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20 Massachusetts Ave. N.W., Rm. 3000
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

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FILE:

EAC 05 038 53139

Office: VERMONT SERVICE CENTER

Date: DEC 03 2008

IN RE:

Petitioner:

Beneficiary:



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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the employment-based immigrant visa petition. The petitioner appealed the matter to the Administrative Appeals Office (AAO). The AAO summarily dismissed the appeal on October 17, 2007 because the record, at that time, contained no evidence of a substantive appeal. Such evidence has since surfaced, and the AAO reopened the proceeding on its own motion on November 21, 2007, and considered the appeal on its merits. The appeal will be dismissed with a finding of fraud and misrepresentation of a material fact.

At various times during this proceeding, different attorneys have represented the petitioner. Because all of these attorneys are from the same firm, the term “counsel” shall refer to whichever of the attorneys from the firm represented the petitioner at any given time. The petitioner’s most recent submission, received November 24, 2008, does not reflect the present involvement of any attorney, but the record likewise fails to reflect that counsel has withdrawn as the attorney of record. The AAO therefore considers the petitioner to be represented by counsel.

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 a minister at the Rehoboth Center Church of God (RCCG), Bridgeport, Connecticut. The director determined that the petitioner had not established that he had the requisite two years of continuous work experience as a minister immediately preceding the filing date of the petition. In addition, the director determined that the petitioner had not established RCCG’s ability to pay the petitioner’s proffered compensation.

Section 203(b)(4) of the Act, as in effect at the time of filing, 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 U.S. Citizenship and Immigration Services (USCIS) 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 November 22, 2004. Therefore, the petitioner must establish that he was continuously performing the duties of a minister throughout the two years immediately prior to that date.

A previous petition on the alien's behalf was denied in 2002. In a letter accompanying the filing of the present petition, counsel stated:

Please note that we are requesting that this petition be treated as a **motion to reopen** the previously denied I-360 petition . . . so that the relevant period of consideration should remain April 30, 1999 to April 30, 2001. In the alternative, we ask that the period of [the petitioner's] detention by immigration authorities between December 10, 2002 to June 10, 2004 should not be counted against the time [the petitioner] has spent working as a minister for the Church of God.

[The petitioner] is currently involved in appealing an order of removal from the United States in the Court of Appeals for the Second Circuit. . . . His case has been continued pending the filing of this petition.

There is no regulatory provision for a newly-filed petition to serve as a motion to reopen a previously denied petition.¹ The present petition will be considered on its own merits. With regard to the petitioner's "detention by immigration authorities," the two-year qualifying period is fixed by statute at section 101(a)(27)(C)(i) of the Act. If the petitioner's detention during two-thirds of the qualifying period prevented him from continuously performing the duties of a minister, then the interruption is disqualifying.

We note that counsel, at that time, did not state that the petitioner worked as a minister during his detention. Rather, counsel asked that "the period of [the petitioner's] detention . . . not be counted against the time [the petitioner] has spent working as a minister."

[REDACTED], Administrative Bishop for the Church of God, Southern New England Region, stated that the petitioner "has been the minister for [RCCG] . . . since July 26, 1998." Bishop Ramsey, in this letter of November 15, 2004, did not mention any period of detention.

The petitioner submitted copies of checks signed by a purported church official, payable to the petitioner and marked "pastor's comp." The checks do not represent a continuous sequence. Rather, the checks reproduced in the record are dated between July 2000 and March 2001 (under the church's former name, "African Christian Church") and between August 2004 and October 2004 under RCCG's current name and address. Only the latter group of checks falls within the two-year qualifying period. Most of the checks from 2004 are in the amount of \$525, but some range in

¹ The proceeding for the earlier petition is already administratively closed, an appeal having been dismissed February 4, 2004, with no timely motion filed to contest the appellate decision.

amount from \$400 to \$600. None of the checks is marked as having been processed, and therefore the photocopied checks are not evidence of actual transfer of funds from the church to the petitioner. We shall revisit these checks later in this decision.

