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

U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: MAY 04 2007
WAC 05 220 51496

IN RE: Petitioner: [redacted]
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.

Laura Dearnick
for 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 on appeal. The appeal will be dismissed.

The beneficiary seeks classification 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 minister at the Maranatha Romanian Church of God in North Highlands, California. The director determined that the petitioner had not established that the beneficiary had the requisite two years of continuous work experience as a minister 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.

Part 1 of the Form I-360 petition identifies the Maranatha Romanian Church of God as the petitioner. Review of the petition form, however, indicates that the alien beneficiary is the petitioner. An applicant or petitioner must sign his or her application or petition. 8 C.F.R. § 103.2(a)(2). In this instance, Part 9 of the Form I-360, "Signature," has been signed not by any official of the church, but by the alien beneficiary himself. Thus, the alien, and not the church, has taken responsibility for the content of the petition. This will not affect the adjudication of the appeal, because the record shows that the attorney who filed the appeal represents both the alien beneficiary and the church. Thus, the appeal has been properly filed.

We have addressed the decision to the self-petitioning alien in care of Maranatha Romanian Church of God because, as shall become clear, there is some doubt regarding the alien's own residential mailing address.

On appeal, the petitioner submits a brief from counsel, several affidavits, and copies of other documents.

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 August 5, 2005. Therefore, the petitioner must establish that he was continuously performing the duties of a minister throughout the two years immediately prior to that date.

[redacted] Senior Pastor of the Pentecostal Church No. 5 in Romania, stated that the petitioner "was Presbyter of our church from 1995 until he left for the United States in 2004," and that the church "is part of the Union of the Pentecostal Churches of Albania." [redacted] Senior Pastor of the Maranatha Romanian Church of God, identified the petitioner as a member of the church's pastoral board and stated:

> Our Church is part of the International Church of God, whose headquarters are located in Cleveland, TN. . . .
>
> I have known [the petitioner] since he entered the United States on April 30, 2004. [The petitioner] has been a member of our church since then. . . .
>
> I expect that . . . [the petitioner] will be promoted to full-time minister in the next month or two.

[redacted] made the above statements on June 3, 2005, indicating that the petitioner, at that time, was not yet a "full-time minister" at Maranatha Romanian Church of God. [redacted] then listed the petitioner's "weekly schedule" as follows:

a. Monday: youth ministry night, so [the petitioner] does not attend church regularly on Mondays.
b. Tuesday: [the petitioner] is involved in prayer meetings, which are held at 7 p.m.
c. Wednesday: [the petitioner] is involved in the mid-week service, which is held at 7 p.m.
d. Thursday: [the petitioner] is involved in choir rehearsals and worship teams, which last throughout the day.
e. Friday: [the petitioner] is usually involved in the board meetings that take place once or twice a month.
f. Saturday: [the petitioner] is involved in the special services that are held on Saturdays, which consist of weddings, funerals, and baptisms. Also, [the petitioner] is involved in pastoral visits and counseling.
g. Sunday: [the petitioner] is involved in the church ministry; two different services are held, the first at 9 a.m.-12 p.m. and the second at 6 p.m.-8 p.m.

The petitioner's initial submission contains no information about proposed terms of compensation. Two letters discuss the petitioner's prior compensation. [redacted] stated: "I have provided room and board for [the petitioner] at my home in Elk Grove, California." [redacted] stated: "I have provided for all of [the petitioner's] financial needs, such as clothing, transportation, and other needs that have arisen since he came to the United States." Both witnesses state that their support will continue "until [the petitioner] receives approval for permanent residency."

On January 31, 2006, the director requested additional evidence regarding the petitioner's work history during the two-year qualifying period. In response, the petitioner submitted a second letter from Alexandru Negruser, who repeated the assertion that the petitioner "was Presbyter of our church from 1995 until he left for the United States in 2004," and stated that the petitioner "officiated all the necessary creed activities in our church . . . including marriages, christenings, lord's supper, funerals, prayers and oilings for sick people, youth program, preparing gospel for both small and large churches, and preaching the gospel."

