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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. A3042  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date: **AUG 05 2005**  
SRC 01 170 53754

IN RE: Petitioner: [REDACTED]  
Beneficiary: [REDACTED]

PETITION: Immigrant Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

*Mari Johnson*

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The Director, Texas 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 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 pastor. The director determined that the petitioner had not established that the beneficiary had the requisite two years of continuous work experience as a pastor immediately preceding the filing date of the petition. In addition, the director determined that the petitioner had not established its ability to pay the beneficiary's proffered wage.

The issues of continuous work and ability to pay are separate, independent (rather than cumulative) issues; an adverse finding on either issue is, by itself, sufficient to warrant denial of a petition or revocation of a previously approved petition.

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 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. *Matter of Ho*. 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 582.

On appeal, the petitioner submits newspaper articles, letters, and other documents. The petitioner also draws the AAO's attention to a recent opinion, *Firstland Int'l, Inc. v. Ashcroft*, 377 F.3d 127 (2d Cir. 2004), issued by the United States Court of Appeals for the Second Circuit on August 2, 2004. In that opinion, the court in *Firstland* interpreted the third and fourth sentence of section 205 of the Act, 8 U.S.C. § 1155 (2003), to render the revocation of an approved immigrant petition ineffective where the beneficiary of the petition did not receive notice of the revocation before beginning his journey to the United States. *Firstland*, 377 F.3d at 130. The petitioner implies that the reasoning of this opinion must be applied to the present matter and accordingly, Citizenship and Immigration Services (CIS) may not revoke the approval because the beneficiary

did not receive notice of the revocation before departing for the United States, since he was already in the United States when the director issued the revocation.

According to the record of proceeding, the petitioner and beneficiary are in Tennessee; thus, this case did not arise in the Second Circuit. *Firstland* was never a binding precedent for this case. Even as a merely persuasive precedent, moreover, *Firstland* is no longer good law.

On December 17, 2004, the President signed the Intelligence Reform and Terrorism Prevention Act of 2004 (S. 2845). See Pub. L. No. 108-458, 118 Stat. 3638 (2004). Specifically relating to this matter, section 5304(c) of Public Law 108-458 amends section 205 of the Act by striking "Attorney General" and inserting "Secretary of Homeland Security" and by striking the final two sentences. Section 205 of the Act now reads, in full:

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 1154 of this title. Such revocation shall be effective as of the date of approval of any such petition.

Furthermore, section 5304(d) of Public Law 108-458 provides that the amendment made by section 5304(c) took effect on the date of enactment and that the amended version of section 205 applies to revocations under section 205 of the Act made before, on, or after such date. Accordingly, the amended statute specifically applies to the present matter and the petitioner's *Firstland* argument no longer has merit.

Section 203(b)(4) of the Act provides classification to qualified special immigrant religious workers as described in section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C), which pertains to an immigrant who:

- (i) for at least 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States;
- (ii) seeks to enter the United States--
  - (I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,
  - (II) before October 1, 2008, in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or
  - (III) before October 1, 2008, in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986) at the request of the organization in a religious vocation or occupation; and
- (iii) has been carrying on such vocation, professional work, or other work continuously for at least the 2-year period described in clause (i).

The regulation at 8 C.F.R. § 204.5(m)(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 April 27, 2001. Therefore, the petitioner must establish that the beneficiary was continuously performing the duties of a pastor throughout the two years immediately prior to that date.

The petitioning church was founded in early 2000, and contemporaneous documents identify the beneficiary as the church's pastor at or near the time of its founding. This evidence, however, covers barely half of the two-year qualifying period.

██████████ administrator of the petitioning church, states that the beneficiary "joined our Washington DC Parish, Jesus House . . . as soon as he came into this country in 1998 as a voluntary worker." The beneficiary's passport indicates that he entered the United States on August 8, 1998, to attend a church conference in Orlando, Florida.

The petitioner's initial submission contains no first-hand corroboration of the beneficiary's earlier work at Jesus House. A letter dated October 16, 1999 refers to the beneficiary as "Pastor" and invites him to a meeting in Laurel, Maryland, which is facially consistent with the claim that he was a pastor in nearby Washington, D.C. at the time.

