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U.S. Citizenship  
and Immigration  
Services

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FILE:

[REDACTED]  
WAC 03 254 53269

Office: CALIFORNIA SERVICE CENTER

Date: APR 25 2007

IN RE:

Petitioner:

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.

*Maura Deadrich*  
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 had the requisite two years of continuous work experience immediately preceding the filing date of the petition. The director also questioned the nature of the job offer extended to the beneficiary.

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)(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 8, 2003, [REDACTED], a legal officer with the petitioning church, describes the beneficiary's work:

In March 1988, [the beneficiary] joined the Sea Organization. . . .

Due to her extensive experience, [the beneficiary] was promoted to [the petitioning church] in June 2001 in order to continue her religious vocation at an international level.

[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 provided they work for a qualifying tax-exempt non-profit religious organization. This distinction is crucial because if one works for a secular employer, whether or not that employer is tax-exempt, then there is no relevant sense in which one could be deemed a religious worker.

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 10, 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 March 1988. The contract shows a 1995 copyright date. In the upper left corner, the words "This is a copy, as original was lost" have been added by hand. The director issued a request for evidence, in which the director observed that, given the contract's 1995 copyright date, the document cannot possibly be the beneficiary's original 1988 contract.

In response to the notice, [REDACTED] a legal officer with the petitioner, states: "The Contract of Employment was originally signed in March 1988. That contract was misplaced and [the beneficiary] signed a new Contract of Employment for documentation purposes and noted on it that 'This is a copy, as original was lost.'" The petitioner has, pursuant to the director's request, submitted the original document from which the previously submitted photocopy originated. We note that, pursuant to 8 C.F.R. § 103.2(b)(4), the director must return this original document once adjudication is complete. Considering that the document had been marked as a "copy" all along, we see no fraudulent intent in its submission.

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.

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 10, 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 indicating that the beneficiary passed the Fitness Board on April 25, 1988, the same day she completed "Product Zero." This indicates that the beneficiary was a full member of the Sea Org for more than five years prior to the petition's September 2003 filing date. The petitioner submits a partial copy of a "Sea Org member logbook," the introduction to which reads, in pertinent part: "This logbook is the property of the Sea Organization and must be returned to the HCO of the bearer's organization upon demand. It is given to each Sea Org member upon successful completion of Product Zero." We note that the latter sentence indicates that similar logbooks exist for "each Sea Org member."

Evidence that one joined the Sea Org prior to the qualifying period is not evidence of continuous service in a religious vocation during the qualifying period. If the record contains evidence suggesting discontinuity, or otherwise conflicting claims, then further scrutiny is necessary.

In the request for evidence issued prior to the denial, the director instructed the petitioner to submit documentation of payments to the beneficiary. In response, the petitioner has submitted Internal Revenue Service

(IRS) Form W-2 Wage and Tax Statements showing that the Association for Better Living and Education (ABLE) paid the beneficiary \$1,427.76 in 2001 and \$2,800.84 in 2002. The IRS Forms W-2 show the same address for ABLE and for the beneficiary, specifically [REDACTED], Los Angeles. ABLE's Employer Identification Number [REDACTED], does not match the petitioner's EIN, which is [REDACTED]. Thus, the Forms W-2 show that the beneficiary worked for an employer with a name, address, and EIN that do not match those of the petitioning church. ABLE and the petitioning church are obviously separate corporate entities.

[REDACTED] states that the beneficiary "has been directly involved in the dissemination and promulgation of the social mission of the Churches of Scientology through assistance provided to social betterment organizations."

According to a booklet, *Description of the Scientology Religion*, submitted by the petitioner, ABLE is responsible for "[t]he bulk of the Church's secular social betterment programs," particularly four programs: Narconon, Criminon, Applied Scholastics, and the Way to Happiness Foundation, the last of these being described as "a program for improving public morality based on a nonreligious moral code."

As discussed above, the nature of the proposed employment is clearly at issue in this decision. A related issue concerns the job offer itself. 8 C.F.R. § 204.5(m)(4) requires the prospective employer to set forth the proposed terms of employment. In denying the petition, the director stated: "the record lacks evidence of any job offer from" ABLE. Indeed, the petitioner's original submission did not offer any indication that the beneficiary had been working at ABLE rather than at the mother church. Nevertheless, the IRS Forms W-2 in the record demonstrate that the beneficiary's actual employer in 2001 and 2002 was not the Church of Scientology or any affiliated religious organization, but rather ABLE, which is a self-described secular organization. The director also observed: "the duties of the proffered position are clearly related to the social betterment programs within" ABLE. Because the petitioner has not documented the terms of ABLE's job offer, it is impossible to find that the petitioner has met its burden of proof with regard to establishing the existence of a qualifying job offer.

The petitioner's submission on appeal makes no mention whatsoever of ABLE or of the beneficiary's work there. This is a significant omission, given that ABLE was, and apparently remains, the beneficiary's actual employer. The petitioner offers no response to the director's findings regarding the secular nature of ABLE's functions and activities. The petitioner focuses the entire appeal on the issue of the beneficiary's Sea Org membership.

The beneficiary's membership in the Sea Org does not give her license to work for an avowedly secular employer while claiming immigration benefits as a religious worker. Pursuant to 8 C.F.R. § 204.5(m)(1), the beneficiary must seek to work for a bona fide religious denomination or a bona fide organization which is affiliated with the religious denomination and is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986. 8 C.F.R. § 204.5(m)(2) defines "bona fide organization which is affiliated with the religious denomination" as means an organization which is closely associated with the religious denomination and which is exempt from taxation as described in section 501(c)(3) of the Internal Revenue Code of 1986 as it relates to religious organizations.

ABLE is clearly connected in some way to the Church of Scientology, and ABLE is a 501(c)(3) tax-exempt organization. ABLE's tax exemption, however, does not derive from any religious character. The petitioner's own submissions characterize ABLE as a "secular" organization, and the IRS Forms W-2

establish that ABLE, not the Church of Scientology, employs the beneficiary. ABLE may take advantage of its church ties by recruiting employees from within the church, and within the Sea Org, but it does not follow that ABLE's employers qualify as religious workers for immigration purposes.

We find that past employment at a secular organization cannot constitute qualifying experience to fulfill the two-year experience requirement, and the prospect of future employment at a secular organization cannot amount to a qualifying job offer. Because both the Church of Scientology and ABLE itself describe ABLE as a secular organization, we cannot find that the beneficiary's past or intended future work at ABLE qualify the beneficiary for classification as a special immigrant religious worker. The pursuit of secular work at a secular institution such as ABLE is not a religious vocation, whether or not a given employee belongs to a religious order such as the Sea Org.

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.