Copies of the petitioner's state and federal income tax returns indicate that the petitioner claimed "Income from Church Ministry" in the respective amounts of \$19,700 in 2001, \$21,600 in 2002 and \$17,000 in 2003. All three tax returns, however, are dated August 9, 2004, and there are no accompanying Internal Revenue Service (IRS) Forms W-2 or 1099 to establish the source of the claimed income. These tax returns, untimely prepared shortly before the filing date, are not contemporaneous evidence of past employment or compensation.

Like a delayed birth certificate, the untimely tax returns prepared shortly before the petition's filing date raise serious questions regarding the truth of the facts asserted. *Cf. Matter of Bueno*, 21 I&N Dec. 1029, 1033 (BIA 1997); *Matter of Ma*, 20 I&N Dec. 394 (BIA 1991) (discussing the evidentiary weight accorded to delayed birth certificates in immigrant visa proceedings).

Four photocopied "Certificates of Identification and Appointment," each valid for two years, indicate that the petitioner held credentials as a "Pastor" through October 1, 2000, a "Licensed Minister" through October 1, 2002, and an "Ordained Pastor" through October 1, 2004. The most recent of the shown credentials expired nearly two months before the petition's filing date.

On March 23, 2006, the director issued a request for evidence (RFE), instructing the petitioner to provide a detailed history, with corroborating documentation, of the petitioner's employment and activities during the 2002-2004 qualifying period. The director also requested an explanation and details relating to the petitioner's "detention by immigration authorities between December 10, 2002 [and] June 10, 2004."

In response, [REDACTED] stated:

We acknowledge that [the petitioner] was detained by immigration inspectors between December 10, 2002 and June 10, 2004. . . . Please note, however, that during this detention, the church continued to employ [the petitioner] and still considered him their full-time pastor. Regular pay continued as demonstrated by the enclosed pay stub copies and tax returns . . . , and [the petitioner] assumed his daily responsibilities to minister to fellow prisoners.

Bishop Ramsey's statement marks the first appearance of the claim that the petitioner worked as a minister during his detention. As noted previously, earlier materials and statements provided by the church did not mention the petitioner's detention at all.

The RFE response does not contain any "pay stub copies" dating from the period of the petitioner's detention. The petitioner submitted additional copies of his untimely 2002-2003 income tax returns, along with copies of corresponding IRS Form 1099-MISC Miscellaneous Income statements. The

Forms 1099-MISC identify RCCG as the sole source of the income reported on the tax returns. The petitioner also submitted a copy of a timely-dated 2004 income tax return, showing \$20,250 in "Income from Church Ministry" and a corresponding Form 1099-MISC from RCCG. A 2005 Form 1099-MISC shows \$19,200 paid to the petitioner. It is not clear when the church prepared the Forms 1099-MISC, or whether the church timely reported the claimed compensation to the IRS.

asserted that the petitioner was subject to a "final order of removal" and was detained during subsequent judicial proceedings. The petitioner submitted copies of motions and other documents relating to the petitioner's detention. These documents do not address the nature of the petitioner's activity during his confinement, as it was not their purpose to do so.

The director denied the petition on March 9, 2007, stating that the petitioner submitted "no conclusive evidence the beneficiary derived a salary for the two-year period immediately prior to filing." The director also questioned the petitioner's ability to serve "his congregation while being detained in a detention facility," and noted that nothing "in the original submission [indicated] that the beneficiary's duties included ministering and counseling to prisoners. In fact, the initial filing asked that the Service not consider the period of time in which the beneficiary was detained."

