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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

PUBLIC COPY

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[REDACTED]

FILE: [REDACTED]
EAC 01 004 50574

Office: VERMONT SERVICE CENTER

Date: FEB 20 2008

IN RE: Petitioner:
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 Jensen

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the employment-based immigrant visa petition. The director subsequently reopened the petition on the petitioner's motion and approved the 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 is a mosque. 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 an imam. The director determined that the job offer as described in the initial filing is no longer in effect.

On appeal, the petitioner submits a brief and new witness letters.

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 unrebutted, 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 . . . ; 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).

In a letter accompanying the initial filing, [REDACTED], then President of the petitioning entity, described the position then on offer to the beneficiary:

[The petitioner] wishes to hire [the beneficiary] . . . as a full-time Imam (clergyman). . . .

The primary responsibilities of the Imam are conducting the Islamic worship service, conducting marriage, funeral and burial services, Hospital and University Chaplaincy, Social and Marital Counseling, and Islamic education. . . .

The following terms of compensation will permit [the beneficiary] to solely carry on the vocation of an Imam without necessitating outside employment:

1. The Imam (Minister) will receive a monthly salary . . . of \$1000 . . . payable on the last day of every month.
2. The [petitioner] will provide a manse, or an apartment, as the Imam's residence. The residence is located on the premises of the [petitioning mosque]. . . . The Imam will not pay rent or utilities for the manse out his net monthly salary. In addition, the Imam will have access to the [petitioner's] van for limited personal use.
3. The [petitioner] will provide suitable health insurance for the Imam and his family. . . .
4. The Imam is entitled to one day off every week. . . .
5. The Imam is entitled to 20 (twenty) days paid vacation every years. . . .
6. The annual vacation may not be taken during the Sacred month of Ramadan.

[REDACTED] described the terms of employment in greater detail, for instance identifying the universities where the beneficiary was expected to serve as a chaplain. [REDACTED]'s letter did not contain any mention of prison ministry, nor did several other documents submitted in 2000-2001 describing the beneficiary's work.

In an October 11, 2001 letter, [REDACTED] broke the beneficiary's activities down into eight categories: "Registered Chaplaincies" at "three close-by campuses" and "the Allegheny International Airport"; "Representing the [petitioner] as a Muslim clergyman"; "Speaking Engagements" at "schools, colleges, and churches"; "Worship Services" for "around 500 people every week"; "Religious Counseling" for "the members of the congregation"; "Performing Religious Rituals" relating to marriage, funerals, and births; serving as "Principal of the Islamic School"; and "Administration," supervising "all staff members" at the petitioning institution.

The director approved the petition on February 1, 2002. Subsequently, on August 23, 2007, an Immigration Officer (IO) visited the site of the petitioning mosque and spoke to ██████████, the petitioner's Office Manager. The site visit report contains the following information:

██████████ stated that the [petitioner] currently has an Interim Imam, ██████████ . . . who performs these services. The [petitioner] is currently seeking to fill the position of "Director." . . . ██████████ states that ██████████ has been fulfilling duties of the imam as well as Director for about 18 months. ██████████ stated that [the beneficiary] had been working for the [petitioner] as imam and then accepted the position of Director, which he resigned "about a year or a year and a half ago."

. . . ██████████ stated that the job opening for Director has been known for well over a year but has not been filled. . . . ██████████ stated that, despite his previous resignation, if [the beneficiary] "was interested" in the Director position, he would be considered a candidate.

██████████ stated that [the beneficiary] currently works as a "contractor imam" with the [petitioner]. He stated that local prisons contract with the [petitioner] to provide Muslim chaplain services. The [petitioner] collects funds for these services from local prisons and, in turn, the [petitioner] pays [the beneficiary] from those funds. Therefore, [the beneficiary] is not currently a "staff member" but receives regular monetary remuneration from the [petitioner]. ██████████ stated that [the beneficiary] sometimes substitutes for ██████████ and vice versa in providing religious services to the [petitioner] and the local Muslim prison populations. . . .

