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

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: OCT 07 2004

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: 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.

Robert P. Wiemann, Director
Administrative Appeals Office

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

The petitioner is an "organization dedicated to serving students of the modern spiritual path, A Course in Miracles." 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 religious administrator and counselor. The director determined that the petitioner had not established that it qualified as a bona fide nonprofit religious organization. The director further determined that the petitioner had not established that the beneficiary possessed the required two years membership in a denomination, or that the beneficiary had been engaged continuously in a qualifying religious vocation or occupation for two full years immediately preceding the filing of the petition.

On appeal, the petitioner submits a letter.

The regulation at 8 C.F.R. § 204.5(m)(3)(i) states, in pertinent part:

> (3) *Initial evidence.* Unless otherwise specified, each petition for a religious worker must be accompanied by:
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> (i) Evidence that the organization qualifies as a nonprofit organization in the form of either:
>
> (A) Documentation showing that it is exempt from taxation in accordance with § 501(c)(3) of the Internal Revenue Code of 1986 as it relates to religious organizations (in appropriate cases, evidence of the organization's assets and methods of operation and the organization's papers of incorporation under applicable state law may be requested); or
>
> (B) Such documentation as is required by the Internal Revenue Service to establish eligibility for exemption under § 501(c)(3) of the Internal Revenue Code of 1986 as it relates to religious organization.

To meet the requirements of 8 C.F.R. § 204.5(m)(3)(i)(A), a copy of a letter of recognition of tax exemption issued by the Internal Revenue Service (IRS) is required. In the alternative, to meet the requirements of 8 C.F.R. § 204.5(m)(3)(i)(B), a petitioner may submit such documentation as is required by the IRS to establish eligibility for exemption under section 501(c)(3) of the Internal Revenue Code (IRC) of 1986 as it relates to religious organizations. This documentation includes, at a minimum, a completed IRS Form 1023, the Schedule A supplement, if applicable, and a copy of the organizing instrument of the organization that contains a proper dissolution clause and which specifies the purposes of the organization.

The petitioner submitted a December 3, 1998 letter from the IRS granting it tax-exempt status under section 501(c)(3) of the IRC as an organization described in sections 509(a)(1) and 170(b)(1)(A)(vi). The petitioner also submitted a copy of its articles of incorporation filed with the state of Arizona, and various brochures and newsletters of the organization. The petitioner also submitted a copy of its 2001 Form 990, Return of Organization Exempt from Income Tax, in which it indicated that the purpose of the organization is to teach and disseminate information based on *A Course in Miracles*.

In response to the director's Notice of Intent to Deny (NOID) dated December 30, 2003, counsel submitted a memo from the Associate Director of Operations for Citizenship and Immigration Services (CIS) In this memo provides guidance on establishing tax-exempt status as a religious organization when the IRS determination does not specify that the exemption is as a religious organization. Despite the guidance provided in the memo, however, counsel failed to provide a copy of IRS Form 1023 or the other documentation required by the IRS to establish eligibility for tax exemption as a religious organization. The petitioner submitted no additional evidence on appeal to establish that it is a tax-exempt as a religious organization.

Further, the evidence submitted is insufficient to establish that the petitioner is a bona fide religious organization as required by the statute and regulation.

The regulations at 8 C.F.R. § 204.5(m)(1) and 8 C.F.R. § 204.5(m)(3)(ii) require that the religious worker must have been a member of the denomination of the religious organization at which she proposes to work throughout the two years immediately preceding the filing date of the petition. Although the petitioner stated that the beneficiary has been associated with it since 1993, the director determined that the petitioner had not established that it qualified was a religious denomination within the meaning of the regulation.

The regulation at 8 C.F.R. § 204.5(m)(2) defines religious denomination as:

> [A] religious group or community of believers having some form of ecclesiastical government, a creed or statement of faith, some form of worship, a formal or informal code of doctrine and discipline, religious services and ceremonies, established places of religious worship and religious congregations, or comparable indicia of a bona fide religious denomination.

In its letter accompanying the petition, the petitioner identified *A Course in Miracles* as a religion established in 1976, and identified itself as a denomination to which the beneficiary has belonged since 1993. In response to the director's NOID of August 19, 2003, the petitioner stated that its "whole purpose is to follow the spiritual path that is laid out in *A Course in Miracles*, to help students follow this path, and to spread its message in the world." The petitioner further stated that *A Course in Miracles* meets the dictionary definition of religion as it has a "personal set or institutionalized system of religious attitudes, beliefs, and practices." The petitioner stated that *A Course in Miracles* does not have a "formal ecclesiastical hierarchy," but an "informal network of teachers," and does not require "Sunday services."

The petitioner also submitted a "Mission Statement," however it is unclear from the record whether the document was created specifically for purposes of this petition. The petitioner also submitted a statement from who opines that *A Course in Miracles* is not a religion any more than the Bible is a religion, however that there is nothing to prevent a religion from being created around the teachings and instructions of the course. states that *A Course in Miracles* "does not advocate or suggest that it be experienced as a religion. It implies that it not be taken as religion."

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[1] The document identifies as a PhD but does not indicate his specialty. The petitioner provides no other information about his credentials.

On appeal, the petitioner no longer identifies *A Course of Miracles* as a religion, but as a "religious scripture around which a religion has developed." The petitioner also states that *A Course of Miracles* is "not a religious denomination, but, based on the [dictionary definition of religious denomination], we believe that the [petitioner] is; i.e., that it meets the requirements set out for a religious denomination."

Nonetheless, the petitioner has not established that it meets the definition of religious denomination as defined by the regulation. The petitioner focuses on that part of the definition that requires some form of ecclesiastical government. The petitioner states on appeal that its governing body is its board of directors and that the board constitutes its ecclesiastical government. The petitioner provides no evidence that sets out the duties and functions of its board of directors.

The petitioner also provides no evidence that it meets the other provisions of the regulation at 8 C.F.R. § 204.5(m)(2). The petitioner submits no evidence that it has some form of worship, a formal or informal code of discipline, religious services and ceremonies, established places of religious worship and religious congregations. Nor did it provide any other comparable indicia that it is a bona fide religious denomination.

The evidence does not establish that the beneficiary has been a member of a religious denomination for two full years preceding the filing of the visa petition.

According to the petitioner, the beneficiary has performed the duties of the proffered position since 1999. As the petitioner has not established that it is a religious denomination within the meaning of the regulation, it has also failed to establish that the beneficiary has been continuously engaged in a qualifying religious occupation for two full years prior to the filing of the visa 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 not sustained that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.