R. § 204.5(g)(2) states:

Ability of prospective employer to pay wage. Any petition filed by or for an employment-based immigrant which requires an offer of employment must be accompanied by evidence that the prospective United States employer has the ability to pay the proffered wage. The petitioner must demonstrate this ability at the time the priority date is established and continuing until the beneficiary obtains lawful permanent residence. Evidence of this ability shall be either in the form of copies of annual reports, federal tax returns, or audited financial statements. In a case where the prospective employer employs 100 or more workers, the director may accept a statement from a financial officer of the organization which establishes the prospective employer's ability to pay the proffered wage. In appropriate cases, additional evidence, such as profit/loss statements, bank account records, or personnel records, may be submitted by the petitioner or requested by the Service.

The petitioner has submitted an audited financial report showing annual revenues in excess of \$100 million, and unrestricted net assets ranging from nearly \$56 million to nearly \$87 million. Considering that the compensation of a Sea Org member consists of room, board, a \$50 weekly allowance and other basic subsistence needs, we see no serious basis to dispute the petitioner's ability to provide this minimal support to the beneficiary.

Pursuant to the above discussion, the petitioner has overcome the stated grounds for revocation. Upon review of the record, we see no readily apparent obstacle to the approval of the petition. The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has sustained that burden. Accordingly, the decision of the director denying the petition will be withdrawn and the approval of the petition will be reinstated.

ORDER: The appeal is sustained and the petition is approved.