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

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: VERMONT SERVICE CENTER Date: OCT 0 8 2004

IN RE: Petitioner: [redacted]
Beneficiary

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 Johnson

for Robert P. Wiemann, Director
Administrative Appeals Office

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identifying data deleted to prevent clearly unwarranted invasion of personal privacy

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Vermont Service Center. The director reopened the petition on the petitioner's motion, and again denied the petition. The matter is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

We note that the petition was originally filed with the California Service Center. The director of that Service Center transferred the petition to the Vermont Service Center, which has jurisdiction over the geographic area where the petitioner indicated that it seeks to employ the beneficiary. (Although the petitioner is based in California, the petitioner initially indicated that it seeks to employ the beneficiary at a center based in New York; the most recent documents place the beneficiary in Boca Raton, Florida). The term "the director" in this decision shall refer to the director of the Vermont Service Center.

The petitioner operates a number of Jewish educational centers. It originally indicated that 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 teacher/counselor at its New York center. The director determined that the petitioner had not established that the beneficiary had the requisite two years of continuous work experience in the position immediately preceding the filing date of the petition.

On appeal, the petitioner submits copies of previously submitted materials, as well as new documents.

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 membership in the denomination and the required two years of experience in the religious vocation, professional religious work, or other religious work. The petition was filed on March 22, 2001. Therefore,

the petitioner must establish that the beneficiary was continuously performing the duties of a teacher/counselor throughout the two years immediately prior to that date.

dministrator of the petitioning center, states:

> [The beneficiary] has been a counselor/teacher of Jewish Law and Kabbalah at the following Kabbalah Centres:
>
> | | |
> |---|---|
> | 1989-1993 | New York |
> | 1993-September 1999 | Tel Aviv, Israel |
> | September 1999-Present | New York |

The director instructed the petitioner to provide detailed evidence (including pay stubs and tax documents) regarding the beneficiary's employment during the 1999-2001 qualifying period. The director also requested other documentation. In response, the petitioner submitted the other requested documents, but nothing to establish the beneficiary's continuous work during the qualifying period. Payroll records submitted by the petitioner do not include the beneficiary's name. The payroll records show the petitioner's Los Angeles address. There are no comparable records from the New York center where the petitioner claims that the beneficiary has worked.

The director denied the petition, stating that, despite a specific and detailed request from the director, the petitioner had not submitted any documentary evidence to corroborate the claim that the beneficiary had continuously worked for the petitioner or related organizations throughout the two-year qualifying period.

The petitioner filed a motion to reopen, in which states:

> [The beneficiary] is one of our "chevre." We have over seventy "chevre" in Los Angeles alone and over 1,000 "chevre" worldwide. [are] people who have taken vows of poverty and help run the organization on a daily basis. . . . Our "chevre" are the same as the nuns who enter a convent or monks who enter a monastery (the difference being that they can marry), in that they have dedicated their lives completely and solely to spreading the wisdom and teachings of Kabbalah. . . .

This letter was the first time that the petitioner had even mentioned the concept of "chevre," let alone claimed that the beneficiary was an unsalaried worker who had taken a vow of poverty.

states, "[w]e provided you with a detailed description of [the beneficiary's] employment from the time he [sic] joined the religious organization until present." The past-tense statement that the petitioner "provided . . . a detailed description" implies that the description had been submitted previously. The record, however, contains no description more detailed than the assertion that the beneficiary worked in New York, then Tel Aviv, and then New York again. Cover letters provided with the petitioner's past submissions include itemized lists of attachments, and these lists do not include descriptions of the beneficiary's past work.

The petitioner submits a copy of a "General Ledger," listing the expenses of the petitioner's Los Angeles center in 2001. The petitioner does not explain why this document is relevant, considering the petitioner's claim that the beneficiary has worked in New York, not Los Angeles, since 1999. The ledger does not identify specific staff members.

The director again denied the petition, stating that the petitioner's motion failed to overcome the grounds for denial. On appeal from this latest decision, the petitioner submits five exhibits: (1) a list of "chevre"; (2) a copy of the beneficiary's resume; (3) a copy of the petitioner's letter that had accompanied the initial filing; (4) a witness letter; and (5) background documentation about the nature of work at the petitioning center.

The list of "chevre" was compiled on January 9, 2004, and thus it is not contemporaneous evidence of the organization's staff during the 1999-2001 qualifying period. This list indicates that the beneficiary is at the petitioner's branch in Boca Raton, Florida.

The beneficiary's resume is a series of claims, rather than documentary evidence to support those claims. We note that, on the resume, under "Education," the beneficiary states that she studied at the Kabbalah Learning Centre in Tel Aviv from October 1989 to 1993. She also claimed to have worked at the New York branch during exactly the same period. Obviously, the resume contains errors, and cannot be considered an accurate source of information even if it derived from a credible, independent source.

We have already discussed the petitioner's initial letter, which provides no details except to state that the beneficiary worked in New York, Tel Aviv, and then New York again. This letter, like the beneficiary's resume, is an after-the-fact claim rather than corroborating evidence.

