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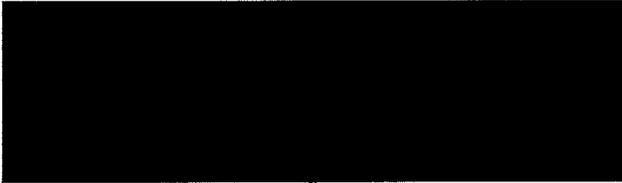
U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
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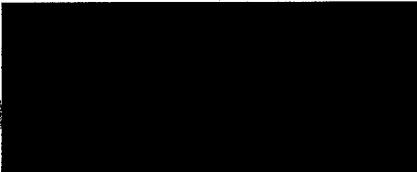
Office: CALIFORNIA SERVICE CENTER

Date: NOV 23 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.

Mari Johnson

Sr Robert P. Wiemann, Director
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 dismissed.

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 beneficiary's position qualifies as either a religious occupation or a religious vocation, or that the beneficiary has been a full Sea Org member for the time required.

The regulation at 8 C.F.R. § 204.5(m)(2) offers the following pertinent definitions:

Religious occupation means an activity which relates to a traditional religious function. Examples of individuals in religious occupations include, but are not limited to, liturgical workers, religious instructors, religious counselors, cantors, catechists, workers in religious hospitals or religious health care facilities, missionaries, religious translators, or religious broadcasters. This group does not include janitors, maintenance workers, clerks, fund raisers, or persons solely involved in the solicitation of donations.

Religious vocation means 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 regulation reflects that positions whose duties are primarily administrative or secular in nature do not qualify as religious occupations. Citizenship and Immigration Services therefore interprets the term "traditional religious function" to require a demonstration that the duties of the position are directly related to the religious creed of the denomination, that the position is defined and recognized by the governing body of the denomination, and that the position is traditionally a permanent, full-time, salaried occupation within the denomination.

In a letter dated September 2, 2003, [REDACTED] of the petitioning entity describes the beneficiary's work:

In June 1999, [the beneficiary] became a Sea Organization Member and . . . came to Los Angeles, in November 1999. Since being in Los Angeles, she has been very involved in dissemination of Scientology and information about the religion's founder. . . .

[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.

The director concluded that the petitioner did not adequately describe the beneficiary's duties, and that the petitioner has failed "to show that the Sea Organization has a governing structure, a formal legal organizing instrument, set theological education standards, or operates with its own budget and assets." The director did not explain the source of these requirements. The director acknowledged the members' "life-long commitment to their faith," but determined that there is insufficient evidence to conclude that the Sea Org is a religious order, whose members qualify as workers in a religious vocation.

The Church of Scientology has provided various documents and affidavits discussing the Sea Org. Upon careful consideration of these materials, the AAO is satisfied that the Sea Org qualifies as a religious order, and that its members practice a religious vocation. Because a discussion of specific duties is germane to religious occupations, but not religious vocations, we need not analyze the beneficiary's exact duties in any detail.

Having concluded that the Sea Org is a religious order, we must now determine whether or not the beneficiary has been a full member of that order since at least two years prior to the petition's September 5, 2003 filing date, as required by section 101(a)(27)(C)(iii) of the Act, 8 U.S.C. § 1101(a)(27)(C)(iii), and 8 C.F.R. §§ 204.5(m)(1) and (3)(ii)(A).

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 November 12, 1999.

The director, in denying the petition, observed 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. The petitioner has submitted, for our consideration, portions of an essay entitled "A Contemporary Ordered Religious Community: The Sea Organization," by [REDACTED]. The essay is a chapter in *New Religious Movements and Religious Liberty in America* [REDACTED] eds., 2nd ed., 2003). In that essay, D [REDACTED] asserts that the Sea Org Contract "is actually a letter of intent of offering oneself for service in the Sea Org," and "is largely of symbolic import."

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 5, 2003 and continuously engaged in the vocation during that time.