[The beneficiary's] resignation as Director and acceptance of "contract" work may be his remedy to his concern about working without authorization from USCIS. . . .

██████████ stated that currently ██████████ is the only paid imam. Other imams occasionally perform services on a volunteer basis. ██████████ stated that he only recalls the [petitioner] as having one imam at a time in recent years.

On July 17, 2006, the petitioner filed a Form I-360 petition seeking to classify ██████████ as a special immigrant religious worker. A contract between the petitioner and ██████████ specifies three-year contract periods that renew automatically unless action is taken to end the agreement.

On September 7, 2007, the director issued a notice of intent to revoke the approval of the instant petition. The director cited the information from the site visit and stated: "When a job offer is the basis for immigration there must be a high degree of certainty that the beneficiary's employment will not end or change." The director instructed the petitioner to "submit a statement . . . which establishes that the beneficiary will be employed full-time in professional religious work" and describes, in detail, the beneficiary's intended duties and the terms of compensation.

In response, in a September 19, 2007 letter,

President of the petitioning entity, stated:

I wish to reiterate our offer to [the beneficiary] to continue to work for the Center as an imam/chaplain. Of course, some of the details of the position have changed in the 7 years since the job description was originally submitted to immigration.

[The beneficiary] had, has and will have various professional religious responsibilities with [the petitioner]. Indeed, over the last seven years since [redacted] s letter, the needs of [the petitioner] have changed, while the need for [the beneficiary's] services remains. . . .

It should be noted that for most of the last seven years, [the beneficiary] has been employed by [the petitioner] as Director/Imam. He's also served other roles as required by [the petitioner]. Indeed, when his employment authorization expired in late 2006, [the beneficiary] had to resign his paid duties with [the petitioner].

We engaged [the beneficiary] from 2000 to 2003 full time to conduct worship services and ceremonies; to provide chaplaincy to hospitals, college campuses, and prisons; to give social and marital counseling; and to oversee our Islamic full-time parochial school and other educational programs. In 2004, while he was volunteering his time almost as a full-timer, he has chosen to be paid only as a part-timer at [the petitioning mosque]. Meanwhile he worked independent of [the petitioner] but worked in the capacity of Prison Imam to several area institutions.

He returned to his prior duties in 2005 and continued to perform them until his employment was interrupted by lack of employment authorization. He returned when he was again legally able to work in July 2007. However, during this time [the beneficiary] volunteered in our office and on our behalf in various prison visits.

One of the developments at [the petitioning mosque] since the support letter of September 19, 2000 is that [the petitioner] has contracted with various state and federal correctional institutions to provide an Islamic chaplain or imam to administer to the inmates. [The beneficiary] has accepted this responsibility and does provide Muslim chaplaincy services to correctional institutions in fulfillment of [the petitioner's] contract with those institutions.

You request a detailed listing and description of [the beneficiary's] duties. They are as follows:

1. Congregational worship services:

[The beneficiary] will lead daily prayers, Jum'a congregational prayers both at outside contracted institutions assigned to him and at [the petitioning mosque] at the times when other imam(s) are not available and/or off.

2. Ramadan fasting arrangements:

[The beneficiary] will be responsible for making Ramadan fasting arrangements for the outside contracted institutions assigned to him and help [the petitioner's] Ramadan fasting arrangements as well.

3. Islamic Ceremonies/Rituals:

[The beneficiary] will make necessary Eid, marriage, funeral and burial and other social events arrangements mainly for outside contracted institutions and help [the petitioner] perform the same arrangements as well.

4. Specialized Ministry:

[The beneficiary] will perform specialized ministry and personal care and/or visitations in hospitals and correctional institutions through religious, social, marital etc. counseling. [The beneficiary] will share the same responsibility along with the other imam(s) to perform the same duties for the [petitioner's] congregation as well.