The petitioner submitted tax records showing that [redacted] was the only paid employee for whom the petitioner reported income in 2003 and 2004. In a new letter, dated April 12, 2006, [redacted] stated:

> The Church has only two paid employees: myself and a part-time musical director.
>
> The Church has an average of two to three volunteers per day on less busy days, and at least ten volunteers on Sunday. . . .
>
> Since the Church's congregation is rapidly increasing in size, we were suddenly faced with the need for a second minister.
>
> That need has been fulfilled by [the petitioner], who is not being paid for his services.
>
> [The petitioner] is much more involved than other volunteers at the Church, as he is the only other minister at the church besides myself.

[redacted] then stated that the petitioner "works, on average, 25-30 hours per week." The numerals "25-30" have been obscured with correction fluid, and the numerals "35-40" have been added by hand in their place. [redacted] signed the letter in blue ballpoint ink; the numerals "35-40" were written in black ink, apparently with a felt-tip or roller-ball pen. It is not clear whether [redacted] knew or approved of the alteration. [redacted] second letter contains the same description of the petitioner's work schedule as the one found in [redacted] first letter, in which [redacted] had indicated that the petitioner was not yet "a full-time minister."

[redacted] and [redacted] reaffirmed, in new letters, their previous claims regarding the petitioner's material support. Neither witness claimed to be a church official, or otherwise specified his connection (if any) with the petitioning church.

The director denied the petition on May 3, 2006, stating: "The petitioner has failed to establish that the beneficiary has two years of qualifying, full-time experience and that the proffered position qualifies as a full-time position that provides sufficient funds in order that the beneficiary will not rely on supplemental income." The latter finding refers to 8 C.F.R. § 204.5(m)(4), which requires the intending employer to state how the alien will be solely carrying on the vocation of a minister (including any terms of payment for services or other remuneration).

On appeal, counsel asserts that the record contains no evidence to support the director's findings. Counsel states that the petitioner "had been employed full-time as a minister from August 8, 2003 to August 8, 2005, and continues to be so employed; and . . . [the petitioner] has – and will continue to be – fully compensated by the Petitioner and its members." Counsel contends that the director "did not offer any explanation of why the evidence submitted . . . was deficient," and that "the only evidence in the record is that [the petitioner] worked full-time in the capacity of minister."

Counsel is incorrect in claiming that the record contains "uncontroverted" and "uncontradicted" evidence that the petitioner worked full-time throughout the qualifying period. The initial submission contained no indication at all that the petitioner had ever worked full-time for the church in the United States. On June 3, 2005, [redacted] stated: "I expect that . . . [the petitioner] will be promoted to full-time minister in the next month or two." If the petitioner was already a "full-time minister" on June 3, 2005, then [redacted] statement makes no sense. [redacted] subsequent letter of April 12, 2006 initially indicated "25-30" hours per week, and the letter was then altered to increase the number of hours the petitioner was said to have worked each week. Given this material alteration, the letter is not "credible and uncontroverted" as counsel claims on appeal.

Furthermore, [redacted] has twice listed the petitioner's weekly schedule. That schedule, reproduced in full elsewhere in this decision, indicates that the beneficiary's work week typically involves two evenings (Tuesdays and Wednesdays), at most two full days (Thursdays and possibly Saturdays); five hours on Sundays; and occasional Friday meetings. Such a schedule is consistent with part-time, not full-time, employment. It is also consistent with [redacted]'s reference to a "25-30" hour work week.

In a new statement dated May 30, 2006, [redacted] states: "I submitted declarations on June 3, 2005 and April 16, 2006 that explained . . . [s]ince April 30, 2004, [the petitioner] has worked as a full-time minister at our Church." It is simply not true that [redacted]'s earlier statements referred to the petitioner as "a full-time minister." Not until the appeal does [redacted] state that the petitioner always worked full-time in the United States. In the new statement, [redacted] asserts that the petitioner "has worked approximately 35-40 hours per week at the Church since . . . April 30, 2004," and provides a new version of the petitioner's weekly schedule. The same new schedule also appears in a statement signed by the petitioner. The new schedule differs from the one previously submitted on two separate occasions. For instance, it includes occasional Monday hours and work before 7:00 p.m. on Tuesdays and Wednesdays. Whereas [redacted] had previously stated that, on Thursdays, the petitioner "is involved in choir rehearsals and worship teams, which last throughout the day," the new schedule indicates that the petitioner "works four hours every Thursday," from 5:00 to 9:00 p.m. The new schedule indicates that the petitioner "works 14 hours every Saturday" and "nine hours every Sunday."

