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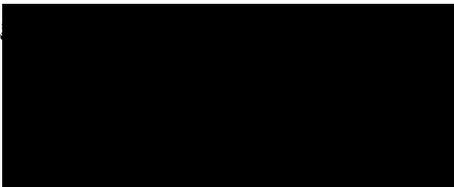
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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: JAN 23 2006  
WAC 03 263 55114

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.

*Mai Johnson*

S Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained and the petition will be approved.

The petitioner is the mother church 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), 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 that the beneficiary's position qualifies as either a religious occupation or a religious vocation. The director also questioned the authenticity of a key document reproduced in the record.

Section 203(b)(4) of the Act provides classification to qualified special immigrant religious workers as described in section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C), which pertains to an immigrant who:

(i) for at least 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States;

(ii) seeks to enter the United States--

(I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,

(II) before October 1, 2008, in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or

(III) before October 1, 2008, in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986) at the request of the organization in a religious vocation or occupation; and

(iii) has been carrying on such vocation, professional work, or other work continuously for at least the 2-year period described in clause (i).

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 a letter dated September 16, 2003, [REDACTED] a legal officer with the petitioning entity, states:

[I]n September 1996, [the beneficiary] joined the Sea Organization and began her religious vocation at the Church of Scientology's continental office in Copenhagen, Denmark. [The beneficiary] was made responsible for enforcing the proper use of all religious scriptures and Church directives by staff and parishioners of the Churches across Europe.

In September 2001, [the beneficiary] entered the United States to continue her religious work to inspect and enforce proper use of all religious scriptures and Church directives by staff and parishioners internationally. . . .

[The petitioner] has staff qualifications requiring Sea Organization membership. . . .

Sea Organization members devote their lives to their religion; they live in community with other Sea Organization members and wear specific uniforms. Their meals, housing, clothes, medical and dental care are provided by the Church. Each member additionally receives a small weekly allowance, currently \$50.00 per week and occasional small bonuses.

The director concluded that the petitioner did not adequately describe the beneficiary's duties, and that the petitioner has failed "to show that the Sea Organization has a governing structure, a formal legal organizing instrument, set theological education standards, or operates with its own budget and assets." The director did not explain the source of these requirements. The director acknowledged the members' "life-long commitment to their faith," but determined that there is insufficient evidence to conclude that the Sea Org is a religious order, whose members qualify as workers in a religious vocation.

The Church of Scientology 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 September 22, 2003 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 September 2, 1996.

The contract contains a separate section for signatures to show that the "Swearing In Ceremony" has taken place, but neither the beneficiary nor the recruiter have signed that section of the document. The director requested an explanation for this omission, and instructed the petitioner to "[s]ubmit the original document from which the photocopy was obtained," and the petitioner complied with this request. While the document thus submitted matches the photocopy submitted previously, [REDACTED] asserts: "the original certificate was lost in Denmark and a duplicate certificate was prepared with the same information contained on the original form. The signatures for the Swearing In Ceremony were not available." The petitioner submits another original document, a July 13, 1997 certificate naming the beneficiary a "Competent SO Member," "SO" being another abbreviation of "Sea Organization." The petitioner has requested the return of these original documents. As of this writing, the original materials are still in the record. Upon completion of this proceeding, the director must return these original documents to the petitioner, as required by 8 C.F.R. § 103.2(b)(5). The director is permitted to retain photocopies of these documents in the record of proceeding.

The director, in denying the petition, observed that the Sea Org "Contract of Employment" is not a decisive instrument of membership in the Sea Org, and that "[t]he petitioner submitted no documentary evidence to show that the beneficiary is in fact a full member" of the Sea Org. The director also found that the petitioner's explanation regarding the contract was not persuasive. The director stated: "it is unclear how the petitioner was able to make a duplicate copy without the original in its possession." The director concluded: "the fact remains that the petitioner initially submitted a document purported to be issued in 1996, when in fact it was not."

On appeal, the petitioner submits 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 September 22, 2003 and continuously engaged in the vocation during that time.

In a supplement to the appeal, the petitioner submits copies of church documents, including a copy of a Fitness Board approval document dated October 24, 1996. This indicates that the beneficiary was a full member of the Sea Org for nearly seven years prior to the petition's September 2003 filing date. One document bears the legend "Issued at: Los Angeles, California on 25 September 2005." This demonstrates that the petitioner does, on occasion, reconstruct such certificates based on information in church records. Other documents appear to be authentic, contemporaneous records, rather than later re-creations. 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.

While it is of some concern that the petitioner has submitted a reconstructed document without (initially) plainly labeling it as such, there remains sufficient additional documentation and information to support the petitioner's claims and, thereby, a finding of eligibility. We see no evidence of fraudulent intent in the petitioner's submission of a reconstructed contract. (Such concerns must be addressed case-by-case, rather than with the inflexible *a priori* presumption that reconstructed documents always, or never, denote attempted fraud.)

Pursuant to the above discussion, the petitioner has overcome the stated grounds for denial. 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 petition will be approved.

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