5. Campus Chaplaincy:

[The beneficiary] will supervise the attendance of campus ministerial work and/or meetings and help guide MSA (Muslim Student Association) members as well.

6. Islamic Educational Services:

[The beneficiary] is responsible for conducting all of the educational activities such as Ta'leem/study sessions in outside institutions assigned to him. . . . [The beneficiary] will help for educational activities held at [the petitioning mosque] if he is asked to do so.

7. Youth Education/Boy Scouts:

[The beneficiary] will assist the coordinators of youth activities and boy-scout programs as one of the educators.

8. ICGP Participation

[The beneficiary] will attend The Islamic Council of Greater Pittsburgh meetings representing [the petitioner].

. . . [The beneficiary's] usual 40-hour week is allocated approximately as follows:

Prison ministry: 20 hours (minimum)

Hospital Pastoral care: 4 hours
Campus ministry: 4 hours
Office hours for religious and life cycle counseling: 8 hours
[The petitioner's] educational services: 4 hours

Since he was granted employment authorization in July-2007, [the petitioner] and [the beneficiary] have agreed that his compensation would be \$1800 per month and will remain at that level or greater for the next three years. . . .

Your letter of September 7, 2007 cites our office manager [REDACTED] as providing information that [the beneficiary] was no longer [the petitioner's] Imam, but also acts as [the petitioner's] contracted Imam. In all due respect to [REDACTED] or the investigating officer, our ministerial religious staffing consists of outreach coordinator [REDACTED], Imam [REDACTED] and [the beneficiary]. . . .

Our Mosque is . . . quite solvent and quite able to pay our staff including [the beneficiary]. As proof, we include copies of financial audit reports, and [the beneficiary's] W-2 along with his tax returns.

The record does not include copies of the beneficiary's Internal Revenue Service Form W-2 Wage and Tax Statement or his income tax returns, as claimed. Counsel's exhibit list accompanying the response does not list these documents, which leads us to conclude that they are absent from the record because the petitioner did not submit them (notwithstanding S [REDACTED]'s assertion to the contrary).

In 2000, the petitioner had stated that the beneficiary's compensation benefits would include "a manse, or an apartment, as the Imam's residence." "access to the [petitioner's] van for limited personal use," and "suitable health insurance for the Imam and his family." In 2007, however, [REDACTED] stated: "Currently no benefit is offered to [the beneficiary], however, [the petitioner] is wishing to provide [a] health insurance plan for all of its employees and if in the future the circumstances permit, [the beneficiary] will be included in this benefit along with his family." He made no reference to provision of housing for the beneficiary. A September 2007 pay stub shows the beneficiary's residential address, which does not match the petitioner's address. Therefore, the beneficiary no longer resides in a "residence . . . located on the premises of the [petitioning mosque]." The available evidence indicates that the benefit package in 2007 is significantly reduced from that described at the time of filing in 2000.

[REDACTED], Chair of the petitioner's Board of Trustees, stated in an October 5, 2007 letter that the petitioner offers several "services that require the involvement of one or more imams." This same letter, however, indicates that only one of those imams works full-time. [REDACTED] stated that the petitioner "hires multiple imams throughout the year (in addition to one full-time imam). Some imams are hired specifically for prison chaplaincy while others are hired to assist the full-time imam." The references to "one full-time imam" and "the full-time imam" (emphasis added) leave little room for the conclusion that the petitioner has more than one full-time imam. [REDACTED] stated that the beneficiary has performed several of the functions

of an imam, but he did not state that the beneficiary was the petitioner's "one full-time imam." That individual appears, rather, to be [REDACTED].

The director revoked the approval of the petition on November 2, 2007, stating:

The title of the position offered and job description have changed significantly since the initial filing. The original job offered was that of **Imam/Director** and the title of the present offer is **Imam/Chaplain**. The duties associated with the Imam/Director position centered on duties to be performed at the Center; in fact a residence on Center premises was one of the benefits offered. The congregation was identified as possibly 500 community members in attendance at the Friday prayer service.