On appeal, the petitioner submits copies of checks from African Christian Church and, later, RCCG, dated between 2002 and 2004. The checks dated 2002 have been processed for payment, but the photocopies of the checks from 2003 and early 2004 show no sign of processing. The latest check from African Christian Church is dated April 27, 2004. The earliest check from RCCG is dated August 3, 2004. Thus, even if all of the checks from 2003-2004 had been processed, there would remain a gap of more than three months in the petitioner's compensation during the qualifying period. In any event, the 2003-2004 checks were not processed, and therefore they are not strong evidence that the petitioner received payment during that period. As we will demonstrate shortly, the record leads us to conclude that the checks are fraudulent.

There are 52 checks dated 2003, consistent with an unbroken string of weekly payments. The amounts on the checks total \$15,650. This is not consistent with the tax return and Form 1099-MISC for 2003 (submitted in response to the RFE and again on appeal), which show \$17,000 in "Nonemployee compensation." This discrepancy raises questions of credibility. These questions are only compounded by the lack of evidence that the checks were processed, and by the untimely preparation of the petitioner's 2001-2003 tax returns. 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). It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Id.* at 582, 591-92.

The petitioner submits copies of Monthly Clerk and Treasurer's Reports dated between November 2001 and November 2004, all of which identify the "SS Superintendent" as [REDACTED]. All of the reports identify the petitioner as the church pastor. The earliest reports show the petitioner's

address as [REDACTED] Bridgeport. Beginning with the August 2003 report (annotated "Pastor address changed") through the October 2004 report, the petitioner's address is shown as [REDACTED], Bridgeport. The petitioner's address shown on the November 2004 report is the same [REDACTED] address as RCCG. As stated previously, the petitioner was in detention throughout 2003, a fact not reflected on any of the reports.

[REDACTED], on appeal, acknowledges that "the yearly amounts do not always reflect the proffered wage of \$25,200" per year, but he states that the petitioner "and his family received the use of a pastor's parsonage located on church grounds ([REDACTED] Bridgeport, Connecticut 06608) which, when aggregated as additional non-cash compensation, elevated his overall compensation package above the required threshold during each of the years in question." As evidence that RCCG has housed the petitioner, the petitioner submits a copy of a May 2004 bank document showing that RCCG holds a mortgage on [REDACTED], Bridgeport.

The Monthly Clerk and Treasurer's Reports did not place the petitioner at the [REDACTED] address until November 2004, the month that the petition was filed. Rather, the reports showed addresses on [REDACTED] and [REDACTED]. The record contains no documentary evidence that the church owned, rented, or otherwise controlled or paid for the properties at the petitioner's claimed prior addresses. These reports have problems of their own, of course, showing that the beneficiary changed addresses while in custody, but the point stands that the available evidence is inconsistent and sometimes contradictory.

The petitioner submits copies of Minister's Monthly Report Forms dated throughout 2006. The petitioner does not indicate whether such reports exist for any of the 2002-2004 qualifying periods.

states: "We would ask that our failure to include in our original submission that the beneficiary's duties included ministering and counseling to prisoners not be characterized as an indispensable element or fatal flaw in defining his professional obligations and activities as a minister for purposes of his petition." It is the petitioner's responsibility to provide an accurate and credible account of his activities during the statutory two-year qualifying period. Substantial revision of that account necessarily raises questions about the reliability and credibility of any witness whose initial description required such revision.

New statements submitted on appeal address the circumstances of the petitioner's detention. [REDACTED] states in an affidavit that he was detained in the same facility as the petitioner from February 2003 to June 2004, and that the petitioner frequently "was visited by Bishops of his own church . . . and also by members of his church's bible study group. . . . [The petitioner] continued to provide teachings to his congregation on a weekly basis." [REDACTED] asserts that the petitioner "obtained permission from the jail administrator, [REDACTED] to have a private and quiet place for a small group of inmates who were studying and worshipping under his direction." The record contains no confirmation of this claim from [REDACTED] (full name unknown). [REDACTED] also claims to have been incarcerated alongside the petitioner, and that the petitioner "continued to

preach, teach the word of God, and counsel people inside the Jail” with the “authorization from Jail’s officials.”

and [REDACTED] state that they are members of RCCG’s congregation who sometimes visited the petitioner during his time of confinement. [REDACTED] identified as “SS Superintendent” on monthly reports, states his address as [REDACTED] Bridgeport, which the monthly reports allege was the petitioner’s address from August 2003 through October 2004. Mr. [REDACTED] states that the petitioner “was sending every week program of the church services and guidance all the period of his detention” (*sic*), and that he “gave [the petitioner’s paychecks] to his wife every week” and “visited him every month.”

