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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: MAR 01 2005

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:

SELF-REPRESENTED

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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The decision of the director will be withdrawn and the petition will be remanded for further action and consideration.

The petitioner is a regional headquarters of the Church of Scientology. 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), as a purported member of the Sea Organization (Sea Org), the petitioner's religious order. The director determined that the petitioner had not established: (1) that the beneficiary's work qualifies as a religious vocation or a religious occupation; (2) that the beneficiary had the requisite two years of continuous work experience in the proffered position immediately preceding the filing date of the petition; or (3) the petitioner's qualifying status as a tax-exempt religious organization.

Regarding the petitioner's tax-exempt status, the director noted that the recognition letter from the Internal Revenue Service (IRS) is addressed to 1404 N. Catalina Street, Los Angeles. The director determined that the petitioner has failed to show that it is the same entity as the organization by the same name on Catalina Street. On appeal, the petitioner asserts that it moved its offices due to renovations. We find this explanation credible. We take administrative notice that the online non-profit organization database, <http://www.██████████.org>, has shown both addresses in connection with Employer Identification Number ██████████ providing strong evidence that the two addresses pertain to the same organization, rather than to two different organizations in Los Angeles, both using the same name. We hereby withdraw the director's finding, and find that the petitioner qualifies as a tax-exempt non-profit religious organization under section 501(c)(3) of the Internal Revenue Code, as required by 8 C.F.R. § 204.5(m)(3)(i).

The remaining issues concern the nature of the beneficiary's employment, and the beneficiary's past experience. The regulation at 8 C.F.R. § 204.5(m)(1) indicates that the "religious workers must have been performing the vocation, professional work, or other work continuously (either abroad or in the United States) for at least the two-year period immediately preceding the filing of the petition." 8 C.F.R. § 204.5(m)(3)(ii)(A) requires the petitioner to demonstrate that, immediately prior to the filing of the petition, the alien has the required two years of experience in the religious vocation, professional religious work, or other religious work. The petition was filed on April 11, 2003. If the beneficiary seeks to work in a religious *occupation*, the petitioner must establish that the beneficiary was continuously performing the duties of that particular occupation throughout the two years immediately prior to that date. If the beneficiary seeks to work in a religious *vocation*, then the petitioner must show that the beneficiary has been a member of the same religious order throughout that same two-year period. The regulation at 8 C.F.R. § 204.5(m)(2) offers the following pertinent definitions:

Minister means an individual duly authorized by a recognized religious denomination to conduct religious worship and to perform other duties usually performed by authorized members of the clergy of that religion. In all cases, there must be a reasonable connection between the activities performed and the religious calling of the minister. The term does not include a lay preacher not authorized to perform such duties.

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 petitioner contends that the beneficiary is a member of the Sea Organization (Sea Org), described as the religious order of the Church of Scientology. If the petitioner can demonstrate that the Sea Org is a religious order, and that the beneficiary joined the Sea Org as a full, permanent member more than two years prior to the petition's April 11, 2003 filing date, then the petitioner would appear to have overcome the remaining grounds for denial cited in the director's decision of September 30, 2003. Before the petition can be approved, however, additional information is necessary in order to clarify and reconcile past assertions by the petitioner and other organs of the Church of Scientology.

In a letter submitted with the initial filing, Rev. Wayne Carnahan, secretary of the petitioning organization, states:

[The beneficiary] is applying for Special Immigrant Status because of her devotion to the Scientology religion and her vocation as a Minister of the Church. [The beneficiary] is currently in training as a minister. [The beneficiary] has been working for a minimum of two years with the Church of Scientology and she is being offered full time employment with the Church here in Los Angeles, California.

[The beneficiary] has attached a Sea Organization covenant indicating that she has dedicated her life to achieving the spiritual aims of the Church of Scientology.

[The petitioner] has very rigid staff qualifications which all staff members must meet. One of these qualifications is that each religious worker take the vows of our religious order called the Sea Organization. The Sea Organization is a religious order within the hierarchical structure of the Church of Scientology and spans various churches and religious corporations.

