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

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: MAY 10 2006
WAC 03 252 54274

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, Chief
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained and the petition will be approved.

The petitioner is the mother church of the Church of Scientology. 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 member of the Sea Organization (Sea Org), a religious order of the Church of Scientology. The director determined that the petitioner had not established that the possessed the minimum qualifications for the position or had the requisite two years of continuous work experience immediately preceding the filing date of the petition.

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).

In this decision, the director did not dispute that full, active membership in the Sea Org qualifies as a religious vocation. The issues in contention are whether the beneficiary possesses the qualifications of a full Sea Org member, as required by 8 C.F.R. § 204.5(m)(3)(ii)(D), and whether she became a full Sea Org member at least two years prior to the petition's September 8, 2003 filing date.

Pursuant to 8 C.F.R. § 204.5(m)(3)(ii)(D), if the alien is to work in a religious vocation, the petitioner must show that the alien is qualified in the religious vocation. Evidence of such qualifications may include, but need not be limited to, evidence establishing that the alien is a nun, monk, or religious brother. In the case of an alien who

seeks to work as a Sea Org member, the petitioner must show that the alien is a full member rather than a recruit, or simply a church member who desires to join the Sea Org.

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 8, 2003. Therefore, the petitioner must establish that the beneficiary was continuously performing the duties of a full Sea Org member throughout the two years immediately prior to that date.

In a letter dated September 4, 2003, [REDACTED], a legal officer with the petitioning church, describes the beneficiary’s work:

[The beneficiary] made a personal decision and took the vows of our religious order, the Sea Organization in January 1990 in the United Kingdom. . . . In December, 1998, [the beneficiary] was promoted to [the petitioning church] in Los Angeles. [The beneficiary] has been here since that time as a missionary and translator for the religious scriptures as she is fluent in both Spanish and English. . . .

[The petitioner] has staff qualifications requiring Sea Organization membership. . . .

Sea Organization members devote their lives to their religion; they live in community with other Sea Organization members and wear specific uniforms. Their meals, housing, clothes, medical and dental care are provided by the Church. Each member additionally receives a small weekly allowance, currently \$50.00 per week and occasional small bonuses.

On its face, the above information indicates that the beneficiary has been a full Sea Org member since 1990, over a decade before the qualifying period commenced in 2001. We must now examine the evidence that supports the petitioner’s claims.

The record contains copies of several certificates, including a “Sea Organization Contract of Employment,” which reads, in part, “I contract myself to the Sea Organization for the next billion years,” signed by the beneficiary and dated January 1990. The document in the record bears the original (not photocopied) signatures of the beneficiary and two witnesses. At the bottom of the document is the handwritten inscription “Duplicate of Original,” initialed “HR” (possibly [REDACTED]). Another certificate, dated May 11, 2002, identifies the beneficiary as a “Volunteer Minister.”

The director instructed the petitioner to submit further documentary evidence, including the original Sea Org contract from 1990, documents to show when the beneficiary became a full member of the Sea Org, and Form W-2 Wage and Tax Statements issued to the beneficiary from 1998 to 2002.

In response to the notice, ██████████ claims that the beneficiary's original Sea Org contract was destroyed in a 1991 fire in England. The petitioner submits copies of Forms W-2 from 2000 and 2001. Although the director had specifically requested a copy of the beneficiary's 2002 Form W-2, the petitioner did not include that form or explain the reason for its omission. The omission of the forms from 1998 and 1999 is less problematic because those years fell entirely outside the 2001-2003 qualifying period. ██████████, the petitioner's director of domestic services, states that the petitioner has resided "in a Church apartment" throughout the qualifying period.

The director denied the petition, stating that the Sea Org "Contract of Employment" is not a decisive instrument of membership in the Sea Org, and that "[t]he petitioner submitted no documentary evidence to show that the beneficiary is in fact a full member" of the Sea Org. Regarding the contract, the director also stated: "the fact remains that the petitioner initially submitted a document purported to be signed in 1990, when in fact it was not."

The director observed that the petitioner failed to submit a copy of the beneficiary's Form W-2 for 2002, despite a specific request for that particular document. Also, the director noted the beneficiary's May 11, 2002 "Volunteer Minister" certificate, and concluded that the beneficiary's activities fundamentally changed upon issuance of this certificate.

On appeal, the petitioner submits materials concerning the various steps required to join the Sea Org, such as completion of the Estates Project Force (EPF) and review by a Fitness Board. From materials made available to us, we have concluded that an individual who has successfully passed review by the Fitness Board can be considered a member of the Sea Org (as opposed to a recruit, who is not a full member). Therefore, the petitioner can establish that the beneficiary possesses the relevant experience by submitting church records showing that the beneficiary passed the Fitness Board at least two years before September 8, 2003 and continuously engaged in the vocation during that time.

In a supplement to the appeal, the petitioner submits copies of church documents, indicating that the beneficiary completed "Product Zero" and passed the Fitness Board in November 1990. This indicates that the beneficiary was a full member of the Sea Org for almost 13 years prior to the petition's September 2003 filing date. The record contains no contradictory evidence that would cast doubt on the information shown on the documents submitted on appeal, or show that the beneficiary engaged in disqualifying outside employment during the relevant two-year period. There is also no indication (such as stamps in the beneficiary's passport) that the beneficiary was away from the petitioner's premises for any significant length of time during the qualifying period.

With regard to the reconstructed Sea Org contract, the director appears not to have noticed that the document was plainly marked as a "Duplicate"; the petitioner has made no attempt to represent it as an original document executed in 1990. Therefore, the credibility issues implied by the director do not appear to be in play.

Concerning the “Volunteer Minister” certificate, the exact duties of a religious worker are more relevant with respect to the regulatory definition of a religious occupation, than that of a religious vocation.¹ Thus, the beneficiary’s 2002 certification as a “Volunteer Minister” is not inherently disqualifying.

Counsel indicates, on appeal, that the beneficiary had included a copy of her 2002 Form W-2 in her Form I-485 adjustment application, and therefore the petitioner did not think it was necessary to resubmit that document. The Form I-485 was rejected on technical grounds. The petitioner’s appeal includes a copy of the 2002 Form W-2 that, previously, the petitioner apparently believed was already in the director’s hands (and the omission of which was, therefore, not willful obfuscation on the petitioner’s part).

Pursuant to the above discussion, the petitioner has overcome the stated grounds for denial. Upon review of the record, the preponderance of evidence in the present proceeding supports approval of the petition. 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 met that burden. Accordingly, the decision of the director denying the petition will be withdrawn and the petition will be approved.

ORDER: The appeal is sustained and the petition is approved.

¹ Provided, of course, that the individual works on behalf of the religious entity rather than some non-religious establishment such as a political campaign or a for-profit business. A Sea Org member, [REDACTED], or Tibetan Buddhist monk may have taken the permanent vows of a particular order, but such an individual would not be performing a religious vocation if he or she were working as, for instance, a hotel concierge or a short-order cook at a diner. The taking of religious vows does not compel the conclusion that every subsequent activity that the individual pursues is by definition a religious vocation.