The changes to the schedule do not appear to be merely cosmetic changes or clarifications. Rather, the church appears to have made significant revisions in order to establish the petitioner's full-time employment. [redacted] does not explain why this new schedule differs so significantly from the previous schedule that had been submitted on two different occasions. 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, 586 (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, 592. Here, the record contains no competent objective evidence to show that the new schedule is more accurate or reliable than the prior version.

Considering the above discrepancies, we cannot accept counsel's claim that the record unequivocally establishes that the petitioner's past work experience in the United States was full-time. We find that the director was justified in finding that the petitioner did not work full-time, and we hereby affirm that finding.

In response to the director's finding that "[t]he petitioner has failed to establish . . . that the proffered position . . . provides sufficient funds in order that the beneficiary will not rely on supplemental income," counsel asserts that 8 C.F.R. § 204.5(m)(4) requires only that the beneficiary will not rely *solely* on supplemental income. Because the petitioner seeks employment as a minister, however, the statute and regulations are clear that the beneficiary must be solely engaged as a minister. Therefore, any outside employment would be disqualifying. The petitioner himself, in his statement on appeal, neither denies nor acknowledges outside employment, but we note that his newly claimed schedule leaves him free during normal business hours every weekday. Nothing about this newly claimed schedule would rule out supplemental employment.

8 C.F.R. § 204.5(m)(4) requires the intending employer to set forth the terms of compensation. 8 C.F.R. § 204.5(g)(2) requires the employer to submit evidence to show that it is financially able to meet those terms. Here, the church has not stated any fixed wage or salary or any pay scale, nor has the church expressed any intention of ever compensating the petitioner directly. Instead, the petitioner has accepted housing from [redacted] and small cash donations from [redacted] At first, these individuals stated that they would support the petitioner until he is granted lawful permanent resident status. On appeal, they offer to continue this support indefinitely. The petitioner's continued remuneration, therefore, is contingent not on the financial health of the church, but on the private resources of two individuals. There is no indication of contingency plans in the event of death, relocation, or other emergent circumstances that might restrict or cut off payments from either of these two individuals. We cannot conclude that the church has made a stable job offer, or that the church has established its ability to compensate the petitioner as the regulations require.

We offer another observation with regard to the job offer. As of June 3, 2005, according to [redacted]'s first letter, it was not yet certain that the petitioner would become a full-time minister at the petitioning church:

> In the next two months, the Church will take a vote to assess whether or not they should promote [the petitioner] from member of the pastoral board to Associate pastor.

> The voting is done by the Church leadership at a special meeting.
>
> In the meeting, the Church will evaluate [the petitioner's] performance so far with the Church, and then a vote will take place.
>
> In light of the exceptional performance thus far in the Church by [the petitioner] . . . I fully expect the Church to promote [the petitioner] to Associate Pastor.

This letter shows that, as of June 2005, no firm job offer existed for the petitioner. Rather, the church's pastor confidently expected a job offer to materialize at a future meeting. Whether or not [redacted] confidence was justified is beside the point (the record does not contain documentation regarding the vote). As of June 3, 2005, the vote had not yet taken place, and because the decision to hire the petitioner was not [redacted] alone (as [redacted] took pains to point out), [redacted] as an individual was not yet in a position to assert that the petitioner would work at the church as a full-time minister. He could do no better than express confidence that a job offer would materialize in the foreseeable future (even if a situation in which the church pays no compensation, and the petitioner lives off the charity of two parishioners, could be called a job offer).

With regard to the petitioner's housing, the petitioner's submission on appeal shows still more discrepancies. In a statement dated May 30, 2006, [redacted] states:

> From April 30, 2004 to September 4, 2004, [the petitioner] lived at my home . . . in Elk Grove, California. . . .
>
> In August 2004 I realized that it was best if I continued to provide for [the petitioner] by renting an apartment for him.
>
> Thus, on September 4, 2004, I co-signed on an apartment lease for [the petitioner].
>
> The apartment is located . . . in Sacramento, California.
>
> Since September 4, 2004, I have paid the rent for [the petitioner's] apartment.

The petitioner, in his statement on appeal, agrees with the above version of events:

> From April 30, 2004, to September 4, 2004, [redacted] allowed me to stay at his home in Elk Grove, California.
>
> On September 4, 2004, [redacted] co-signed on a lease for a two-bedroom apartment for me in Sacramento, California. . . .
>
> Ever since September 4, 2004, [redacted] has paid the $750 monthly rental payments for my apartment.

