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Office: CALIFORNIA SERVICE CENTER Date: APR 21 2008

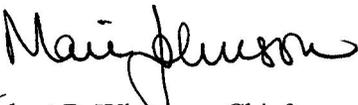
IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, California 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 dismissed.

The petitioner seeks classification 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 an assistant pastor at what was initially identified as the Glendale Armenian Seventh-day Adventist (SDA) Church. The director determined that the petitioner had not established the existence of a qualifying job offer.

On appeal, counsel indicates that a brief will be forthcoming within 60 days. The AAO advised counsel in writing that a supplemental brief was “due no later than 2/18/08.” To date, four months after the filing of the appeal, the record contains no further substantive submission from the petitioner, and no evidence (such as postal receipts) that the petitioner or counsel mailed any additional information between the filing of the appeal and the due date for the brief. We therefore consider the record to be complete as it now stands.

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 un rebutted, 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 Dec. 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. *Id.* 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 589.

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 petitioner's initial submission included three letters on the letterhead of "Armenian Seventh-day Adventist Church," 610 E. California Street, Glendale, California. The letters were signed by [REDACTED], identified as "senior pastor." Beside Pastor [REDACTED] signature on two of the letters is the rubber-stamped name "Glendale Armenian Seventh-day Adventist Church." In one of these letters, Pastor [REDACTED] stated: "The congregation would like to continue [to engage the petitioner's] services for two more years." The letter is dated July 31, 2005, indicating that the period of intended employment had already ended well before the November 29, 2007 revocation date.

The petitioner also submitted a photocopy of an October 15, 2002 letter from the Department of Legal Affairs of the Southern California Association of Seventh-day Adventists (SCASDA). In that letter, SCASDA Vice President [REDACTED] stated: "Glendale City Seventh-day Adventist Church . . . is owned and operated by the Southern California Association of Seventh-day Adventists," which in turn "is a subordinate unit of the General Conference of Seventh-day Adventists."

The petitioner submitted photocopies of Internal Revenue Service Form 1099-MISC Miscellaneous Income statements, stating that "Glendale City SDA Church" paid "Nonemployee compensation" to the petitioner in the amount of \$8,000 in 2004 and \$20,500 in 2005.

The director approved the petition on May 2, 2006. Subsequently, on April 13, 2007, an immigration officer visited Glendale City SDA Church at 610 E. California Street, Glendale, and contacted Pastor [REDACTED]. The site visit resulted in the following findings: "Glendale City Seventh-Day Adventist says there is no separate, independent Armenian Seventh-Day Adventist. In fact, Glendale City claims it hired [the petitioner] to assist with its Armenian church members."

The IO contacted V [REDACTED], Executive Secretary of the SDA's Southern California Conference, who replied on July 17, 2007 that the petitioner "is not an employee of the Southern California Conference and we have no records in our files; even this person is not in our payroll system. . . . Also, the name of this person was not found in the list of our church members (among 43,000)."

In a letter dated July 24, 2007, [REDACTED] stated:

The executive officers of this organization are aware . . . that in some cases, including religious organizations, there has been abuse and misuse [of] the "confidence" given to them in the past, and shamefully have been caught in dishonest procedures endorsing individuals who are not qualified nor are actually working for those entities.

Therefore, the Southern California Conference has taken an action in which only authorized officers (currently [REDACTED] President or [REDACTED], Executive Secretary) are allowed to sign and provide the necessary documentation for immigrants who would be employed by this organization. This policy has been effective since 1997, and reaffirmed in 2004. . . .

The policy states that local churches and schools in this conference do not have independent authority . . . to sign documentation for immigrants who want to apply for visas.

