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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]
SRC 05 185 51431

Office: TEXAS SERVICE CENTER

Date: SEP 30 2008

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:

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, Texas Service Center, denied the employment-based immigrant visa petition. The petitioner appealed the denial to the Administrative Appeals Office (AAO), but has since withdrawn the appeal. The AAO will acknowledge the withdrawal of the appeal. The AAO will also enter a finding of fraud and willful misrepresentation of a material fact.

The petitioner is identified as a church. 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 teacher. The director determined that the petitioner had not established that the position offered to the beneficiary qualifies as a religious occupation. On appeal, the petitioner contests the director's reasoning in reaching the decision.

In a letter dated September 19, 2008, the petitioner, through counsel, requested withdrawal of the appeal, and therefore the AAO need not address the merits of the appeal here. The petitioner, however, sought to contest the AAO's finding of fraud and willful misrepresentation of a material fact, and we shall discuss that issue here.

Throughout the record of proceeding, [REDACTED] identified himself as Pastor of the petitioning entity. On September 3, 2008, the AAO issued a notice to [REDACTED] that read, in part:

The AAO is currently reviewing the appeals relating to two petitions filed from your address and under your signature. In one petition, found in the file for [REDACTED], you identified yourself as the pastor of Chodae Church of Dallas, which is said to have four paid employees. In the other petition, found in the file for [REDACTED], you identified yourself as the pastor of World Peace Mission, which is said to have four other paid employees. Both churches are said to be at [REDACTED], Irving, Texas. The two churches are incorporated separately, with different Federal Employer Identification Numbers and different lists of claimed employees and volunteers. Clearly, they are two distinct entities and not simply a single church that uses more than one name. You have submitted identical unaudited financial statements for both churches, with each church claiming exactly \$980,471 in total assets as of December 30, 2004, including the \$230,000 building. Your use of identical financial statements for two distinct entities leads us to doubt the credibility and authenticity of both statements.

Citizenship and Immigration Services [CIS] records show that 32 immigrant and 29 nonimmigrant petitions have been filed from [REDACTED] since 1994. 18 of these petitions identify the petitioner as Chodae Church of Dallas, 19 as World Peace Mission, and 24 as Korean Bible Baptist Church of Dallas. The AAO considers this to be an unrealistically high volume of petitions for a church that supposedly has only four employees at a time. . . .

A further contradiction arises from examination of tax documents in the record. The initial filing of the petition included a copy of Internal Revenue Service Form W-2, Wage and Tax Statement, indicating that Chodae Church of Dallas paid the beneficiary \$12,500 in 2003. Subsequently, however, you have submitted a second Form W-2 for 2003, indicating that the church paid the beneficiary \$17,500. The existence of two conflicting Forms W-2 for the same

year raises still further questions about the credibility, reliability and authenticity of the evidence that your organization has chosen to submit in support of the petition.

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. 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. *Matter of Ho*, 19 I&N Dec. 582, 586 (BIA 1988).

Absent independent and objective evidence to overcome, fully and persuasively, our above findings, the AAO will dismiss the appeal and enter a formal finding of fraud into the record. You may choose to withdraw your appeal, but this will not prevent a finding of fraud.

In response, [REDACTED] asserts that the number of petitions filed is inflated because one alien may have been the beneficiary of multiple filings. He also states:

[REDACTED] was established by [REDACTED] and it changed locations several times, and eventually began sharing the building at [REDACTED] because they needed a place to worship. So I let them come to [REDACTED], and began sharing pastoral duties. Over time the [REDACTED] membership became less, and now it is not an independent church (see state dissolution). [REDACTED] has not petitioned for a religious worker for several years.

A May 14, 2008 letter from the Office of the Secretary of State in Austin, Texas, declares the "Involuntary Dissolution of Chodae Church of Dallas." This apparently uncontested dissolution effectively ended the existence of the petitioning entity and, with it, the basis for the petition.

[REDACTED]'s letter does not explain the petitioner's submission of matching financial statements for two different entities (signed by [REDACTED] and two different "deacons"). As late as 2005, [REDACTED] signed and filed a petition naming the employer as Chodae Church of Dallas, and Chodae Church of Dallas purportedly issued paychecks as late as 2006. Also, contrary to his claim that the two churches had effectively merged, he had submitted completely different employee lists for the two claimed churches. The claim that Chodae Church of Dallas was a near-defunct church, absorbed by World Peace Mission, is inconsistent with the petitioner's prior claims and submissions.

The petitioner submitted copies of the beneficiary's income tax returns for 2003 and 2004, along with accompanying Forms W-2 for both years. The 2003 Form W-2 shows the originally claimed \$12,500 figure. These materials do not explain the petitioner's prior submission of a second Form W-2, showing that the petitioner paid the beneficiary \$17,500 in 2003. The Forms W-2 cannot both be correct, and therefore at least one of them must be false.

The petitioner has not resolved the very serious credibility issues relating to its filings from [REDACTED]. The AAO finds that the petitioner knowingly submitted documents containing false statements in an effort to

mislead CIS and the AAO on an element material to the beneficiary's eligibility for a benefit sought under the immigration laws of the United States. See 18 U.S.C. §§ 1001, 1546. The AAO will enter a finding of fraud and willful misrepresentation of a material fact.

Additionally, the evidence is not credible and will not be given any weight in this proceeding. If CIS fails to believe that a fact stated in the petition is true, CIS may reject that fact. Section 204(b) of the Act, 8 U.S.C. § 1154(b); 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). Moreover, the petitioner's submission of a fraudulent document brings into question the reliability and sufficiency of the remaining evidence offered in support of the visa petition. See *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).

ORDER: The appeal is dismissed based on its withdrawal by the petitioner.

FURTHER ORDER: The AAO finds that the petitioner knowingly submitted documents containing false statements in an effort to mislead CIS and the AAO on an element material to the beneficiary's eligibility for a benefit sought under the immigration laws of the United States.