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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: MAY 03 2006
WAC 02 180 50782

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, Chief
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the employment-based immigrant visa petition. The petitioner appealed that decision, and the Administrative Appeals Office (AAO) withdrew the director's decision and remanded the matter for further consideration and action. The director has again denied the petition and certified the decision to the AAO for review. The matter will once again be remanded to the director for further consideration and action.

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. In the earlier decision, the director determined that the petitioner had not shown that the beneficiary's work qualifies as a religious occupation. The AAO, in its remand order, brought up additional issues of concern. In the more recent decision, the director determined that the petitioner had not established that the beneficiary's position qualifies as either a religious occupation or a religious vocation, or that the beneficiary had the requisite two years of continuous work experience immediately preceding the filing date of the petition. 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.

In an affidavit dated May 2, 2002, [REDACTED], a personnel officer with the petitioning church, describes the beneficiary's work:

[The beneficiary joined] the Sea Organization religious order in May 1997 and at that time took vows for a lifetime service to the Church. She has remained a member of the Sea Organization continuously since that time. . . .

In November 1998 [the beneficiary] came to the [petitioning church] in Los Angeles. As part of her duties [the beneficiary] was preparing and making information available to assist Scientology parishioners. . . . This included translation of Church materials into Japanese. She did this until June 2000.

From July 2000 to February 2001 [the beneficiary] received religious training and pastoral counseling at the [petitioning church].

In March 2001 [the beneficiary] continued her duties as described . . . above and has been doing it ever since. . . .

[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. . . .

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.

In its remand order of August 16, 2004, the AAO found that "full membership in the Sea Org . . . can qualify as a religious vocation." The AAO also found, however, that the petitioner must establish that the beneficiary became a full Sea Org member at least two years prior to the petition's May 8, 2002 filing date, and that she continuously performed the duties of the vocation throughout that time, 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). 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. Nevertheless, the petitioner must show that the beneficiary was active in the religious vocation throughout the two-year qualifying period. While joining the Sea Org requires action on the beneficiary's part, the subsequent passage of time occurs with or without further action by the beneficiary. Therefore, to show two years of continuous engagement in the vocation, the petitioner must do more than simply show that two years have passed since the beneficiary took up the vocation.

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 May 9, 1997. Near the bottom of the form, a space reserved for signatures regarding the "Sea Org Swearing In Ceremony" is blank. Below that, the phrase "Copy made from Church records" is followed by illegible initials. [REDACTED] one of the petitioner's legal officers, notes the petitioner's submission of "a Sea Organization contract indicating that [the beneficiary] has dedicated her life to the Scientology religion." [REDACTED] did not, at that time, indicate that joining the Sea Org entailed any processes or steps beyond executing this contract.

Prior to the first denial, the petitioner submitted copies of Form W-2 Wage and Tax Statements showing that the petitioner paid the beneficiary \$1,473.06 in 2000 and \$1,252.97 in 2001.

The director's first denial did not touch on the issue of the beneficiary's experience, and therefore the petitioner's appeal from that denial did not include additional evidence of that experience or otherwise address the issue. The AAO, in its remand order, found that the petitioner had not established that the beneficiary had completed all the necessary steps to become a full Sea Org member. The AAO considered whether the beneficiary may, instead, qualify as a worker in a religious occupation, but in that context, the AAO noted [REDACTED] assertion that the beneficiary performed certain tasks "until June 2000" and "continued" those duties in March 2001 following eight months of "religious training and pastoral counseling." The AAO found that this eight-month interruption of the beneficiary's usual duties could prevent a finding that the beneficiary worked continuously throughout the two-year qualifying period.

Following the AAO's remand order, the director issued a notice of intent to deny. The director stated that the petitioner had not shown "that an individual takes up a religious vocation merely by signing the billion-year contract with the Sea Organization. . . . The petitioner submitted no documentary evidence to show that the beneficiary is in fact a full member."

In response to the above notice, church legal officer [REDACTED] states that the beneficiary "made her commitment to become a Sea Organization member in 1997 and entered into religious life. . . . [T]his Petitioner has never said that merely the signing of the contract is sufficient to show a religious vocation." With respect to the latter assertion, we recall here Caroline Heinrich's prior reference to "a Sea Organization contract indicating that [the beneficiary] has dedicated her life to the Scientology religion" and [REDACTED] indication that the beneficiary joined the Sea Org "in May 1997 and at that time took vows for a lifetime

¹ It is not clear whether legal officer [REDACTED] and legal officer [REDACTED] are one and the same.

service to the Church.” The only documentation from May 1997 that the petitioner submitted at that time was a copy of the contract dated May 9, 1997. In the absence of other documentation or any elaboration on the process by which one joins the Sea Org, it was reasonable for the director and the AAO to infer that the petitioner had represented the contract itself as indicative of the beneficiary’s Sea Org membership.

