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

[redacted]

FILE: [redacted] WAC 02 274 50867

Date: MAY 25 2005

Dear [redacted]

On September 6, 2002, your organization filed a petition seeking to classify [redacted] (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), as described at section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C). You signed Form I-360, thereby certifying under penalty of perjury that "this petition and the evidence submitted with it is true and correct."

Subsequently, on February 25, 2004, the Director, California Service Center, denied your petition. You have appealed that decision, and your appeal is now before the Administrative Appeals Office (AAO).

During the adjudication of your appeal, information has come to light that seriously compromises the credibility of your claims. Based in part upon this information, the AAO intends to dismiss your appeal. Pursuant to Citizenship and Immigration Services' (CIS) regulations at 8 C.F.R. § 103.2(b)(16)(i), we hereby notify you of this derogatory information and provide you with an opportunity to respond before we render our final decision.

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 provide evidence of this required experience.

Your initial submission did not cover this two-year period, and the director instructed you to submit "evidence of the beneficiary's work history beginning September 6, 2000 and ending September 6, 2002," including "the employer's name." In response to this notice, you stated that the beneficiary "has been working in our midst since September 1st, 2001"; elsewhere in the same response, you stated that the beneficiary "started his formal relationship with our Church September 01, 2001." You added that the beneficiary worked at Gonzalez Catan's First Evangelical Baptist Church in Argentina from April 4, 1995 to August 1, 2001. You identified no other employer apart from the church in Argentina.

You also provided a weekly schedule of the beneficiary's activities, and specified that the schedule covers "Period: From September 01, 2001 to September 06, 2002." The schedule includes "Teaching & Preaching" every Sunday from 10:00 a.m. to 1:00 p.m.

On October 9, 2003, the director again requested the beneficiary's employment history. In response, you repeated that the beneficiary "has been working in our midst since September 1st, 2001." You have also submitted copies of programs from various church services, showing the beneficiary's name. The earliest of these programs is dated October 6, 2002, and therefore the programs do not place the beneficiary at your church during 2001 or early 2002.

Review of the beneficiary's alien file reveals a letter, dated October 30, 2001, from an official of Iglesia Bautista Carmenita, also known as Carmenita Baptist Church of Norwalk, California. The official indicates that the beneficiary "is currently cooperating as a religious worker as pastor in our Church." The file also contains programs from Iglesia Bautista Carmenita, showing that the beneficiary participated in that church's 10:15 a.m. Sunday services on October 21, 2001 and November 4, 2001.

If the beneficiary was at the church in Norwalk at 10:15 a.m. on the above Sundays, then he cannot have been "Teaching & Preaching" at your church at the very same time, as your schedule indicates. The documentation from Iglesia Bautista Carmenita never mentions your church, and the materials you have submitted never mention Iglesia Bautista Carmenita. Because of these contradictions and discrepancies, the 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 show that the beneficiary began working at your church in September 2001 as you have claimed. We also call for a thorough and persuasive explanation for your failure to mention Iglesia Bautista Carmenita in response to repeated requests for information about the beneficiary's work history. (While an explanation *alone* will not suffice, in this instance an explanation is clearly in order *in addition* to the required documentary evidence.)

8 C.F.R. § 103.2(b)(16)(i) does not specify the amount of time afforded to an applicant or petitioner to respond to derogatory evidence. We consider thirty (30) days to be ample time for this purpose. Therefore, you are hereby afforded 30 days from the date of this letter in which to respond to this notice. If you choose to respond, please submit your response to the address shown on the first page of this letter. Also, please reference the beneficiary's A-numbe[redacted]in your response.

Marc Johnson

Robert P. Wiemann, Director
Administrative Appeals Office