The director approved the petition on April 30, 2002. Subsequently, on July 30, 2003, the director issued a notice of intent to revoke, based in part on the finding that "[t]here is no evidence that the beneficiary was professionally employed in the occupation at least 2 years prior to filing the I-360 petition." The director noted that the record contained no evidence that the beneficiary had received any compensation during the 1999-2001 qualifying period. The director requested copies of the beneficiary's income tax returns for the relevant years.

In response, ██████████ has claimed that the beneficiary's "compensation was included in the benevolent/missionary program of the church and as such was not included in the individual income tax return as submitted to the IRS." The ambiguous wording of this response suggests that the beneficiary submitted income tax returns, but did not include his earnings from his church work. This is, however, only one interpretation of the sentence, and in any case, the petitioner has submitted no income tax returns.

Copies of check stubs show occasional "Mission Support" payments from Jesus House to the petitioning church, but there is no evidence to show that these payments represented salary payments to the beneficiary. According to an unaudited financial report, the petitioner spent \$2,272 on "Charity and welfare" and \$2,678 on "Missionaries Local and Overseas" during the 12-month period ending March 31, 2001. Even if all of this money went to the beneficiary (which the record does not show), this amounts to less than \$5,000 over the course of a year.

The director revoked the approval of the petition on December 18, 2003, in part because the record does not establish that the beneficiary was continuously performing the duties of a pastor throughout the 1999-2001 qualifying period. On appeal, the petitioner submits copies of previously submitted documents, as well as letters and materials concerning the beneficiary's recent charitable work. The merits of this work are not at issue in this proceeding, and the question of the beneficiary's activities in 1999 cannot be answered or settled by evidence of charitable work undertaken in later years.

Wilson Wan, chairman of the petitioner's Deacons Board, states that the beneficiary "has extended his humanitarian services to all other states including Texas." The petitioner submits a letter from Representative Sheila Jackson Lee, who refers to the beneficiary as "a resident of my district in Houston, Texas." If the

beneficiary *resides* in Houston, then it is not immediately clear that he is in a position to serve as the pastor of a church in Tennessee. (The initial petition clearly sought to classify the beneficiary as a pastor, rather than as a traveling missionary or evangelist.) If the beneficiary did not reside in Houston when [redacted] wrote her letter, it is not clear how [redacted] came to believe otherwise.

While reviewing the beneficiary's file on appeal, the AAO discovered an earlier petition that had been filed on the beneficiary's behalf. In a letter dated December 15, 1998, an official of the Assembly of God Spring of Life Church in Providence, Rhode Island, stated that the beneficiary "has since his recent arrival in our midst been involved with our local church on a full-time but volunteer basis." The 1998 petition included a copy of a "duty schedule for [the beneficiary] which he has already started following."

Subsequently, the church in Providence submitted a letter signed by the beneficiary, dated April 30, 1999. This letter is on the printed letterhead stationery of Spring of Life Assembly of God Church in Providence. Thus, the beneficiary himself personally signed a document (referring to himself as "Pastor") that links him with the church in Rhode Island during a time when he later claimed to have been living in Maryland.

Following the 2002 approval of the present petition, the beneficiary submitted Form G-325A, Biographic Information, as part of his adjustment application. The form advises that "severe penalties are provided by law for knowingly and willfully falsifying or concealing a material fact." The form, as submitted by the beneficiary, contains no mention of residence or employment in Providence.

8 C.F.R. § 103.2(b)(16)(i) requires advance notice when derogatory evidence surfaces. Therefore, on June 14, 2005, the AAO issued a notice to the petitioner, stating, in part:

If the beneficiary was at a church in Providence, Rhode Island, from August 1998 to April 1999, then he cannot have been at your sister church in Lanham, Maryland at the very same time, as you and the beneficiary have both claimed. Because of this discrepancy, the overall credibility of your claims is in serious doubt.

Accordingly, we advise you that we will reject your claims, and dismiss your appeal, unless you are able to provide convincing, contemporaneous documentary evidence to resolve the major discrepancies discussed above. We also call for a thorough and persuasive explanation as to why the beneficiary has provided conflicting information regarding his whereabouts and activities during 1998-1999, first signing a letter as the pastor of Spring of Life Assembly of God Church in Providence, and later signing a Form G-325A that contained no mention of that church at all, and that instead indicated that he had lived in Maryland and worked for Jesus House throughout all of 1999. (While an explanation *alone* will not suffice, in this instance an explanation is clearly in order *in addition* to the required documentary evidence.)

...