The job currently described in [REDACTED]'s letter focuses on prison chaplaincy. . . .

Some of the duties described in the October 11, 2001 letter . . . are not included in the new job description. . . . The benefits now offered do not include a residence on [the petitioner's] premises or family health insurance. . . .

It is noted that [the petitioner] has a pending Immigrant Petition for a Religious Worker filed on behalf of [REDACTED] [sic], for the position of Imam. A letter signed by [REDACTED] [sic] . . . states "[the petitioner employs] . . . one full-time imam. . . ." [The petitioner] is now offering the full-time imam position . . . to Ibrahim Atatsoy [sic] and a different position to [the beneficiary]. . . .

In summary the title, the principal duties, and the benefits of the job offer have changed significantly since the petition was filed. . . . These revisions constitute a material change from the original job offer. The petitioner bears the burden of proof in an employment-based visa petition to establish that it will employ the alien in the manner stated. *See Matter of Izdebska*, 12 I&N Dec. 54 (Reg. Comm. 1966); *Matter of Semerjian*, 11 I&N Dec. 751 (Reg. Comm. 1966).

On appeal, counsel asserts that "the changes in [the beneficiary's] job offer are not material as he continues to fulfill duties that are consistent with those of a full-time Imam." Counsel compares the shift in the beneficiary's duties to those of a minister who moves from one congregation to another, but the record describes a shift not only in location, but in duties as well, and (unlike counsel's simplified example) there has been a corresponding shift in the terms of employment and compensation. We are not persuaded that the changes in the beneficiary's benefits are "immaterial" as counsel claims.

Acknowledging the director's citation of *Matter of Semerjian*, counsel asserts that that case "raises the necessary implication that qualified professionals will perform the services for which their qualifications are *needed*. [The beneficiary] is clearly fulfilling [the petitioner's] needs for his services." The record abundantly attests that those needs have changed, such that they no longer conform to the job offer described in the petition.

The petitioner submits two new letters, both dated November 15, 2007. [REDACTED] states:

[The beneficiary's] job duties and benefits have changed, but not significantly, since the petition was filed in 2000.

. . . [The changes] merely reflect the developments that have taken place at [the petitioning mosque] over the past six years. . . .

Over the past several years, we have experienced a period of significant growth. . . . [The petitioner received] a substantial number of requests from correctional institutions to provide chaplaincy services to the Muslim inmate population. This increased demand for our services outside the [petitioner's] main building forced us to make several changes in how we allocated the tasks between our two, full-time Imams: [the beneficiary] and Imam [REDACTED]

In order to accommodate the requests for prison chaplaincy, [the petitioner] felt that it was more appropriate to assign [the beneficiary] to the role of prison chaplain. Many of the Muslim inmates are American converts and we felt it was necessary to assign an Imam who was more acquainted with American society. . . . When we petitioned for [the beneficiary], there was another full-time Imam serving on the board. When he left, we hired Imam [REDACTED] and Imam [REDACTED]. Imam [REDACTED] left one year later, leaving us with two Imams. We are finding that two full-time Imams [are] not quite enough. . . .

[The beneficiary] did fulfill administrative duties for us in 2001 and at the time, it was anticipated that he would serve as the Imam/director of [the petitioning entity]. . . . [W]e [later] realized that our growth demanded a full-time director. We did not want to appoint [the beneficiary] to this post because it has been our intention all along for him to serve as a full-time Imam. . . .

In regard to [the beneficiary's] benefits, there have been changes, but nothing material. . . . [REDACTED] was mistaken when he informed [the Immigration Officer] that [the beneficiary] was only being paid as a contract Imam. [The beneficiary] is an Imam of [the petitioning mosque] and, as long as he was authorized to work, he has been on our payroll.