On October 5, 2007, the director issued a notice of intent to revoke the approval of the petition, based on the above information. The director stated:

If the petitioner chooses to respond to this Intent to Revoke they must submit a letter from Executive Secretary V [REDACTED] or President [REDACTED] of the General Conference of Seventh day Adventists indicating that they recognize the Armenian Seventh Day Adventist Church and that it qualifies under their federal tax exemption. In addition, the letter must address the statement of Ms. [sic] [REDACTED] which indicates that the petitioning church is not registered on the list of churches or congregations. The petitioner is reminded that the [sic] Ms. [REDACTED] and Mr [REDACTED]s are the only two people within the SCASDA who have the authority to extend a job offer.

In response, M [REDACTED]n, Senior Pastor of Glendale City SDA Church, stated in an October 31, 2007 letter: "The Adventist Armenian Congregation has served its members under the umbrella of the Glendale City Seventh-day Adventist Church for nearly twenty years. . . . The peoples' membership are [sic] listed under the Glendale City Seventh-day Adventist roster." The petitioner also submitted an October 31, 2007 letter from [REDACTED] who stated:

First, after recent research into our worldwide denominational records, it was found that [the petitioner] was a denominational employee in Iran . . . from 2000-2004, just before coming to the United States of America.

Second, the church membership of [the petitioner] was posted on October 29, 2007 online into the membership of Glendale City Church, Glendale, California as a late entry due to an oversight by that church; however, he was accepted into membership by Profession of Faith on May 1, 2004 and is still in regular standing.

May this information clarify and provide details about the relationship of [the petitioner] with this worldwide denomination, the Seventh-day Adventist Church.

The letter quoted above did not indicate that the petitioner is or ever was an authorized SDA employee in Glendale, nor did the letter include authorization for such employment. Therefore, the letter failed to touch on a central issue raised in the notice of intent to revoke.

We note that Pastor [REDACTED] July 31, 2005 letter indicated that the petitioner “has been serving as assistant pastor in the Glendale Armenian Seventh-day Adventist congregation since April of 2004,” which does not precisely match [REDACTED] new letter indicating that the petitioner was not “accepted into membership” until May 1, 2004. The record contains no contemporaneous evidence that might resolve this discrepancy.

The director revoked the approval of the petition on November 29, 2007, stating:

The petitioner failed to submit evidence to indicate that the employing church, Glendale City SDA Church had the authority from the General Conference of Seventh Day Adventist Conference to extend a job offer to the beneficiary. . . .

The petitioner failed to provide evidence that the Southern California General Conference authorized the employment of the beneficiary. . . . Therefore, the evidence is insufficient to establish that the employing church, Glendale City SDA Church was able to extend a qualifying job offer.

On appeal, counsel states:

CSC [California Service Center] revoked the case on its assumption that the SDA national conference must extend a job offer. This position is not upheld by the regulations nor the law. We posit that the Pastor does not need a job offer from the National Conference as the local SDA church has extended the offer for him to preach as a minister.

The AAO does not agree with counsel’s reasoning. Glendale City SDA Church is subject to the authority of the Southern California Conference of the SDA. When a claimed job offer is directly contrary to church policy that is binding on the intending employer, it is entirely proper to question the validity of that job offer. The conference’s executive secretary had the opportunity, in the letter dated October 31, 2007, to clarify matters or formally authorize the petitioner’s employment at Glendale City SDA Church, but the letter does not address that matter at all. Thus, if only by omission, the Southern California Conference has effectively declined to authorize Glendale City SDA Church to employ the petitioner.

We note [REDACTED]'s assertion that the conference implemented its policy in order to preserve the integrity of the immigration process and discourage "abuse." With this in mind, the AAO now takes a closer look at materials that the petitioner submitted in response to the notice of intent to revoke.

To establish that the Armenian congregants are part of the Glendale church's congregation, the petitioner submitted copies of programs from various Glendale City SDA Church worship services between January 10, 1998 and October 27, 2007 (generally about one program per year). The programs indicate that the church holds an "Armenian Service" only on the "2nd and 4th Sabbaths." Most of the programs include a "Church Directory" identifying several pastors (usually six) and a number of church officers. Five of these programs date from after May 2004, the date the petitioner is said to have joined the Glendale congregation. None of the programs, however, identify the petitioner among the pastors or officers. Several programs identify [REDACTED] as the "Armenian Senior Pastor" and [REDACTED] as the "Armenian Associate Pastor." The petitioner's name appears only once in one program; he is identified as one of four individuals providing "special music" during the June 17, 2006 worship service.