According to the above account, the petitioner moved from Elk Grove to Sacramento in September 2004. When he filed the petition in August 2005, however, the petitioner listed the [redacted] address as his address, both on the Form I-360 petition and on Form G-28, Notice of Entry of Appearance as Attorney or Representative. In his first letter, dated June 3, 2005, [redacted] stated: "Since he came to the United States, I have provided room and board for [the petitioner] at my home in Elk Grove, California." [redacted] repeated this statement in a letter dated April 15, 2006. Thus, both the petitioner and [redacted] consistently and repeatedly stated that the petitioner was residing in [redacted]'s Elk Grove home, as recently as April 2006. Prior to the appeal, there was no mention of any apartment in Sacramento.

The appeal submission includes photocopies of lease documents pertaining to the apartment in Sacramento. Presumably, such documents would represent objective, documentary evidence that would lend weight to one of the two conflicting stories. This, however, turns out not to be the case. An "Apartment Lease Schedule" identifies the "RESIDENT(S)" as "[redacted] (co-signer)," the petitioner, and the petitioner's spouse, and contains the following information:

APARTMENT NUMBER	TERM OF LEASE BEGINNING	ENDING	MONTHLY RENT	SECURITY DEPOSIT
[redacted]	09/04/2004	09/30/2005	$807.00	$200.00

On the computer-printed "Apartment Lease Schedule," the ending date "09/30/2005" is out of alignment with the other figures on the same line. We have recreated the misalignment above.

The appeal submission also includes a "Lease Renewal Offer," dated March 2005 addressed to [redacted] at the Sacramento address. The document states, in part: "The lease on your apartment [redacted] expired on 1-3-05. We are currently offering you a lease renewal for another six month term at the rate of $750 – per month. This offer will expire on 04/30/2005."

The "Apartment Lease Schedule" and "Lease Renewal Offer" contradict one another. If the "Ending Date" of the "Term Of Lease" was September 30, 2005, then the lease cannot have "expired on 1-3-05." Because of this contradiction, we are not persuaded that the lease documents are uniformly accurate and authentic. The petitioner's submission of these contradictory documents raises further doubt about the overall credibility of his claims.

Even setting aside the mutually contradictory lease documents, the petitioner and [redacted] have each demonstrably contradicted their own prior claims. It is logically impossible for all of their statements to have been completely truthful, and therefore we must conclude that both the petitioner and [redacted] have made false statements regarding where the beneficiary resided between 2004 and 2006. These contradictory claims are, therefore, an additional blow to the overall credibility of the claims advanced in support of the petition. In light of the petitioner's compromised credibility, it is worth emphasizing here that the record contains no first-hand documentary evidence (such as canceled checks) to show that [redacted] ever actually paid the petitioner's rent, or that [redacted] has regularly provided cash to the petitioner as claimed. If [redacted] cannot consistently state where the beneficiary lived in 2004-2006, then we cannot rely on his unsupported claim to have paid the beneficiary's rent.

Counsel claims that the record contains strong evidence of the petitioner's past employment and compensation. In fact, the record contains very little documentary evidence relating to the petitioner's work; it relies, instead, almost completely on witness statements. As we have shown, these witness statements are in conflict with one another regarding such basic matters as the petitioner's work schedule and where he lived when he filed the petition in 2005. Because these statements are inconsistent and contradictory, they must be, to some extent, false, and we reject categorically counsel's claim on appeal that the petitioner's evidence is "credible and uncontroverted," a conclusion that is only amplified by the petitioner's submission of extremely suspicious lease documents described above. The petitioner's credibility is so badly compromised at this point that it we cannot reasonably conclude that the petitioner has met his burden of proof. Section 204(b) of the Act, 8 U.S.C. § 1154(b), provides for the approval of immigrant petitions only upon a determination that "the facts stated in the petition are true." False, contradictory, or unverifiable claims inherently prevent a finding that the petitioner's claims are true. *See also Anetekhai v. I.N.S.*, 876 F.2d 1218, 1220 (5th Cir.1989); *Lu-Ann Bakery Shop, Inc. v. Nelson*, 705 F. Supp. 7, 10 (D.D.C.1988); *Systronics Corp. v. INS,* 153 F. Supp. 2d 7, 15 (D.D.C. 2001).

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.