In a separate affidavit, Rev. [REDACTED] states "[i]n March 1995, [the beneficiary] joined the religious order of the Sea Organization and began working full time for the Church of Scientology in Holland. She took on a position as the personnel administrator. . . . In February 1996, [the beneficiary] traveled to the United States." The record contains a copy of the *Sea Organization Contract of Employment* (hereafter "Contract"), which reads, in part, "I . . . do hereby agree to enter into employment with the Sea Organization. . . . I contract myself to the Sea Organization for the next billion years." The beneficiary signed the Contract on March 13, 1996 (the plainly legible date "13/3/96" appears three times, and the Contract document is copyrighted 1996). The document is in English rather than Dutch, and is countersigned by a recruiter named Amber Bradley. Thus, this document indicates that the beneficiary signed the Sea Org Contract *after* her February 1996 arrival into the United States. Either signing the Contract is not a prerequisite for joining the Sea Org, or Rev. Carnahan was incorrect in his sworn assertion that the beneficiary joined the Sea Org in March 1995. The conflicting dates imply that the beneficiary began working for the Sea Org a full year before she "agree[d] to enter into employment with the Sea Organization."

We acknowledge that 1995 and 1996 fall well outside the two-year qualifying period, but the question of how one joins the Sea Org is a material issue because it touches on the issue of whether Sea Org employment is a religious occupation or a religious vocation. Discrepancies such as those concerning the date the beneficiary

joined the Sea Org underscore the strong preference for contemporaneous documentation over after-the-fact statements, as reflected in the regulation at 8 C.F.R. § 103.2(b)(2)(i):

The non-existence or other unavailability of required evidence creates a presumption of ineligibility. If a required document, such as a birth or marriage certificate, does not exist or cannot be obtained, an applicant or petitioner must demonstrate this and submit secondary evidence, such as church or school records, pertinent to the facts at issue. If secondary evidence also does not exist or cannot be obtained, the applicant or petitioner must demonstrate the unavailability of both the required document and relevant secondary evidence, and submit two or more affidavits, sworn to or affirmed by persons who are not parties to the petition who have direct personal knowledge of the event and circumstances. Secondary evidence must overcome the unavailability of primary evidence, and affidavits must overcome the unavailability of both primary and secondary evidence.

We note Rev. [REDACTED] assertion that the beneficiary "is currently in training as a minister." If it is the petitioner's contention that the beneficiary seeks to work as a "minister" as defined in the regulations at 8 C.F.R. § 204.5(m)(2), then the petitioner must show that the beneficiary seeks to enter *solely* to work as a minister (i.e., not to perform any other, non-ministerial functions on behalf of the petitioner). See 8 C.F.R. §§ 204.5(m)(1) and (4). Furthermore, the beneficiary was clearly not yet a minister as of the petition's filing date; she was "in training" to become one. Thus, the petitioner cannot show that the beneficiary meets the two-year experience requirement *as a minister* as the regulations contemplate that term. Because the petitioner has never defined what it means by "minister," we cannot resolve this issue without further documentary evidence.

The Church of Scientology has brought to our attention an essay entitled "A Contemporary Ordered Religious Community: The Sea Organization," by J. Gordon Melton. The essay, available online at [http://www.\[REDACTED\]/2001/london2001/\[REDACTED\].htm](http://www.[REDACTED]/2001/london2001/[REDACTED].htm) and published as a chapter in *New Religious Movements and Religious Liberty in America* [REDACTED] and [REDACTED] eds., 2nd ed., 2003), is not an official church document, but by submitting this essay, with no disclaimers or clarifications, the Church of Scientology has effectively endorsed the statements therein. Mr. [REDACTED] states:

The process of joining the [REDACTED] has become somewhat institutionalized. In most instances, it begins with a public meeting in a Scientology church facility in which a [REDACTED] representative presents a profile of the work of the organization and invites interested attendees to consider joining. . . .

At the close of the meeting, those who express an interest in the [REDACTED] are invited to consider making an initial commitment in the form of signing what has come to be known as the billion-year "commitment." This brief document is actually a letter of intent of offering oneself for service in the [REDACTED] and to submit to its rules. . . .

After the signing of the commitment document, which is largely of symbolic import, the individual is given a period of time to consider their decision. . . . I have talked to members who waited as long as three or, in one instance, even six years before taking the next step which is to report to the [REDACTED] induction program, called the Estates Project Force (EPF). . . .

