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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

C1

[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: FEB 17 2011

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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, initially denied the employment-based immigrant visa petition. The Administrative Appeals Office (AAO) sustained a subsequent appeal. Following an onsite inspection by an immigration officer (IO), the Director, California Service Center, determined that the petitioner was not eligible for the visa preference classification. Accordingly, the director properly served the petitioner with a Notice of Intent to Revoke (NOIR) the approval of the preference visa petition and her reasons therefore, and subsequently exercised her discretion to revoke the approval of the petition on July 10, 2009. The petition is now before the AAO on appeal. The appeal will be rejected.

The petitioner was a church. It sought 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 minister. The director determined that the petitioner no longer exists.

Section 205 of the Act, 8 U.S.C. § 1155, states that the Secretary of the Department of Homeland Security "may, at any time, for what he deems to be good and sufficient cause, revoke the approval of any petition approved by him under section 204."

Regarding the revocation on notice of an immigrant petition under section 205 of the Act, the Board of Immigration Appeals has stated:

> In *Matter of Estime*, . . . this Board stated that a notice of intention to revoke a visa petition is properly issued for "good and sufficient cause" where the evidence of record at the time the notice is issued, if unexplained and unrebutted, would warrant a denial of the visa petition based upon the petitioner's failure to meet his burden of proof. The decision to revoke will be sustained where the evidence of record at the time the decision is rendered, including any evidence or explanation submitted by the petitioner in rebuttal to the notice of intention to revoke, would warrant such denial.

Matter of Ho, 19 I&N Dec. 582, 590 (BIA 1988)(citing *Matter of Estime*, 19 I&N 450 (BIA 1987)).

By itself, the director's realization that a petition was incorrectly approved is good and sufficient cause for the issuance of a notice of intent to revoke an immigrant petition. *Id.*

The regulation at 8 C.F.R. § 103.3(a)(1)(iii) states, in pertinent part:

> (B) *Meaning of affected party*. For purposes of this section and §§ 103.4 and 103.5 of this part, *affected party* (in addition to the Service) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

Documentation in the record reflects that conflicts within the petitioning organization resulted in a division of its membership. According to counsel in his May 30, 2008 letter, although the church attempted to continue, the petitioning organization eventually dissolved in 2007. [redacted], who served as the petitioner's president, stated in a May 30, 2008 affidavit that the remaining members of the petitioning organization "entered as full members of the Brazilian Fellowship."

On appeal, [redacted] of the [redacted], states that the petitioning organization merged with the [redacted]. Citing a May 13, 1994 letter from [redacted] of the legacy Immigration and Naturalization Services (INS), [redacted] argues that "the transfer of a Special Immigrant Religious Worker to a different congregation of the same religious denomination does not affect the validity of the I-360 petition."

We do not find this argument to be persuasive. First, the letter from [redacted] does not constitute binding precedent on USCIS. Second, [redacted] letter identifies a completely different set of facts indicating that the petition that was the subject of his letter was filed by a religious denomination, not an individual church, on behalf of one of its ministers. The denomination subsequently reassigned the minister to a different congregation. [redacted] advised that under those conditions, the approval of the Form I-360 remained valid. In the instant case, the petitioner was not a denominational organization but rather a specific church.[1] Accordingly, we do not find that the letter documents an analogous situation.

We note the assertion that the petitioner merged with [redacted], but the record contains no documentary evidence of this merger. Furthermore, it is far from clear that a merger of the petitioning church into the [redacted] would not also affect the validity of the original petition. Regardless, as the record reflects that the petitioning organization was dissolved, the petitioning organization no longer exists.

The appeal was filed by [redacted] The appeal, therefore has not been filed by any entity with legal standing in the proceeding. Accordingly, the appeal has not been properly filed and must be rejected.

ORDER: The appeal is rejected.

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[1] The documentation submitted by the petitioner includes a letter from the Internal Revenue Service (IRS) to The General Council of the Assemblies of God granting group exemption to the organization and its subordinate units. The petitioner submitted a letter from the General Council indicating that it was recognized as a subordinate unit and therefore recognized under the group exemption given to the [redacted]d. However, there is no similar documentation for [redacted]