In the event that you are able to prove beyond dispute that the beneficiary was in Maryland and the District of Columbia in late 1998 and 1999, this would resolve the discrepancies in your favor. At the same time, however, the beneficiary's own signature on the 1999 letter from the church in Providence could still have serious consequences for the beneficiary's eligibility for immigration benefits.

In response to this notice, the petitioner has submitted additional copies of recent documents relating to the beneficiary's humanitarian work. These documents are completely irrelevant to the question of the beneficiary's whereabouts during 1999.

Other documents do relate, or purport to relate, to the period in question. Partial documentation relating to the establishment of a corporation shows the beneficiary's mailing address as [REDACTED] and the documentation is dated April 28, 1999. A photocopied letter from the Christian Children's Fund, addressed to the beneficiary in Lanham, Maryland, is dated August 27, 1998. The letter contains no original documents or any official documents from utility companies, the Maryland Motor Vehicle Administration, or other entities that, presumably, would have had contemporaneous knowledge of the beneficiary's presence in Maryland in 1998-1999. The minimal evidence that places the beneficiary in the Washington area is not, on its face, any more compelling than the previously submitted materials that place him in Providence at exactly the same time.

The petitioner submits two new statements, both by the beneficiary. There is no clear indication that any other official of the petitioning church was involved in preparing the response to the AAO's notice. The beneficiary states that he will, "very shortly," submit bank documents that will place him in the Washington area during the period in question. The AAO's notice allowed the petitioner 30 days to submit a response; there was no indication that the petitioner could submit multiple responses or request an extension. The 30-day period has now elapsed and the AAO has not received the bank documents mentioned by the beneficiary. We shall render the decision based on the materials available at the end of the 30-day response period.

The beneficiary states that he had planned to work for the church in Providence, but he never actually moved to Providence or began working for that church because the petition was denied. He states that he "only visited the church on a few occasions." He claims that the schedule of duties provided by the church in Providence "was included as a planned duties requirement of what my duties and responsibilities would be." The petitioner submits nothing at all from the church in Providence to substantiate this claim. We note that, when the church in Tennessee desired his services, the beneficiary did not wait hundreds of miles away for the outcome of the petition. This alone proves that the fact that a petition was still pending was not, by itself, enough to prevent the beneficiary from relocating to the new area of intended employment.

In a letter dated December 15, 1998, the senior pastor of the Providence church stated that the beneficiary "has since his recent arrival in our midst been involved with our local church on a full-time but volunteer basis." The 1998 petition included a copy of a "duty schedule for [the beneficiary] which he has already started following."

In a letter dated July 14, 1999, the same church official stated:

[The beneficiary] is and has since been engaged by us on a FULL-TIME WORKING SCHEDULE. . . .

He has been functioning in the office of Assistant Pastor. . . .

[O]ur Senior Pastor . . . met with and insisted on [the beneficiary] at a church leadership conference in Orlando, Florida to come up here. . . . His performance is excellent. . . .

[The beneficiary's] job offer is not solely based on a proposed job but rather on a job that has been ongoing over two years now. He has even worked and built the church bigger than when

he took the job. As mentioned and proved by the work-schedule, he has been on a more weekly [sic] working hours than the required full-time working hours.

From these documents, it is obvious that the earlier petition portrayed the beneficiary as having *already* been an active, full-time worker at the church in Providence. The letters from the church official do not show any ambiguity that could be interpreted to mean that the beneficiary was not there yet, but would arrive later.

In a sworn declaration, the beneficiary states "the letter written by an attorney . . . and signed by the pastor of the church in Rhode Island and was written without my full understanding and its implications of some of its content when it was brought to my notice." In this sworn statement, the beneficiary does not state where he lived or worked during the period in question. The assertion that he lived in Maryland is found only in an accompanying, unsworn letter. Even if this were not the case, a sworn statement cannot suffice to resolve the serious discrepancies in the beneficiary's file. (We note that the petition relating to the Providence church was, like the present petition, submitted with the attestation, under penalty of perjury, that the claims set forth in the petition were true.)

The petitioner has produced no evidence or independent testimony to corroborate the beneficiary's attempt to blame the discrepancies on the attorney involved in the earlier petition. Without such corroboration, the beneficiary's explanation is conjectural at best, and, at worst, created after the fact in an attempt to explain the contradictions and discrepancies mentioned in the AAO's prior notice. Whatever the beneficiary now claims regarding the motives of officials of the church in Providence, the beneficiary's file proves that officials of that church specifically and repeatedly indicated that the beneficiary was already working there.