The above statements are generally consistent with [REDACTED]’s assertions on appeal, but they do not carry the same weight as documentary evidence. They do not explain the lack of evidence that the petitioner (or his spouse) ever cashed or deposited his paychecks in 2003 or 2004, and they do not explain why the monthly reports indicate that the petitioner moved into [REDACTED] residence on [REDACTED] in August 2003 when, in fact, the petitioner was in government custody at that time. The record is rife with contradictions and inconsistencies which the letters (and one affidavit) do nothing to resolve. 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).

Because the petitioner has not submitted credible evidence sufficient to meet the burden of proof, the AAO hereby affirms the director’s finding that the petitioner has failed to establish the required experience.

The next issue concerns the prospective employer’s ability to compensate the petitioner. The regulation at 8 C.F.R. § 204.5(g)(2) states, in pertinent part:

Ability of prospective employer to pay wage. Any petition filed by or for an employment-based immigrant which requires an offer of employment must be accompanied by evidence that the prospective United States employer has the ability to pay the proffered wage. The petitioner must demonstrate this ability at the time the priority date is established and continuing until the beneficiary obtains lawful permanent residence. Evidence of this ability shall be either in the form of copies of annual reports, federal tax returns, or audited financial statements.

[REDACTED] stated:

The church is offering a salary of \$25,200.00 per year . . . [and] housing for the pastor and his family in the form of a parsonage. . . . As evidence of the church’s ability to

petitioner submits nothing from the International Offices to confirm this claim, or to show that the “certain financial obligations” so covered include pastoral salaries.

In a separate letter submitted on appeal, [REDACTED] states that the petitioner “is entitled to a minimum salary of \$743.00 per week,” equivalent to \$38,636 per year, but there is no evidence that the petitioner has ever received that amount.

The petitioner submits copies of his 2006 tax return, reporting \$18,040 in “Business income” and identifying the petitioner’s occupation as “pastor.” There is no Form 1099-MISC or comparable documentation for 2006 to show that the source of the claimed compensation has reported the compensation to the IRS. The tax return shows gross receipts of \$21,600, which is substantially below the proffered annual salary of \$25,200.

We note that the tax returns for 2005 and 2006 are marked as having been prepared by paid preparers, but the preparers’ signatures do not appear on the copies of the returns. Therefore, the returns do not comply with 26 C.F.R. § 1.6695-1(b)(1), which generally provides that an income tax return preparer must manually sign the return in the appropriate space provided on the return after it is completed and before it is presented to the taxpayer (or nontaxable entity) for signature.

Most of the Monthly Clerk and Treasurer’s Reports submitted on appeal show an amount of \$1,000 or lower under the line item “TOTAL TITHES paid into local treasury this month.” Some of this amount was then forwarded to “INT’L HDQTRS.” and “STATE HDQTRS.” The petitioner’s purported monthly pay, as shown on other documents in the record, has always exceeded \$1,000 per month. The petitioner does not address this issue or explain how the church made up the chronic shortfall.

The Minister’s Monthly Report Forms include a “Ministerial Compensation” line item. These forms indicate that the beneficiary received \$600 per month for nine of the first eleven months of 2006; the reports for April and May show monthly payments of \$2,400 and there is no report for December. This rate of compensation is substantially below the proffered rate of compensation, and does not match the \$18,040 claimed on the petitioner’s 2006 tax return. These inconsistencies raise new questions while answering none of the previous questions.

