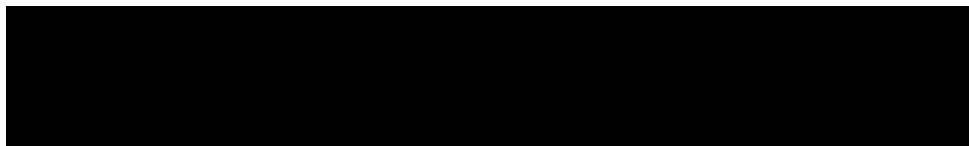




**U.S. Citizenship
and Immigration
Services**

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

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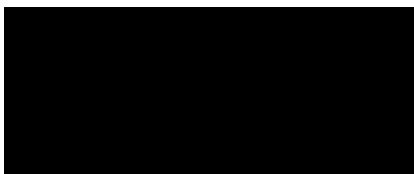
FILE: [REDACTED]
SRC 02 264 51570

Office: TEXAS SERVICE CENTER Date: SEP 16 2005

IN RE: Petitioner:
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

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition on August 28, 2003. On September 9, 2004, the Administrative Appeals Office (AAO) affirmed the denial of the petition. On October 6, 2004, the petitioner submitted a motion to reopen. The AAO will grant the motion and approve the petition.

The petitioner is a subsidiary church of the Church of Scientology International. It seeks to classify the beneficiary as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(4), to perform services as an inspector of auditing. The director determined that the petitioner had not established that the beneficiary had the requisite two years of continuous work experience as an inspector of auditing immediately preceding the filing date of the petition. In addition, the director determined that the petitioner had not established that it had made a qualifying job offer to the beneficiary, or that the petitioner is able to afford the beneficiary's compensation.

In its previous decision of September 9, 2004, the AAO concluded that the petitioner is able to pay the beneficiary's proffered wage. Therefore, we need not revisit that issue in this decision.

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 experience in the religious vocation, professional religious work, or other religious work. The petition was filed on September 9, 2002.

The regulation at 8 C.F.R. § 204.5(m)(2) defines "religious vocation" as 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 petitioner contends that the beneficiary is a member of the Sea Organization (Sea Org), identified as the religious order of the Church of Scientology. In a previous decision in this proceeding, we determined that the Sea Org does qualify as a religious order and that individuals who have attained full, permanent membership in the Sea Org qualify as individuals engaged in a religious vocation. In order to establish eligibility, the petitioner must demonstrate first that the Sea Organization is a *bona fide* religious order, and second that the beneficiary has been a full member of that order continuously throughout the two-year period immediately preceding the filing of the petition. Thus, if the petitioner credibly demonstrates that the beneficiary joined the Sea Org as a full, permanent member more than two years prior to the petition's September 9, 2002 filing date, then the petitioner shall effectively have overcome the remaining grounds for denial cited in the director's decision of August 28, 2003.

The petitioner has submitted a series of affidavits, supported and corroborated by documentary evidence, to establish that joining the Sea Org is a process involving several distinct, cumulative steps. The final step is approval by the Fitness Board. A Sea Org recruit would not face the Fitness Board unless the recruit had completed all of the earlier steps. Approval by the Fitness Board represents the transition from a Sea Org *recruit* to a Sea Org *member*.

In an affidavit dated September 15, 2004, Sea Org recruitment officer Samuel Scelza states:

The process of becoming a member of the Sea Organization is highly demanding and includes the following:

- a) Application: The application procedure includes a list of basic qualifications which excludes anyone whose past history or present circumstances would make them unsuited or unsuitable to the religious life.
- b) Initial Interview: The applicant is interviewed by a Sea Org member and advised of the commitment and dedication required, and interviewed to further verify basic qualifications.
- c) Lifetime vow: The applicant signs the "Sea Org Contract," making a lifetime vow to serve the religion. This does not make the person a Sea Org member. It allows the person to enter as a novice.
- d) "Project Prepare": In most cases, the applicant works out a preparatory project of specific tasks that must be completed before he can commence his vocation. This usually involves the settling of any ongoing obligations and responsibilities. In some cases this may take a few weeks. In other cases, it may take years.
- e) Provisional status as a novice – the "Estates Project Force": The first step for every applicant when he or she arrives to begin his vocation in the Sea Org is a program called the "Estates Project Force," or "EPF." . . .
- f) Fitness Board: Before graduating from the EPF, every novice's acceptance into the Sea Org must be individually reviewed by a Fitness Board normally composed of the Chaplain and four other church executives (all Sea Org members). Any with superficial or incomplete commitment

are not accepted. Any whose progress in scriptural studies is inadequate are not accepted. Those who are accepted graduate from the EPF, affirm their vows in a “swearing-in” ceremony, and commence their duties as full Sea Org members.

The sequence and form of these steps may vary slightly. . . . Regardless of the sequence, these elements will always be present.

The available documents and affidavits show that it is possible for a Sea Org recruit to complete the first five steps of the process, only to fail at the Fitness Board stage. In this sense, a Sea Org recruit may be compared to a Roman Catholic novice who has begun preparing for entry into a religious order, and may even have been living under the conditions associated with a religious vocation, but who has not yet taken the final vows that permanently bind him or her to the order (and demonstrate that the order has found the individual worthy of this permanent commitment).

Therefore, we shall consider any alien who has completed part of the process, but who has not passed the Fitness Board, to be a Sea Org recruit rather than a full Sea Org member. A “recruit” who has not completed all of the necessary steps to become a member could, conceivably, be found ineligible for membership, and it would clearly be a mistake to provide permanent immigration benefits to such a recruit based on a membership that will never be granted. Therefore, to be eligible for special immigrant religious worker classification as of the petition’s filing date, the alien must have passed the Fitness Board no later than two years prior to that filing date.

In this instance, the petitioner has submitted evidence of the petitioner’s completion of various steps in the process of joining the Sea Org, such as a copy of the beneficiary’s Sea Org Contract and Sea Org Application. Of greatest importance, the petitioner has submitted a copy of a Fitness Certificate, showing a finding of fitness dated April 4, 1998. This document indicates that the beneficiary had passed the final stage of admission into the Sea Org over four years before the petition’s September 9, 2002 filing date. Therefore, as counsel observes, “the documentation . . . confirms [the beneficiary’s] full Sea Org membership two years prior to the filing of her I-360 petition,” and thus that the beneficiary was engaged in a qualifying religious vocation throughout the two-year qualifying 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 sustained that burden and, thereby, established the beneficiary’s eligibility for the benefit sought.

ORDER: The AAO’s decision of September 9, 2004 is withdrawn. The petition is approved.