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U.S. Department of Homeland Security  
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Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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[Redacted]

FILE: [Redacted]  
SRC 05 205 51367

Office: TEXAS SERVICE CENTER Date: JAN 09 2007

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:

[Redacted]

**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, Chief  
Administrative Appeals Office

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

The petitioner is a church. 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 senior pastor at a new church in San Bernardino, California. The director determined that the petitioner had not established that the beneficiary had the requisite two years of continuous work experience as a senior pastor immediately preceding the filing date of the petition.

On appeal, the petitioner submits additional bank documents.

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, . . . 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)(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 July 18, 2005. Therefore, the petitioner must establish that the beneficiary was continuously performing the duties of a senior pastor throughout the two years immediately prior to that date.

In this instance, the director has not contested the nature of the duties the beneficiary has performed. Rather, the director’s concerns rest on the issue of whether or not the beneficiary has received compensation for his religious work. Unpaid work is not qualifying experience for immigration purposes. *See Matter of Varughese*, 17 I&N Dec. 399 (BIA 1980).

the petitioner’s Senior Associate Pastor and Corporate Board Secretary, states:

[The beneficiary] is a Full-Time Senior Pastor who has worked at least 40 hours per week, including holidays and weekends. . . .

[The beneficiary] was ordained into the ministry in Guadalajara, Mexico. [redacted] is located in Guadalajara, Mexico and is an affiliate of [the petitioning] Church.

[The beneficiary] has been compensated for his work from [redacted] in Guadalajara and receives support from his offices in San Bernardino, CA.

In a translated letter dated March 2, 2005, [redacted] Senior Pastor of [redacted] states: “our Missions Program has financially supported [the beneficiary] and his family during these three years.” In a separate letter, dated May 23, 2005, the same witness states:

[redacted] as sent [the beneficiary] and his family as missionaries to the city of Fontana, California, since February, 2002. During all this time, they have been financially supported by [redacted] which . . . allocates \$2,500.00 US dollars monthly for their sustenance. These funds are deposited at the bank [redacted] . . . under the name of [redacted] then the funds are transferred to [the beneficiary], to [another account at] the bank [redacted]

The petitioner submits copies of Spanish-language bank statements from [redacted] dating back to April 2003. Most of the statements are in the name of [redacted] the most recent statements show the name of [redacted]. The address shown under those names is the address of [redacted]. Circled on the statements are records of weekly transactions, labeled “[redacted]” followed by a ten-digit number. [redacted] identifies this ten-digit number as the beneficiary’s bank account number. Most of these transactions are in the amount of 6,875.00 Mexican pesos.

The petitioner also submits copies of canceled checks from [redacted] Mundo de Fe, Fontana, California, payable to the beneficiary. The checks conform to a pattern of twice-monthly payments of \$400 from October 2003 to January 10, 2005, although there are some gaps in the sequence, with only one check for certain months. Some checks show higher amounts to cover additional expenses. The checks do not show that the petitioner received \$2,500 per month from the Guadalajara church or any other source; the checks show a rate of payment less than one-third of the rate claimed by the petitioner.

The petitioner submits copies of the first pages of five of the beneficiary’s bank statements from [redacted] dated between January and May 2005. These statements show widely varying total monthly deposits, ranging from \$2,863.16 on the February statement to more than ten times as much, \$29,981.80, on the May statement. Because the petitioner has submitted only the front pages of the statements, the record contains only monthly summaries rather than itemized transactions. For that reason, and because there is minimal overlap between the beneficiary’s bank statements and the other financial evidence, the record does not reveal the source of the funds deposited into the beneficiary’s account for most of the period covered by the statements. The beneficiary’s bank statements show his account number, but it does not match the ten-digit numeral sequence that appears with the transactions originating at the bank in Guadalajara. The initial submission fails to link the

beneficiary's California bank account to the transfers originating from the church in Guadalajara. The beneficiary's deposit into his account of nearly \$30,000 in a single month could demonstrate a lump-sum transfer of his own funds from his account in Mexico to his account in California, but the initial submission does not show this to be the case.

On July 29, 2005, the director issued a request for evidence covering several aspects of the petitioner's claim. The director requested further evidence of the beneficiary's compensation "such as copies of pay stubs, W-2's or other evidence." The director did not describe or acknowledge specific documents provided in the petitioner's initial submission, nor did the director advise of any particular shortcomings therein. In response to the notice, the petitioner asserts that documentation of the beneficiary's compensation was submitted with the initial filing. The petitioner submits copies of the beneficiary's 2003 and 2004 income tax returns, in which the beneficiary reported \$36,000 in annual gross business income as a pastor.

The director denied the petition, stating that the evidence of the beneficiary's compensation is inconclusive and inconsistent. The director specifically noted that nothing in the record conclusively links the beneficiary to the transactions shown in the Guadalajara bank statements. The director also stated that the tax returns do not include Forms W-2 or other documents to establish the source of the beneficiary's reported income. The director concluded that the petitioner has not shown that the beneficiary consistently received payment for continuous, full-time work as a minister.

On appeal, the petitioner submits copies of bank statements from the beneficiary's account in Guadalajara. The account number on these statements matches the number shown on the transactions discussed earlier in this decision. The transfers appear on the beneficiary's bank statements, including the number of the church's account from which the transfers originated. These documents, therefore, show that the church in Guadalajara did, in fact, regularly transfer funds into the beneficiary's bank account. The bank statements submitted on appeal show transactions going back as far as August 2002.

The director's denial appears to rest solely on the finding that the petitioner had not documented the source of the beneficiary's income. The petitioner has, on appeal, provided the crucial link to show that funds issued by the church in Guadalajara went to a bank account controlled by the beneficiary. The petitioner has, therefore, overcome the sole stated ground for denial. We acknowledge that the petitioner did not submit this documentation in response to the director's request for evidence, but we must also note that the director's request was largely general in nature, and did not specifically indicate that the specific financial arrangements were at issue. Once the director raised specific concerns about the financial documents in the record, the petitioner provided additional evidence to address and resolve those concerns. The record, as it now stands, contains sufficient documentation to establish a preponderance of evidence in the petitioner's favor.

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 met 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.