The completion of the EPF program takes from two weeks to several months. . . . Included in the program is a rigorous daily routine of work and study that introduces people on an experiential level to the nature of the commitment being asked of them. . . .

Following the completion of the EPF program, the recruit makes a final decision to continue, church personnel make a final assessment of the recruit's worth to the organization, and the person is accepted into the [REDACTED]. If the person has not already done so, he or she now participates in a formal swearing-in ceremony that includes the reading of the "Code of a [REDACTED] Member," sentence-by-sentence, and his or her verbal assent to each clause. . . .

Each Sea org [sic] member reaffirms that acceptance in a formal ceremony annually on 12 August, the anniversary of the founding of the Organization.

The above essay indicates that the billion-year Contract is largely symbolic, and that signing it does not make the signer a member of the [REDACTED]. Rather, the essay states that one is not a [REDACTED] member until after one has signed the Contract, completed the EPF program, and ceremonially read the "Code of a [REDACTED] Member" (Code).

In this instance, the petitioner's initial submission made no mention of the EPF program, and no mention of the Code. Rev. [REDACTED] indicated, in a sworn affidavit, that the beneficiary began working for the [REDACTED] in March 1995, a full year before she took even the preliminary step of signing the Contract in March 1996. On appeal, Rev. [REDACTED], the petitioner's legal officer, repeats the claim that the beneficiary has worked for the [REDACTED] since 1995, and has worked for the petitioner in the United States since February 1996. These dates cannot be compatible with the assertions that (1) signing the Contract is a non-negotiable, fundamental requirement of [REDACTED] membership or (2) the petitioner's staff consists *entirely* of full [REDACTED] members.

The AAO conducts the final administrative review and enters the ultimate decision for Citizenship and Immigration Services on all immigration matters that fall within its jurisdiction, including special immigrant religious workers. *See* DHS Delegation Number 0150.1 (effective March 1, 2003); *see also* 8 C.F.R. § 2.1 (2003); 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003). In the course of its official duties, the AAO has reviewed multiple appeals for denied special immigrant visa petitions that have been filed by subdivisions of the Church of Scientology on behalf of individuals who are said to be [REDACTED] members. This experience leads the AAO to take administrative notice of specific inconsistencies in the petitioner's representations as to the requirements for membership in the [REDACTED].

Various subsidiary branches of the Church of Scientology have, over the course of several petitions, offered inconsistent or incomplete assertions regarding the process of joining the [REDACTED]. In one instance (WAC 03 133 54972), the petitioner submitted a Contract signed by a six-year-old child,¹ and indicated that the individual became a member of the [REDACTED] at age ten (and would have become a member sooner but for "legal restrictions"). The petitioner's original statements in that proceeding referred to no other steps required to join the Sea Org.

In SRC [REDACTED] the alien signed the [REDACTED] Contract at the age of fifteen, and the petitioner submitted a publication entitled "The [REDACTED] n: The Religious Order of the Church of Scientology," which states: "There is no age limit for joining the [REDACTED] . . . But there are restrictions for signing a

¹ The petitioner has since responded with the observation that the alien in question is now over twenty years old. The issue, however, is not how old the aliens are *now*, but rather, the conditions under which they first joined the [REDACTED].

declaration or contract with the local churches. If a person is under the legal age limit of the country he must get full parental agreement and meet any employment laws of the land." The petitioner in this cited case submitted excerpts from J. [REDACTED]'s aforementioned essay, indicating that the Contract is "largely symbolic" and that EPF is "the next step" to joining the [REDACTED] followed by "a final decision to continue" and recitation of the Code.

