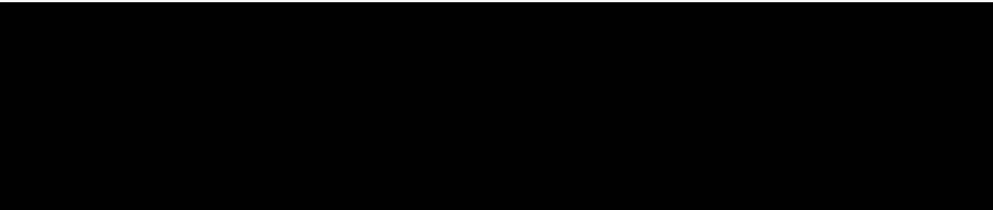


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FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: **MAY 08 2006**
WAC 03 258 52614

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:
[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, Chief
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 sustained and the petition will be approved.

The petitioner is a constituent church of the Church of Scientology, and the mother church of that denomination's Celebrity Centres. 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 qualifies as a full member of the Sea Org, or that she had the requisite two years of continuous work experience immediately preceding the filing date of the petition. The director also found questions of credibility relating to the names and dates on several key documents reproduced in the record.

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 director, in this decision, has not contested that active duty as a full Sea Org member constitutes a qualifying religious vocation. The main issues of experience and qualification both relate to the question of whether the beneficiary has been an active and fully qualified Sea Org member since before the two-year qualifying period began in September 2001, 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). 8 C.F.R. § 204.5(m)(3)(ii)(D) requires the petitioner to submit evidence that the beneficiary is qualified in the religious vocation or occupation.

In a letter dated September 11, 2003, [REDACTED], a legal officer with the petitioning church, describes the beneficiary's work history:

[The beneficiary] joined our religious order, the Sea Org, in May 1991, and entered the U.S. in valid R-1 Religious Worker status to take up her religious vocational duties with the Church of Scientology Flag Service Organization, in Clearwater, Florida. She stayed there until 1994, helping parishioners on their religious services. She then transferred to the Church of Scientology in Copenhagen, Denmark, and worked there for one year. She was needed by the Church of Scientology in Los Angeles, California, to translate Scientology scriptures into her native Dutch language and returned to the United States in February 1995 in valid R-1 Religious Worker status. In February 2000, she was assigned Church duties in Great Britain. She worked there in her religious order, the Sea Org, until August 2001. She re-entered the United States in California as a member of her religious order. She has worked since then at least 40 hours per week and this has been the only work performed during this time. The skills, training and experience of this religious worker have been used exclusively in furtherance of the religious objectives of the Church of Scientology.

The record contains copies of several certificates, including a "Sea Organization Religious Commitment" certificate, which reads, in part, "I commit myself to the Sea Organization for the next billion years." The certificate is in the name of "[REDACTED]" and signed "[REDACTED]". The signature bears the date "11 May 1991." The certificate shows a 2002 copyright date. The words "original signed 1991" have been photocopied into the document. Additional words have been added to the photocopy, so the annotation now reads: "This is a duplicate of the original signed 1991." Other certificates, purportedly issued to "[REDACTED]" in 1991, show 1996 copyright dates. Each of these copies is marked "[t]his is a duplicate of the original."

The director issued a request for evidence, instructing the petitioner to submit "a detailed explanation" as to why the petitioner submitted documents copyrighted 1996 and 2002, but with signatures purportedly dated 1991. The director also noted that the Sea Org certificates are not in the beneficiary's name, and requested "documentary evidence to show that J [REDACTED] and [REDACTED] are the same person." Also, to affirm the beneficiary's past experience, the director requested copies of tax documents and "evidence of the beneficiary's work history beginning September 15, 2001 and ending September 15, 2003 only."

In response, [REDACTED] states that some of the beneficiary's certificates "are duplicates of the originals which are not available." With regard to the discrepancy in names, [REDACTED] states: "The name difference, from [REDACTED], was done so as to make her name more easily understood in the USA. . . . This was not an official name change. The Sea Organization Identification card photo is that of the same person as in the passport photo. In the passport, her name is signed, [REDACTED] and it is typed out, [REDACTED] [REDACTED]". Both documents are reproduced in the record and the photographs do appear to show the same individual. The [REDACTED] signature in the beneficiary's passport is not dissimilar from the signatures on the certificates. The petitioner's explanation is facially credible, and the director has adduced no evidence that [REDACTED] and [REDACTED] are two different people.