The petitioner has submitted a November 18, 2004 affidavit from [REDACTED] the petitioner’s senior personnel officer, who states that she has verified the beneficiary’s Sea Org membership status. She does not specify what records, if any, she consulted in making this determination. She does not claim to have personally witnessed or overseen the beneficiary’s initiation into the Sea Org; rather, she states that the beneficiary joined overseas and was already a member when she arrived in the United States. Thus, the affidavit amounts to a claim seven and a half years after the fact, put forth by an individual who did not witness the relevant events described in the affidavit.

The petitioner submits a new copy of the beneficiary’s Sea Org contract. This copy does not match the copy previously submitted. The format is somewhat different; the “Swearing In Ceremony” section shows the required signatures; and the signatures are in Japanese and English (the version submitted previously only showed English inscriptions). The newly submitted copy shows the date as May 1, 1997, rather than May 9 of that year. [REDACTED] asserts that this newly submitted copy is taken from the 1997 original, which recently resurfaced; the version submitted with the initial filing of the petition was a reconstruction.

The director denied the petition for the second time, stating that the petitioner had failed to produce persuasive, contemporaneous evidence to show when the beneficiary became 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 added: “the fact remains that the petitioner initially submitted a document purported to be issued in 1997, when in fact it was not.”

With respect to the backdated contract, that document was labeled a “Copy made from Church records,” and thus the petitioner was clearly not representing the contract as the original document. The phrase “copy made from church records” is, admittedly, ambiguous; it could mean a re-creation using archival information, or simply a photocopy made directly from the original document. Nevertheless, we see no fraudulent intent in the initial submission of the copy. While the dates do not match exactly, the difference of a few days in May 1997 is not material to the 2000-2002 qualifying period. At the same time, the discrepancy does illustrate the importance of relying on first-hand, contemporaneous documentation wherever possible; simply stating that information derives from unidentified “records” (which are not, themselves, submitted) cannot always suffice.

There has been, over the course of this proceeding, considerable confusion as to how, exactly, one becomes a full Sea Org member. Some of this confusion has arisen from the submission of incomplete information. Further complications have arisen when the AAO misinterpreted the significance of documents provided by the Church of Scientology (such as a declaration completed by some Sea Org members). With regard to the process of joining the Sea Organization, the AAO has received an affidavit from Samuel Scelza, a personnel officer for the Church of Scientology Flag Service Organization, who states:

The process of becoming a member of the Sea Organization 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 Sea Org member and advised of the commitment and dedication required, and interviewed to further verify basic qualifications.

c) Lifetime vow: The applicant signs the "Sea Org Contract," making a lifetime vow to serve the religion. This does not make the person a Sea Org 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 Sea Org is a program called the "Estates Project Force," or "EPF." . . .

f) Fitness Board: Before graduating from the EPF, every novice's acceptance into the Sea Org must be individually reviewed by a Fitness Board normally composed of the Chaplain and four other church executives (all Sea Org 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 Sea Org members.

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

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 Organization (as opposed to a recruit, who is not a full member). [REDACTED] and other witnesses, have also indicated that church organizations generally maintain records to show when a given member passed review by the Fitness Board. Therefore, the director should afford the petitioner the opportunity to submit church records showing that the beneficiary passed the Fitness Board at least two years before May 8, 2002. If the beneficiary passed the Fitness Board less than two years prior to May 8, 2002, then the beneficiary was, at best, a Sea Organization recruit for at least part of the qualifying period.

With respect to the two-year experience requirement, the director observed that eight months of training interrupted the beneficiary's usual duties during the qualifying period. So long as the beneficiary was active within the religious institution during these eight months (not, for example, employed by a secular, for-profit business), and so long as the training in question was not basic Sea Org training that a recruit must complete before becoming a full member, the eight months of training does not appear to be a disqualifying factor for an alien engaged in a religious vocation (as opposed to a religious occupation).

The director also noted that the sums on the Forms W-2 issued to the beneficiary indicate that "the beneficiary worked approximately 25 weeks in 2000 and approximately 29 weeks in 2001," assuming weekly payments of \$50 (the amount repeatedly specified by church officials). The petitioner had, previously, advised that payments to the beneficiary sometimes deviated from the standard allowance of fifty dollars per week. The director acknowledged this claim, but observed that the record contains no contemporaneous documentary evidence to support such a claim. The relevant question, here, is whether the beneficiary's annual totals were low because of fluctuations in pay, or because the payments ceased entirely for a prolonged period. It appears that weekly pay records could be very useful in resolving this issue, by corroborating the petitioner's thus far unsubstantiated claim that the petitioner regularly received a weekly stipend, but that the amount varied from week to week.

If the petitioner is able to demonstrate that the beneficiary passed the Fitness Board review more than two years before the filing date, and provides weekly pay records to account for the beneficiary's low remuneration during the qualifying period, then we see no readily apparent obstacle to the approval of the petition. Prior to issuing any new decision in this matter, the director should issue a request for evidence, pursuant to 8 C.F.R. § 103.2(b)(8), to allow the petitioner the opportunity to provide this evidence.

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, if adverse to the petitioner, is to be certified to the Administrative Appeals Office for review.