[The petitioner] provides housing only for its in-house Imam due to the fact that the daily prayers span the larger part of the twenty-four hour day. . . . While [the beneficiary] is no longer receiving this benefit, we have increased his pay from \$1000.00 per month to \$1800.00 per month. Changes in our administration do not permit us to provide health insurance at this time, but it is our intention to provide all our employees with this benefit when circumstances permit.

8 C.F.R. § 204.5(m)(4) requires the religious organization to set forth the alien's terms of compensation. 8 C.F.R. § 204.5(g)(2) requires United States employers to establish that they can meet the stated terms of compensation. Here, the stated terms of compensation included the assurance that the petitioner "will provide suitable health insurance for the Imam and his family." The petitioner now asserts that this insurance is unavailable. This is, in effect, a stipulation that the petitioner is unable to meet the terms of employment stated in the initial petition.

The \$800 increase in the beneficiary's salary (reflected in a September 2007 pay receipt in the record) is noted, although the petitioner has not shown that \$800 per month is sufficient to cover all of the housing and utility expenses for the beneficiary, his spouse and his three children. If the beneficiary's housing and utilities cost more than \$800 per month, then the petitioner has, in effect, cut the beneficiary's benefits. The petitioner cannot simply declare, without evidence, that the beneficiary's salary increase is sufficient to cover all of the benefits initially offered to the beneficiary, but which the petitioner is not providing. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Commr. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Regl. Commr. 1972)).

On appeal, [REDACTED] claims, for the first time, that the petitioner employs two full-time Imams and seeks to hire at least one more. This contradicts [REDACTED]'s statement, less than six weeks earlier, that the petitioner employs "one full-time imam" along with part-time imams who "assist *the* full-time imam" (emphasis added).

[REDACTED] provides a new letter on appeal, repeating some of [REDACTED]'s main points. [REDACTED] states "there have been three Imams serving concurrently at" the petitioning mosque, but he does not elaborate. This new, general assertion does not modify or retract his previous statement that the petitioner had "one full-time Imam" as of October 2007.

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* at 591. 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 591-92.

The AAO is not persuaded that the petitioner's current job offer to the beneficiary is, in all material respects, identical or closely similar to the job offer extended at the time of the petition's 2000 filing. While the original and new lists of functions overlap, they are not identical, and the beneficiary's current primary duty was not mentioned at all at the time of filing. Furthermore, the present terms of employment and compensation differ markedly and substantially from the original terms. The AAO therefore concurs with the director's finding that the job offer upon which the petition was predicated no longer exists, or at least is no longer available.

Beyond the grounds cited above, review of the record reveals an additional impediment to the approval of the petition. The AAO maintains plenary power to review each appeal on a *de novo* basis. 5 U.S.C. 557(b) ("On

appeal from or review of the initial decision, the agency has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule.”); *see also*, *Janka v. U.S. Dept. of Transp., NTSB*, 925 F.2d 1147, 1149 (9th Cir. 1991). The AAO’s *de novo* authority has been long recognized by the federal courts. *See, e.g. Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989).

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 legislative history of the religious worker provision of the Immigration Act of 1990 states that a substantial amount of case law had developed on religious organizations and occupations, the implication being that Congress intended that this body of case law be employed in implementing the provision, with the addition of “a number of safeguards . . . to prevent abuse.” *See* H.R. Rep. No. 101-723, at 75 (Sept. 19, 1990). *See also Lorillard v. Pons*, 434 U.S. 575, 580 (1978) (Congress is presumed to be aware of existing administrative and judicial interpretations).

In a 1980 decision where the Board of Immigration Appeals determined that a minister of religion was not continuously carrying on the vocation of minister when he was a full-time student who was devoting only nine hours a week to religious duties. *Matter of Varughese*, 17 I&N Dec. 399, 402 (BIA 1980).