Based on the above discussion, the AAO affirms the director’s finding that the petitioner has not established RCCG’s ability to pay the petitioner’s proffered wage.

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternative basis for dismissal. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

Careful examination of the aforementioned checks reproduced in the record supports a further finding of fraud and material misrepresentation. While some of the unprocessed checks are dated

2000-2001, and others are dated 2003-2004, a comparison of the check numbers reveals an almost unbroken numerical sequence from [REDACTED] to [REDACTED] with only check [REDACTED] missing. The following is an excerpt of the list of checks, in numerical order, with the purported date of each check:

Number	Date
[REDACTED]	12/18/00
[REDACTED]	12/25/00
[REDACTED]	2/24/04
[REDACTED]	3/2/04

Number	Date
[REDACTED]	1/1/01
[REDACTED]	1/8/01
[REDACTED]	1/15/01
[REDACTED]	3/9/04

Number	Date
[REDACTED]	1/22/01
[REDACTED]	1/29/01
[REDACTED]	3/16/04
[REDACTED]	2/5/01

The AAO concluded that the consecutive numbering of the checks, coupled with the lack of evidence of processing, cast grave doubt on the authenticity of the checks. In a notice to the petitioner dated September 30, 2008, the AAO stated:

Because the checks, put together, form this nearly unbroken numerical sequence, with no overlapping numbers at all, it appears that all of the checks were prepared at or about the same time, with the numerical sequence deliberately varied to conceal their simultaneous preparation. Because the checks are sequentially numbered despite being dated up to four years apart, it is significant that the checks show no marks of processing, and you have not provided any other documentary evidence, such as bank statements, to show that the checks were processed at all, much less *when* they were processed. We further note that the unprocessed checks were copied three or four to a page – meaning that, even though the church supposedly issued the checks about once a week, the checks were, nevertheless, retained at least long enough to be copied together in groups before being presented for payment.

Questions about the authenticity of *any* of the sequentially numbered, unprocessed checks affect the credibility of *all* of those checks. 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). For this reason, the AAO will not arbitrarily assume that only the 2000-2001 checks are questionable, while the 2003-2004 checks are credible. The AAO considers *all* of the unprocessed checks to be seriously compromised.

Section 212(a)(6)(C)(i) of the Act states: "Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible." Absent independent and objective evidence to overcome, fully and persuasively, our above finding, the AAO will dismiss the appeal and enter a formal finding of fraud into the record. This finding of fraud can be considered in future proceedings in which your admissibility is an issue. You may choose to withdraw your appeal, but this will not prevent a finding that you have sought to procure immigration benefits through fraud.

It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho* at 582, 591-92. The AAO reserves the right to verify any evidence that you may choose to submit in response to this notice.

(Emphasis in original.) The notice contained a complete list of all [REDACTED] suspect checks. The complete list is part of the record of proceeding and the AAO will not reproduce that list here in full, instead incorporating it by reference. In that notice, the AAO also noted discrepancies in the names and birth dates provided for the petitioner's children in various documents. Most significantly, the petitioner's passport identifies his second child by the given name [REDACTED], born March 29, 1985. On Form I-360, however, the petitioner identified his second child by the given name [REDACTED] born December 10, 1985. In response to this notice, the petitioner submitted copies of the children's respective birth certificates, with certified English translations from the original French. The documents are dated November 1, 2008, and appear to have been executed in response to the AAO's notice. An accompanying court document found the petitioner to be "at fault" for failing to declare the births to the relevant authorities in a timely manner. The certificates indicate that [REDACTED] was born March 29, 1985 to [REDACTED] and [REDACTED] [REDACTED] was born eight and a half months later, December 10, 1985, also to [REDACTED]

The translation of an accompanying document, identified as a court declaration dated October 30, 2008, indicates that [REDACTED] is the petitioner's "adopted son who was born . . . on the date of 12/10/1985 of the union of [REDACTED] and of the Lady [REDACTED]." The submission contains no documentation of the claimed adoption. The petitioner does not explain why the Form I-360, which he himself signed (thereby attesting, under penalty of perjury, to the form's accuracy) failed to mention all of his natural or adopted children. The petitioner's credibility is already deeply compromised, pursuant to *Matter of Ho* at 591.