On April 22, 1999, the Director, Vermont Service Center, issued a request for evidence, observing that the beneficiary's passport identifies the beneficiary's profession as "economist." The response to this notice included a letter, signed by the beneficiary, who identified himself as "Pastor." The letter is on the original, printed (not copied) letterhead of the church in Rhode Island. In the body of the letter, the beneficiary stated that he has "been engaged and involved in the work of the Ministry on a full time basis as an occupation and profession" since 1994. He gave no indication whatsoever that he was living in Maryland or working at Jesus House. By writing a letter on the Providence church's letterhead, and closing the letter with the title "Pastor" before his name, he effectively identified himself as a pastor of the Providence church and implied that he, personally, could be contacted through the address and telephone number printed on the letterhead.

In his latest letter, the beneficiary contends that he used the church's letterhead only because the senior pastor of the Providence church "had willingly and voluntarily made his church official letter head available for all communication with your office as regards this case. So when the letter was prepared it was typed on the church letter head." The beneficiary claims that he never intended to imply that he was a pastor at the church named on the letterhead. Once again, this explanation is entirely uncorroborated. Everything in the original 1998 petition openly indicates, or is at least consistent with the claim that the beneficiary began working at the Providence church shortly after his August 1998 arrival in the United States, and was still there in mid-1999.

The beneficiary's explanation relies on the implausible assumption that the beneficiary was not yet working for the church in Providence, but that the church nevertheless mailed its letterhead stationery to the beneficiary for use in correspondence to the director. If the beneficiary, as he now claims, was not yet working at the church in Providence, then it is obvious that he would not have been in any position to write letters on behalf of that church. The apparent assertion that the beneficiary unquestioningly used this letterhead based on his future plans to work for that church lacks credibility. If CIS fails to believe that a fact stated in the petition is true, CIS may reject that fact. Section 204(b) of the Act, 8 U.S.C. § 1154(b); *see also*

*Anetekhai v. I.N.S.*, 876 F.2d 1218, 1220 (5th Cir.1989); *Lu-Ann Bakery Shop, Inc. v. Nelson*, 705 F. Supp. 7, 10 (D.D.C.1988); *Systronics Corp. v. INS*, 153 F. Supp. 2d 7, 15 (D.D.C. 2001). In all, the beneficiary's latest statement raises new questions instead of answering existing ones.

It is clear that the beneficiary entered the United States to attend a church conference in Florida, and eventually arrived in the Washington area before moving to Tennessee. The available evidence does not, however, allow us to conclude with confidence that the beneficiary was never in Providence. Even if he *was* never in Providence, we would then be forced to conclude that the first petition (regarding the Providence church) was an undiluted fraud. The beneficiary's active participation in this earlier petition (by signing his name as "Pastor" on the letterhead of the Providence church) would appear to constitute an attempt to gain an immigration benefit by fraud, which would make the beneficiary inadmissible under section 212(a)(6)(C)(i) of the Act.

Because of the conflicting claims made on behalf of this beneficiary, there is unresolved doubt as to the beneficiary's actual whereabouts and activities during late 1998 and the first half of 1999, which includes part of the two-year qualifying period. 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. 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*, 582, 586. In this case, the petitioner appears to have left the matter entirely in the beneficiary's own hands. We find the discrepancies to be unresolved. This supports the director's earlier finding that the petitioner has not persuasively demonstrated that the beneficiary worked as claimed during the two-year qualifying period.

The remaining issue concerns the petitioner's ability to pay the beneficiary's salary of \$24,000 per year. 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.

The petitioner's initial submission includes a "Financial Report for Period March 18<sup>th</sup> 2000 – March 31<sup>st</sup> 2001." The unaudited document indicates that the church collected \$37,448.95 during the year, which, added to \$5,909.00 held over from the previous year, totaled \$43,357.95. The document also indicates that the petitioner's expenses for the same year totaled \$22,920.00, leaving an "Unadjusted Cash Balance" of \$20,437.95. The itemized expenses do not include any employee salaries, and the cash balance is insufficient to pay the beneficiary's annual salary.