A publication commemorating the church's 2006 centennial devoted several paragraphs to "Our Armenian Congregation." This publication mentions [REDACTED] and [REDACTED], but it does not mention the petitioner or give any indication that the church had any Armenian pastors other than the two named above. The document is otherwise quite thorough with respect to church personnel, to the point of listing every church organist and choir director since 1921.

The programs and other materials described above do not support the claim that the petitioner has ever served as an assistant pastor at Glendale City SDA Church. They offer substantial information about the church's Armenian contingent and Armenian clergy, but contain barely any mention of the petitioner at all. These materials, therefore, undermine rather than bolster the credibility of the petitioner's claims, especially in light of the evidence showing that the petitioner's name was entirely absent from conference payroll and congregation records until after the issuance of the notice of intent to revoke.

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 August 4, 2005, meaning that the qualifying period spanned from August 2003 to August 2005. The church's own worship service programs from that period do not contain any mention of the petitioner at all, despite repeated and prominent mention of its Armenian pastors. Thus, the evidence that the petitioner chose to make available in response to the notice of intent to revoke has served only to raise troubling new questions about not only the validity of the prospective job offer, but the petitioner's past claimed employment as well.

Doubt cast on any aspect of the petitioner's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA

1988). Section 204(b) of the Act, 8 U.S.C. § 1154(b), provides for the approval of immigrant petitions only upon a determination that “the facts stated in the petition are true.” False, contradictory, or unverifiable claims inherently prevent a finding that the petitioner’s claims are true. *See Anetekhai v. I.N.S.*, 876 F.2d 1218, 1220 (5th Cir. 1989); *Systronics Corp. v. I.N.S.*, 153 F. Supp. 2d 7, 15 (D.D.C. 2001); *Lu-Ann Bakery Shop, Inc. v. Nelson*, 705 F. Supp. 7, 10 (D.D.C. 1988).

The systematic exclusion of the petitioner’s name from Glendale City SDA Church publications and regional conference records suggests either that the church did not truly employ the petitioner, or that the church has deliberately concealed evidence of that employment. Neither of these alternatives permits us to conclude with confidence that the church has acted in good faith in this proceeding. The only materials in the record that consistently identify the petitioner as a pastor of the Glendale City SDA Church are letters written specifically to help the petitioner obtain immigration benefits.

The AAO notes the petitioner’s submission of what purport to be tax documents, specifically the aforementioned IRS Forms 1099-MISC from 2004 and 2005 and, on appeal, the petitioner’s unsigned 2006 federal income tax return. Given the questions raised by the petitioner’s other submissions, these documents are not satisfactory evidence of payment or employment. The record contains no contemporaneous evidence of individual payments as supposedly reflected on these annual documents.

With further respect to the purported job offer, [REDACTED] stated that the petitioner was to be paid \$2,000 per month. The purported tax documents, however, show significant fluctuations in the rate of pay. The Form 1099-MISC dated 2004 shows \$8,000 for the last eight months of the year, which extrapolates to \$12,000 per year. The form dated 2005 shows \$20,500 for the year, and the 2006 tax return indicates gross annual income of \$40,000. The petitioner’s compensation, therefore, supposedly almost doubled each year from 2004 through 2006. Like many of the petitioner’s other submissions, therefore, the purported tax documents raise more questions than they answer.

Much of the petitioner’s own evidence appears to contradict the claim that the petitioner has worked at Glendale City SDA Church since 2004. This evidence, therefore, reinforces the director’s concerns about the validity of the purported job offer from that church.

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 not sustained that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.