The fourth exhibit is a letter from [redacted] identified as the petitioner's "Secretary of Corporations." Although the letter is dated August 27, 2001, nearly two and a half years before it was submitted, the letter is an original, rather than a copy, with an original signature. [redacted] states that the beneficiary has served the petitioner "continuously since 1989." The petitioner has submitted no documentation from the qualifying period itself, apart from letters prepared as part of the petition very shortly before the filing date. Seemingly, the petitioner kept no record of the beneficiary's activities until it decided to seek immigration benefits on her behalf. The record contains nothing at all from the Tel Aviv branch, where the beneficiary is said to have worked during the first several months of the qualifying period.

The fifth and final exhibit submitted on appeal is a document stating that the petitioning organization is a religious order composed of "individuals who have voluntarily committed themselves for life, or a term of years to live within a Kabbalah Centre community. . . . All members of the Kabbalah Centre International Religious Order shall take a vow of poverty or moderate lifestyle."

In sum, the materials described above do not overcome or even address the director's finding that there is no reliable documentary record of the beneficiary's claimed work during the qualifying period.

In subsequent correspondence, the petitioner has submitted a copy of the beneficiary's vow of poverty, bearing the date September 1, 1989. While this document does not fall within the qualifying period, on its face it supports the assertion that the beneficiary had already made a commitment to the petitioning organization before the qualifying period began. It does not, however, fully overcome the director's findings.

We note that the beneficiary used to be a lawful permanent resident of the United States. The file relating to the beneficiary's permanent resident status is the same file that contains the record of proceeding. In May 1990, her then-husband (they have since divorced) filed an I-130 Petition for Alien Relative on her behalf. That form states that the beneficiary was, at the time, unemployed. Concurrently with the Form I-130, the beneficiary filed a Form I-485 adjustment application. This form instructed the beneficiary to list "present and past membership in or affiliation with" associations, organizations, and so on, but not employment (which

is shown on a different form). The beneficiary listed the "Research Center of Kabbalah," and stated that she had been associated with that entity from 1988 onward. The beneficiary's Form G-325A Biographic Information sheet, filed with the Form I-130 and I-485 in May 1990, instructs the alien to list his or her employment for the preceding five years. The beneficiary indicated that she had been unemployed since October 1988. Thus, these documents from 1990 mention the beneficiary's involvement with the petitioning entity, but they also repeatedly indicate that the beneficiary was unemployed.

The documents also indicate that the beneficiary resided at Deal, New Jersey. There is no indication in the record that the petitioner has ever operated a branch at that address. This information, therefore, is inconsistent with the assertion that the beneficiary has consistently resided at the petitioner's centers, as claimed.

In 1993, the beneficiary abandoned her permanent resident status by returning to Israel for several years. When the beneficiary returned to the United States in 1999, she gave a question-and-answer sworn statement to an immigration inspector in Los Angeles. Excerpts from this sworn statement follow.

> Q: What is the purpose of your visit?
> A: The new year of the Jewish people. I am here as a tour leader.
>
> Q: How long did you intend [to] remain in the United States?
> A: One week.
>
> Q: How long did you live in the United States as a lawful permanent resident?
> A: Five year[s] all together.
>
> Q: Did you work in the United States?
> A: Yes, I was a secretary.
>
> Q: What type of work do you do in Israel?
> A: I am the manager of Public Relations of events of the Kabbalah Center.
>
> Q: Do you have any intention of resuming your residency in the United States at this moment?
> A: No.

Elsewhere in this sworn statement, offered a hearing before an immigration judge, the beneficiary refused, stating, "I have no intention of staying here." This statement is dated September 8, 1999, the same month that the petitioner claims the beneficiary began working at the petitioner's New York branch. In her sworn statement, the beneficiary did not indicate that she had ever worked as a "counselor/teacher of Jewish Law and Kabbalah," although has claimed that the beneficiary has worked in that capacity since 1989. Rather, the beneficiary stated that she worked as a "secretary" for an unidentified employer in the United States, and as a "manager of Public Relations of events" in Israel for an entity affiliated with the petitioner.

In a series of statements offered voluntarily, under penalty of perjury, the beneficiary never once mentioned that she was a counselor/teacher for the petitioning entity, and several times claimed to be unemployed during a time when the petitioner now asserts that the beneficiary was already working for the petitioner. These conflicting assertions take on considerably greater significance when viewed in light of the petitioner's inability or unwillingness to provide any documentary evidence of the beneficiary's claimed work. False or

conflicting statements necessarily raise serious questions of credibility, which are not mitigated or diminished merely because the conflicting statements relate to a time outside of the 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*, 19 I&N Dec. 582, 586 (BIA 1988).

The petitioner has submitted no contemporaneous evidence to establish the beneficiary's continuous service as a counselor, teacher, or "chevre" for the petitioner. Fundamental aspects of the petitioner's claim are in conflict with the beneficiary's own prior statements to immigration authorities, and therefore the petitioner's unsubstantiated claims lack credibility.

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.