The petitioner also submits copies of bank statements, showing a balance of \$1,398.79 as of July 31, 2000 and \$1,221.47 as of October 1, 2000. These balances are insufficient to pay one month's wages, and they do not reflect a volume of deposits sufficient to replenish the account after the beneficiary's salary payments.

In addition, the petitioner submits a copy of a bank statement from Jesus House, showing a balance of \$41,656.21 as of March 31, 2001. This documentation does not conform to the regulatory requirements, and

the petitioner's submission includes no evidence to show that Jesus House in Maryland, rather than the petitioning church in Tennessee, will be responsible for the beneficiary's compensation.

In the July 30, 2003 notice of intent to revoke, the director instructed the petitioner to submit tax returns, audited financial statements, or annual reports to establish the petitioner's ability to pay the beneficiary \$24,000 per year. In response, the petitioner has submitted photocopies of various documents. A copy of an April 15, 2001 letter from Ghandi Olaoye, senior pastor of Jesus House, indicates that the beneficiary "will be receiving \$24,000.00 per year." The letter refers to the petitioning church as "our parish . . . in Cleveland, Tennessee." Copies of check stubs show occasional "Mission Support" payments (generally in the amount of \$500) from Jesus House to the petitioning church. (Another check shows that The Redeemed Christian Church of God in Stafford, Texas, sent \$1,000 to the petitioning church in July 2001.)

An auditor's report indicates that, as of December 31, 2001, Jesus House had \$17,740 in cash and \$104,694 in current liabilities. The unrestricted revenue for Jesus House was \$1,395,041, and its total expenses were \$1,543,957, exceeding the unrestricted revenue by nearly \$150,000. There are assets listed as "temporarily restricted," but there is no indication that these funds were, or will be, available to compensate the beneficiary. The restricted assets appear to be a building fund rather than a reservoir of salary funds. The non-current assets of Jesus House, such as real estate and furniture, are not liquid assets payable to the beneficiary.

The record contains nothing to establish that Jesus House in Maryland, rather than the petitioning church in Tennessee, will be legally responsible for the beneficiary's salary; but even so, the audited report discussed above does not appear to show that Jesus House was able to pay the beneficiary's salary in 2001. Its expenses exceeded its unrestricted income, and its current liabilities exceeded its current assets.

The director, in revoking the approval of the petition, stated that the petitioner had not submitted "legal documentation" establishing the link between Jesus House and the petitioning church, and that the petitioner's ability to pay the beneficiary's wage "remains unproven." On appeal, Wilson Wan states that Jesus House is "the mother church responsible for the establishment of the parish in Cleveland, Tennessee. And equally oversee all the finances of this parish including hiring and paying pastors" (sic). The petitioner submits a copy of what purports to be the beneficiary's employment contract, on Jesus House's letterhead, showing that church's Maryland address, but said to have been "executed . . . at Cleveland, TN" on April 16, 2001. The documentation does not specify whether Jesus House or the local church would be responsible for the beneficiary's compensation.

The petitioner submits another copy of Jesus House's 2001 audited financial statement. This statement indicates that Jesus House paid \$107,840 in "program" salaries that year.

chairman of the Redeemed Christian Church of God, North America (RCCGNA) Board of Coordinators, states: "RCCG Worldwide presently has over 5,000 local Church Parishes" around the world. RCCGNA's headquarters is in Detroit, Michigan. Pastor Fadele never specifically mentions the petitioner, the beneficiary, or Jesus House, but he asserts:

The model for expansion of the *RCCGNA* local Church Parishes calls for any new local Church Parish to be sponsored by another local Church Parish or Parishes, with the consultation and consent of *RCCGNA*. Often, both the sponsoring local Church Parish or Parishes and *RCCGNA* support a new local Church Parish financially for many months. It is therefore not unusual to have a Pastor of a new local Church Parish being supported

financially and spiritually by another local Church Parish or Parishes of *RCCGNA*, in addition to the support from the *RCCGNA* Headquarters.

Discussion of this general principle does not prove that such a relationship existed between the petitioner and Jesus House, or that Jesus House was ever directly responsible for paying the expenses (including salaries) of the petitioning parish. As noted previously, Jesus House's financial documents do not indicate that Jesus House did in fact pay the beneficiary, or had an extra \$24,000 available for the beneficiary's salary, in 2001.

Given the above information, we concur with the director's finding that the petitioner never adequately established its ability to pay the beneficiary's proffered wage.

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.