With regard to the beneficiary's past experience, [REDACTED] states that the beneficiary "worked at Church of Scientology Western United States between Sept 15, 2001 and May, 2003 and at [the petitioning church] since May 2003." The petitioner submits a copy of a payroll record, showing weekly payments to [REDACTED] from May 30, 2003 through September 13, 2003. Most of these payments are in the amount of \$50.00, but there are variations both above and below that amount. [REDACTED] the petitioner's director of crew services, states: "[REDACTED] has been a staff member at [the petitioning church] since May 2003 until the present." To show the beneficiary's prior work at the Church of Scientology Western United States (CSWUS), the petitioner submits copies of Form W-2 Wage and Tax Statements that the CSWUS issued to [REDACTED] showing payments totaling \$1,068.33 in 2001 and \$2,215.61 in 2002.

The director, in denying the petition, observed that the Sea Org "Commitment" certificate 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 director also found that the petitioner's explanation regarding the anachronistic dates on the certificates was not persuasive. The director stated: "it is unclear how the petitioner was able to make duplicate copies without the originals in its possession. The fact remains that the petitioner initially submitted various certificates purported to be issued in 1991 that, in fact, could not have been issued in 1991."

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 15, 2003 and continuously engaged in the vocation during that time.

In a supplement to the appeal, the petitioner submits copies of church documents, including a document from 1995 that refers to [REDACTED]'s previous Fitness Board approval on June 7, 1991. This indicates that the beneficiary was a full member of the Sea Org for more than 12 years prior to the petition's September 2003 filing date. One document bears the legend "Issued at: Los Angeles, California on September 28, 2005." This demonstrates that the petitioner does, on occasion, reconstruct such certificates based on information in church records. The director cites no contradictory evidence that would cast doubt on this information shown on the documents submitted on appeal, or show that the beneficiary engaged in disqualifying outside employment during the relevant two-year period.

The director observed that the amounts shown on the Forms W-2 do not show a full year's remuneration at \$50 per week. The payroll records, however, establish that payments to this particular beneficiary have sometimes varied. Also, the petitioner had previously indicated that the beneficiary worked outside the United States for most of 2001, and therefore we would not expect the 2001 W-2 to show a full year's pay. The available evidence, while not ideally complete, is consistent both internally and with the petitioner's claims.

The director, in the denial notice, raised some additional concerns about the beneficiary's use of two different names. The director acknowledged and quoted [REDACTED]'s assertion that the beneficiary adopted the name [REDACTED] informally without "an official name change," but the director stated: "the petitioner did not provide documentary evidence to support such a claim." It is not clear what "documentary evidence" would exist to prove the beneficiary's informal, unofficial adoption of the name [REDACTED]. As noted above, similarities in the photographs and signatures on the Sea Org identification card and passport reproduced in the record lend credence to a finding that the petitioner and [REDACTED] are one and the same. Further proof could have come in the form of a copy of the beneficiary's Social Security card, to show that the number matches the Social Security number shown on [REDACTED]'s Forms W-2, but the director did not request such evidence and therefore the petitioner cannot particularly be faulted for failing to provide it.¹ As it stands, the materials in the record are consistent with a finding that there is no separate [REDACTED].

With regard to the anachronistic dates on the certificates, the director appears not to have noticed that the documents were plainly marked as "duplicates"; the petitioner has made no attempt to represent them as original certificates. We see no evidence of fraudulent intent in the petitioner's submission of reconstructed documents. (Such concerns must be addressed case-by-case, rather than with the inflexible *a priori* presumption that reconstructed documents always, or never, denote attempted fraud.)

Pursuant to the above discussion, we find the petitioner has overcome the stated grounds for denial. Upon review of the record, we see no readily apparent obstacle to the approval of the 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 sustained that burden. Accordingly, the decision of the director denying the petition will be withdrawn and the petition will be approved.

ORDER: The appeal is sustained and the petition is approved.

¹ The petitioner is supposed to list the beneficiary's Social Security number on the Form I-360. In this instance, however, the petitioner listed the CSWUS' Employer Identification Number [REDACTED] in the space reserved for the beneficiary's Social Security number.