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

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FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: **AUG 03 2007**  
EAC 06 039 50128

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:

SELF-REPRESENTED

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.

  
for Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner is a member congregation of the Pentecostal Church of God. 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 Bible school coordinator and Sunday school superintendent. The director determined that the petitioner had not established that the beneficiary had the requisite two years of continuous work experience in the occupation immediately preceding the filing date of the petition.

On appeal, the petitioner submits a letter from its pastor and copies of various documents, most of them previously submitted.

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 November 18, 2005. Therefore, the petitioner must establish that the beneficiary was continuously performing the duties of the position throughout the two years immediately prior to that date. The beneficiary entered the United States on April 20, 2005, during that two-year period.

The petitioner's initial submission includes letters and certificates indicating that the beneficiary began serving the *Concilio de Iglesias de Cristo Misionera* in the Dominican Republic as a missionary in 2000. The submission included few details about the beneficiary's work in the Dominican Republic, and no information at all about the beneficiary's subsequent work in the United States between April and November of 2005.

On December 29, 2005, the director issued a request for evidence, instructing the petitioner to submit evidence to show that the beneficiary continuously performed qualifying religious work throughout the two-year qualifying period. The director further requested "evidence that explains how the beneficiary supported herself." In response, the petitioner submitted a number of photographs of the interior of the petitioning church. The petitioner did not explain the significance of these photographs.

The petitioner also submitted a series of statements from [REDACTED] Pastor of the petitioning church, discussing various issues raised in the director's request for information. In one letter, dated March 23, 2006, [REDACTED] initially wrote:

This is to certify that [the beneficiary] has been remunerated as follows:

Cash, Housing (Pastoral house),	\$11,180.00
Food and Transportation	<u>5,980.00</u>
TOTAL:	\$17,160.00

The phrase "has been" was then obscured with correction fluid and overtyped with the phrase "will be." By thus deleting the assertion that the beneficiary "has been remunerated" as described above, the clear implication is that the beneficiary had *not* been remunerated as described.

While [REDACTED] provided several letters containing numerous claims and statements, [REDACTED] did not state that the beneficiary had worked for the petitioning church since her arrival in the United States. Numerous certificates discuss the beneficiary's religious activities (particularly training) prior to her arrival in the United States, but there is no comparable documentation regarding her more recent activities.

We note that the director had requested "a list of the religious organization's salaried religious employees, including their occupations and salary paid." The petitioner provided no such list, nor any other evidence to show that the petitioner has ever employed anyone. The petitioner did, however, submit substantial documentation relating to [REDACTED] employment. This voluminous evidence, including tax documentation, shows that [REDACTED] earns his living as a full-time electrician, a member of Local #3 of the International Brotherhood of Electrical Workers. There is no evidence that [REDACTED] receives any income at all from his church work. On his own income tax returns, [REDACTED] consistently listed his occupation as "Electrician." This evidence does nothing to support the conclusion that the petitioning church pays its workers, rather than relies upon unpaid volunteers who earn their living in secular occupations or professions.

In light of the above evidence, it bears noting that a breakdown of the beneficiary's "Weekly Proposed [proposed?] Duties" consists largely of weekend and evening hours, which would leave the beneficiary available to work elsewhere during standard business hours for a considerable part of each week.

In responding to the request for evidence, the petitioner was clearly able and willing to produce ample and persuasive documentary evidence of how [REDACTED] supports himself – the record proves that he earns his living as an electrician. The petitioner was either unwilling, unable, or both, to provide comparable evidence to show how the beneficiary supports herself, even though the director specifically requested exactly such evidence. The petitioner did not submit any evidence to show that the beneficiary earns her living as a religious worker, or that the petitioning church compensates any of its workers. Failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14).

The director denied the petition on September 14, 2006, stating that the petitioner had provided no evidence to show that the beneficiary has performed qualifying religious work following her April 2005 entry into the United States. The director therefore concluded that the petitioner had failed to establish that the beneficiary possessed the required two years of continuous experience immediately prior to the filing date.

On appeal, the petitioner submits a newly signed copy of the March 23, 2006 letter discussed earlier in this decision. On this copy, the assertion that the beneficiary "has been remunerated" remains untouched and unaltered. The petitioner never explains why, in the first copy of this letter, the petitioner took the time to replace the words "has been" with "will be," if the words "has been" were in fact accurate.

The petitioner submits an unsigned, uncertified copy of a 2005 income tax return, indicating that the beneficiary reported \$12,320 in "business income" as a "religious worker" at the petitioning church. This tax return, submitted at this late date, lacks compelling evidentiary weight, even aside from the complete absence of records or other documentation to show how the beneficiary arrived at the \$12,320 figure. When the director specifically instructed the petitioner to identify its paid employees, and to show how the beneficiary supported herself, the petitioner failed even to acknowledge these instructions, must less comply with them. The petitioner was put on notice of required evidence and given a reasonable opportunity to provide it for the record before the visa petition was adjudicated. The petitioner failed to submit the requested evidence at that time. The AAO will not consider belated attempts to comply with the request on appeal. *See Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); *Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988).

Furthermore, the record contains no first-hand, contemporaneous evidence of payments from the church to the beneficiary. The petitioner is obviously familiar with Form W-2 Wage and Tax Statements – the petitioner provided copies of literally handfuls of such documents issued to [REDACTED] by various electrical companies. However, the petitioner submitted no comparable documentation that it had issued to the beneficiary.

One of the few documents submitted on appeal that is not simply a copy of a previously submitted document is a copy of a letter from [REDACTED], dated February 15, 2005, addressed to the United States Embassy in the

Dominican Republic. The letter was written in support of the beneficiary's (ultimately successful) efforts to obtain an R-1 nonimmigrant religious worker visa. The letter reads, in part:

This is a very special invitation that we extend to [the beneficiary] and her husband . . . in order for them to participate as our Invited Guests in the one year education organization seminar. It will be held from May, 2005 through May, 2006 in our church. . . . The church will sponsor them during their stay, and will provide them with transportation tickets, housing, food and special offerings that they will receive from this congregation during their stay for one year.

The letter does not indicate that the beneficiary would be working as a Bible school coordinator and Sunday school superintendent. Rather, it indicates that she would "participate" in a "one year . . . seminar." Rev. [REDACTED] stated that the petitioning congregation would provide material support, but he never referred to this support as compensation or remuneration. Taken at face value, this letter undermines the claim that the petitioner actively employed the beneficiary during 2005. On the other hand, if we were to assume for the sake of argument that the petitioner invited the beneficiary to the United States for the express purpose of employing her, then we would also be forced to conclude that the above letter amounted to willful misrepresentation of the reason for the beneficiary's allegedly temporary visit to the petitioning church. Neither option is strongly conducive to a favorable impression of the petitioner's overall credibility.

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. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988). 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. *Id.* at 582, 591-92. In light of this case law, it is relevant to note that the record does not contain contemporaneous documentary evidence to show that the beneficiary has ever acted as the petitioner's Bible school coordinator and Sunday school superintendent, whether paid or unpaid.

The petitioner has provided no documentary evidence that it has ever paid the beneficiary, or anyone else. The petitioner has, on the other hand, provided strong evidence that its own pastor has supported himself consistently, and exclusively, as an electrician. The petitioner invited the beneficiary to the petitioning church not as a worker, but as a participant in a seminar; the petitioner made no representation to consular officials that it would employ the beneficiary. For all these reasons, the preponderance of evidence strongly favors the conclusion that workers at the petitioning church are unpaid volunteers who support themselves by other means.

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.