The petitioner's submissions prior to the denial do not establish the date when the beneficiary became a full member of the Sea Org. As noted above, the signature on the Sea Org Contract is not proof of membership, so the Contract reproduced in the record is not dispositive. Form W-2 Wage and Tax statements show that the petitioner compensated the beneficiary in 2001 and 2002, but this does not necessarily mean that the beneficiary

was a full Sea Org member, rather than a Sea Org recruit, during that time. The beneficiary's Sea Org identification card shows no date of issue.

the petitioner's director of Domestic Services, states "I have been servicing [the beneficiary] from within my Department during the times of September 12, 2001 – September 12, 2003." Again, it is not clear that only members, and not recruits, receive such services, and the qualifying period began before September 12, 2001. Ms. does not describe or provide copies of the records, if any, she consulted to verify those dates. The record shows that the Sea Org Qualifications Division awarded the beneficiary "the Certificate of Public Contact I/C Mini Hat" on December 12, 2001. This is the earliest contemporaneous document to imply Sea Org membership.

Counsel, on appeal, claims "[t]he letter in support of the petition established that the beneficiary had begun her religious vocation in 1999." We cannot ignore, however, that the letter from indicates that the beneficiary "became a Sea Organization member" in June 1999. Meanwhile, the beneficiary's Sea Org Contract, represented as a preliminary step in joining the Sea Org, is dated November 1999. If the beneficiary did not sign the Contract until November 1999, and signing the Contract is truly a necessary step in joining the Sea Org (as the Church of Scientology has repeatedly attested), then it is simply impossible that the beneficiary was already a full Sea Org member in June 1999. This discrepancy undermines the credibility of Ms. letter, and therefore its weight as evidence. 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).

In a supplement to the appeal, the petitioner submits a copy of Flag Order 3325R, which indicates that only full Sea Org members, and not Sea Org recruits, are eligible for promotion within the Sea Org. The petitioner also submits documentation showing the beneficiary's promotion to the rank of Petty Officer Third Class. The documentation, however, is dated August 16, 2003, just a few weeks prior to the petition's filing date. The promotion establishes that the beneficiary is, now, a full Sea Org member, but it does not establish when she became a full member.

In an affidavit dated August 14, 2005, the petitioner's senior personnel officer, states:

I have verified the qualifications of [the beneficiary] including her membership in the Sea Organization. [The beneficiary] first came to the United States and began working at the [petitioning church] in 1999, having previously signed the Sea Organization contract. [The beneficiary] participated in all of the courses and completed all the requirements of the EPF prior to her coming to [the petitioning church] in 1999. She was found eligible and accepted for full Sea Organization membership at that time.

Ms. does not specify the means by which she "verified" the above information, such as training that the beneficiary received outside the United States and which Ms. could not personally have witnessed. Given that officials of the petitioning entity have attested that the beneficiary "became a member" some five months

before she signed the required Contract, it is not readily apparent that attestations from such officials are sufficient to take the place of actual church records that the petitioner purports to have maintained and consulted.

In sum, while the petitioner claims that the beneficiary has been a full member of the Sea Org since 1999, the record contains inconsistencies and gaps in the evidence that prevent us from affirming that claim. Reliable contemporaneous evidence of such membership does not extend back through the entire statutory two-year qualifying period.

We stress that the issue is not whether the beneficiary is now a full Sea Org member but, rather, when she became one. The record amply demonstrates that the beneficiary was a full Sea Org member by the summer of 2003, more than two years ago. Therefore, the two-year requirement would not be an issue in the context of a newly filed petition (provided, of course, that the petitioner is able to document the continuity of the beneficiary's work with the Sea Org during the relevant 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 not sustained that burden. Accordingly, the appeal will be dismissed. This decision is without prejudice to the filing of a new petition accompanied by the appropriate supporting evidence and fee.

ORDER: The appeal is dismissed.