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U.S. Citizenship
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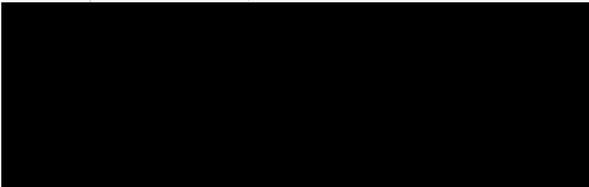


FILE: [Redacted] Office: TEXAS SERVICE CENTER Date: AUG 16 2005

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:



INSTRUCTIONS:

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

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition. The Administrative Appeals Office (AAO) subsequently remanded the matter for further action and consideration. The director subsequently approved the petition, withdrew that approval, and certified a new denial to AAO for review. The AAO remanded the matter again. The director has again approved the petition, and certified its decision to the AAO. The director's decision will be affirmed and the petition approved.

The petitioner is a subsidiary church of the Church of Scientology International. It seeks to classify the beneficiary as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(4), to perform services as an auditor. The director determined that the petitioner had not established that the beneficiary had the requisite two years of continuous work experience as an auditor immediately preceding the filing date of the petition. The director further found that the beneficiary's work does not constitute a qualifying religious occupation or religious vocation.

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 September 24, 2002.

The regulation at 8 C.F.R. § 204.5(m)(2) defines "religious vocation" as a calling to religious life evidenced by the demonstration of commitment practiced in the religious denomination, such as the taking of vows. Examples of individuals with a religious vocation include, but are not limited to, nuns, monks, and religious brothers and sisters.

The petitioner contends that the beneficiary is a member of the Sea Organization (Sea Org), identified as the religious order of the Church of Scientology. In a previous decision in this proceeding, we determined that the Sea Org does qualify as a religious order and that individuals who have attained full, permanent membership in the Sea Org qualify as individuals engaged in a religious vocation. In order to establish eligibility, the petitioner must demonstrate first that the Sea Organization is a *bona fide* religious order, and second that the beneficiary has been a full member of that order continuously throughout the two-year period immediately preceding the filing of the petition. Thus, if the petitioner credibly demonstrates that the beneficiary joined the Sea Org as a full, permanent member more than two years prior to the petition's September 24, 2002 filing date, then the petitioner shall have overcome the grounds for denial cited in the director's decision of August 12, 2003.

The petitioner has submitted a series of affidavits, supported and corroborated by documentary evidence, to establish that joining the Sea Org is a process involving several distinct, cumulative steps. The final step is approval by the Fitness Board. A Sea Org recruit would not face the Fitness Board unless the recruit had completed all of the earlier steps. Approval by the Fitness Board represents the transition from a Sea Org *recruit* to a Sea Org *member*.

In an affidavit dated September 14, 2004, Sea Org recruitment officer [REDACTED] states:

The process of becoming a member of the Sea Organization is highly demanding and includes the following:

- a) Application: The application procedure includes a list of basic qualifications which excludes anyone whose past history or present circumstances would make them unsuited or unsuitable to the religious life.
- b) Initial Interview: The applicant is interviewed by a Sea Org member and advised of the commitment and dedication required, and interviewed to further verify basic qualifications.
- c) Lifetime vow: The applicant signs the "Sea Org Contract," making a lifetime vow to serve the religion. This does not make the person a Sea Org member. It allows the person to enter as a novice.
- d) "Project Prepare": In most cases, the applicant works out a preparatory project of specific tasks that must be completed before he can commence his vocation. This usually involves the settling of any ongoing obligations and responsibilities. In some cases this may take a few weeks. In other cases, it may take years.
- e) Provisional status as a novice – the "Estates Project Force": The first step for every applicant when he or she arrives to begin his vocation in the Sea Org is a program called the "Estates Project Force," or "EPF." . . .
- f) Fitness Board: Before graduating from the EPF, every novice's acceptance into the Sea Org must be individually reviewed by a Fitness Board normally composed of the Chaplain and four other church executives (all Sea Org members). Any with superficial or incomplete commitment are not accepted. Any whose progress in scriptural studies is inadequate are not accepted. Those who are accepted graduate from the EPF, affirm their vows in a "swearing-in" ceremony, and commence their duties as full Sea Org members.

The sequence and form of these steps may vary slightly. . . . Regardless of the sequence, these elements will always be present.

In a subsequent affidavit, dated May 8, 2005, [REDACTED] elaborates upon this list, and correlates the elements thereof with various church documents in the record. One of those documents is Flag Order 2238RA, dated December 7, 1969, in which church founder [REDACTED] emphatically stressed that a Sea Org recruit who has not "done their Product Zero" is not a Sea Org member. Other documents indicate that "Product Zero" refers to the training process undertaken by recruits. In this sense, a Sea Org recruit may be compared to a Roman Catholic novice who has begun preparing for entry into a religious order, and may even have been living under the conditions associated with a religious vocation, but who has not yet taken the final vows that permanently bind him or her to the order (and demonstrate that the order has found the individual worthy of this permanent commitment).

The available documents and affidavits show that it is possible for a Sea Org recruit to complete the first five steps of the process, only to fail at the Fitness Board stage. Therefore, we shall consider any alien who has completed part of the process, but who has not passed the Fitness Board, to be a Sea Org recruit rather than a Sea Org member. The distinction is important because, as Mr. Scelza states: "All employees of [the petitioning entity] are either full members of the Sea Org, or Sea Org recruits who are participating in the EPF program." By this statement, Mr. Scelza acknowledges that employment by the petitioner is not, by itself, proof that a given employee is a full member of the Sea Org. A "recruit" who has not completed all of the necessary steps to become a member could, conceivably, be found ineligible for membership, and it would clearly be a mistake to provide permanent immigration benefits to such a recruit based on a membership that will never be granted. Therefore, to be eligible for special immigrant religious worker classification as of the petition's filing date, the alien must have passed the Fitness Board no later than two years prior to that filing date.

Mr. Scelza refers to "rare circumstances, where no record of a Fitness Board approval can be found in church records." Because it is "rare" for there to be "no record of a Fitness Board approval," then it follows that we can generally expect such records (typically in the form of Fitness Board certificates) to be available. Instances where no Fitness Board documentation is available should be analyzed on a case-by-case basis.

In this instance, the petitioner has submitted evidence of the petitioner's completion of various steps in the process of joining the Sea Org, such as a copy of the beneficiary's Sea Org Contract and Sea Org Application. (We note that these documents are dated February 1997, whereas the beneficiary was involved in Project Prepare in August 1995. This demonstrates that there is no fixed order to the earlier steps of joining the Sea Org.) Of greatest importance, the petitioner has submitted a copy of a Fitness Board questionnaire, showing a finding of fitness dated March 26, 1997. This document indicates that the beneficiary had passed the final stage of admission into the Sea Org nearly five and a half years before the petition's September 2002 filing date. Therefore, the petitioner was engaged in a qualifying religious vocation throughout the two-year qualifying period.

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 sustained that burden and, thereby, established the beneficiary's eligibility for the benefit sought.

ORDER: The director's decision of June 3, 2005 is affirmed. The petition is approved.