In SRC 02 275 53057, the Church of Scientology originally referred to the alien's [REDACTED] Contract as "a copy of [the alien's] vows," which suggests or implies that the Contract is the instrument of membership in the [REDACTED]. Nevertheless, the church later submitted an affidavit from Samuel Scelza, personnel officer for the Church of Scientology Flag Service Organization, which lists no fewer than six steps:

The process of becoming a member of the [REDACTED] is highly demanding and includes the following:

- a) Application: The application procedure includes a list of basic qualifications which excludes anyone whose past history or present circumstances would make them unsuited or unsuitable to the religious life.
- b) Initial Interview: The applicant is interviewed by a [REDACTED] member and advised of the commitment and dedication required, and interviewed to further verify basic qualifications.
- c) Lifetime vow: The applicant signs the "[REDACTED] Contract," making a lifetime vow to serve the religion. This does not make the person a [REDACTED] member. It allows the person to enter as a novice.
- d) "Project Prepare": In most cases, the applicant works out a preparatory project of specific tasks that must be completed before he can commence his vocation. This usually involves the settling of any ongoing obligations and responsibilities. In some cases this may take a few weeks. In other cases, it may take years.
- e) Provisional status as a novice – the "Estates Project Force": The first step for every applicant when he or she arrives to begin his vocation in the [REDACTED] is a program called the "Estates Project Force," or "EPF." . . .
- f) Fitness Board: Before graduating from the EPF, every novice's acceptance into the [REDACTED] must be individually reviewed by a Fitness Board normally composed of the Chaplain and four other church executives (all [REDACTED] members). Any with superficial or incomplete commitment are not accepted. Any whose progress in scriptural studies is inadequate are not accepted. Those who are accepted graduate from the EPF, affirm their vows in a "swearing-in" ceremony, and commence their duties as full [REDACTED] members.

The sequence and form of these steps may vary slightly. . . . Regardless of the sequence, these elements will always be present.

We note that several steps, such as "Project Prepare," are not mentioned in the essay by J. [REDACTED] previously represented as authoritative.

These repeated, and sometimes seemingly contradictory, revisions to the purported membership requirements has made it extremely difficult for us to discern the *true* minimum requirements for membership, and impossible for us to approve any related petition until the issue is definitively resolved through documentary evidence (rather than unsubstantiated affidavits). Pursuant to 8 C.F.R. § 103.2(b)(2)(i), cited above, we need not accept affidavits as evidence unless the petitioner has credibly demonstrated and explained the absence of both primary and secondary documentation.

It appears that the may well qualify as a religious order and that individuals who have attained full, permanent membership in the qualify as individuals engaged in a religious vocation, but to confirm this, it has become increasingly apparent that further evidence is needed. Given the above, it is reasonable for us to require the petitioner to provide the following:

1. A demonstrably *complete* list of the steps involved in joining the
2. Documentary (rather than testimonial) evidence to corroborate the accuracy of the above list.
3. A *complete* list of *all* certificates, contracts, and other documents directly relevant to the process of joining the that are issued to prospective members or maintained in church archives.
4. Copies of *all* such certificates issued to this particular beneficiary, as proof that the beneficiary had, in fact, completed all of the necessary steps no later than April 11, 2001.
5. A credible, substantiated, and complete explanation to reconcile three apparently conflicting claims: (1) one must sign the Contract to become a Member; (2) only members can possibly be employed by the petitioner; and (3) the beneficiary began working for the petitioner in February 1996, a month *before* she signed the Contract.

By providing the information listed above, it will be possible to determine whether the beneficiary has in fact completed *all* of the necessary steps required to join, fully and permanently, the. The director should instruct the petitioner to provide the above information.

We note that church doctrine derives largely, if not entirely, from the collected writings and recorded speeches of the church's late founder, . If Mr. left any official writings that clearly, specifically, and unambiguously describe the process of joining the then by all means these materials belong in the record of proceeding, along with any subsequent documentation that may demonstrate formal amendments to the process.

If the petitioner is unable to demonstrate that the is a religious order whose members *all* qualify as practitioners of a religious vocation, then the possibility remains that *some* members carry out religious occupations. Such decisions must be made on an individual basis. Secular duties, such as administrative or custodial duties, do not constitute a religious occupation. See 8 C.F.R. § 204.5(m)(2), which specifies that the definition of "religious occupation" does not include janitors, maintenance workers, clerks, fund raisers, or persons solely involved in the solicitation of donations.

Therefore, this matter will be remanded. The director may request any additional evidence deemed warranted and should allow the petitioner to submit additional evidence in support of its position within a reasonable period of time. As always in these proceedings, the burden of proof rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER:

The director's decision is withdrawn. The petition is remanded to the director for further action in accordance with the foregoing and entry of a new decision which, regardless of the outcome, is to be certified to the Administrative Appeals Office for review.