In line with case law and the intent of Congress, it is clear, therefore, that to be continuously carrying on the religious work means to do so on a full-time basis. We note that the Ninth Circuit Court of Appeals, within whose jurisdiction this proceeding arose, has upheld the AAO’s interpretation of the two-year experience requirement. *See Hawaii Saeronam Presbyterian Church v. Ziglar*, 2007 WL 1747133 (9th Cir., June 14, 2007).

The petition was filed on September 28, 2000. Therefore, the petitioner must establish that the beneficiary was continuously (*i.e.*, on a full-time and exclusive basis) performing the duties of an imam throughout the two years immediately prior to that date.

Dr. Fergany’s letter of September 19, 2000 indicated that the beneficiary “has held the part-time position of University Chaplain to the Islamic student populations of Pittsburgh since 1994.” [REDACTED] did not, in that letter, identify any other duties that the beneficiary had performed prior to the September 2000 filing date. In a July 18, 2001 request for evidence, the director stated: “According to the evidence submitted to date, the beneficiary has been a part-time Chaplain for students in Pittsburgh from 1994 to present. Because he has not been a full-time religious worker for the two-year period in question, he does not appear to qualify for the requested religious-worker classification.”

In response to the request for evidence, [REDACTED] stated:

[The beneficiary] has been spending much more than 40 hours/week on his assignments at the center here, at the campuses around us and the Allegheny International Airport Interfaith Chapel, and for other tasks as needed since he joined the [petitioning entity] in 1993. Now the [petitioner] wishes to change his position to a permanent one. . . .

[The beneficiary] serves as a Muslim Chapl[a]in in three close-by campuses. . . . He spends 5 to 10 hours a week at each campus as needed. He is also the Muslim Chaplain at the Allegheny International Airport.

[REDACTED] then listed several other duties, all of which together were said to amount to full-time work. The implication is that, while the beneficiary's campus work was part-time, overall his aggregate efforts were full-time. This assertion, however, does not stand up to analysis, and it is unsupported by the petitioner's own evidence.

The passage in which [REDACTED] first described the beneficiary's work as "part-time" appeared in the following complete paragraph:

[The beneficiary] is a Turkish national. He was born and raised in the Islamic faith. Therefore, [the beneficiary], who is 40 years of age, has been a member of the denomination for the required minimum two years immediately prior to the filing of the petition. Furthermore, [the beneficiary] has held the part-time position of University Chaplain to the Islamic student populations of Pittsburgh since 1994. Therefore, [the beneficiary] has performed in the capacity of Minister for more than two years immediately prior to the filing of the petition.

There is no indication in the above paragraph, either direct or implied, that the beneficiary's "part-time position of University Chaplain" was only a small portion of the beneficiary's work schedule. Rather, his campus work, and *only* his campus work, was held out as evidence that the beneficiary "has performed in the capacity of Minister for more than two years." Other evidence discussed the beneficiary's activities at the local airport, but there was no indication that the beneficiary was paid for this work or that it took up a significant amount of his time.

The record contains copies of the petitioner's quarterly income tax returns, on which the petitioner reported salaries and wages paid during a given three-month period. The earliest return in the record is for the first quarter of 1998, during which time the petitioner reported that it had two employees, who earned an aggregate total of \$2,792.04. The return for the first quarter of 1999 indicates that the petitioner had "0" employees and paid "0" wages during that quarter. In all, the handwritten numeral "0" appears thirteen times on the quarterly return. This quarterly return indicates, therefore, that the petitioner had no paid employees during part of the two-year qualifying period immediately prior to the petition's September 2000 filing date. If the quarterly return is accurate, then the beneficiary was not the petitioner's paid employee during the first quarter of 1999. If the quarterly return is not accurate, then it contains false information and its submission by the petitioner as evidence undermines the petitioner's credibility pursuant to *Ho*.

The above information does not permit a finding that the petitioner has credibly established that it employed the beneficiary continuously (i.e., full-time, without interruption or outside employment) throughout the two-year qualifying period that immediately preceded the filing of the petition.

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.

ORDER: The appeal is dismissed.