The alleged court declaration indicates that the petitioner appeared "in person" at a "public hearing" in Lumumbashi, Democratic Republic of the Congo, on October 30, 2008. Prior to that date, the petitioner was in the United States, albeit under a final order of removal, and he mailed the purported court documents from his home in Connecticut in November 2008. If the documents correctly state that the petitioner was in Lumumbashi for the court hearing, then the petitioner left the United States and then reentered after the hearing. If so, then the petitioner apparently self-deported pursuant to 8 C.F.R. § 241.7, and his subsequent re-entry into the United States renders him inadmissible under section 212(a)(9)(A)(ii) of the Act. To reenter the United States lawfully before completing the required period of time outside the United States, the petitioner would have to have applied for readmission by filing Form I-212. In addition, he may also be subject to penalties under 8 U.S.C. § 1326(a). Under that statute, any person who departs the United States under an outstanding removal order and then reenters without permission could face a \$1,000 fine and/or up to two years imprisonment.

In the alternative, if the petitioner never left the United States and was not in Lumumbashi in October 2008, then the purported court declaration contains a false statement and, therefore, cannot be considered credible or reliable evidence.

Whether the petitioner traveled to Lumumbashi or not, the latest submission raises more issues than it resolves and it does not persuade the AAO that the petitioner has submitted consistent or credible evidence in support of his petition.

With respect to the petitioner's alleged past compensation, account transcripts issued by the Internal Revenue Service (IRS) show that the petitioner filed income tax returns for 2002 and subsequent years. The returns for 2002 and 2003, however, were not timely filed. Rather, the petitioner filed both returns on August 16, 2004, shortly before he filed the Form I-360 petition on his own behalf. The IRS transcripts do not identify the source of the reported income, and the untimely filing of the 2002 and 2003 returns casts further doubt on their reliability. *Cf. Matter of Bueno* at 1023; *Matter of Ma* at 394. A newly executed letter from an individual identified as the petitioner's accountant has minimal evidentiary weight, and does nothing to resolve the questions regarding the origin and authenticity of the photocopied checks.

The petitioner's response to the AAO's notice contains no evidence to rebut the AAO's specific assertions regarding the consecutively numbered checks dated 2000 to 2004. The petitioner's untimely filing of 2002 and 2003 income tax returns does not establish that the checks are authentic or address any of the AAO's concerns regarding those checks. The petitioner has not submitted any documentation (such as bank statements) to establish that the checks are authentic and accurately dated. Therefore, the AAO concludes that the petitioner (or confederates) fabricated the checks to create a false history of past compensation, staggering the check numbers in an attempt to disguise the circumstances of the checks' origin.

The AAO finds that the petitioner knowingly submitted documents containing false statements in an effort to mislead USCIS and the AAO on an element material to the beneficiary's eligibility for a benefit sought under the immigration laws of the United States. *See* 18 U.S.C. §§ 1001, 1546. The AAO will enter a finding of fraud.

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.* at 1220; *Systronics Corp. v. I.N.S.* at 15; *Lu-Ann Bakery Shop, Inc. v. Nelson* at 10. Moreover, the petitioner's submission of a fraudulent document brings into question the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *See Matter of Ho* at 591.

ORDER: The appeal is dismissed.

FURTHER ORDER: The AAO finds that the petitioner knowingly submitted documents containing false statements in an effort to mislead USCIS and the AAO on an element material to the beneficiary's eligibility for a benefit sought under the immigration laws of the United States.