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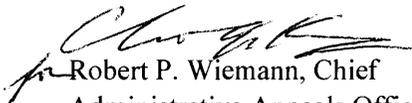
IN RE: Petitioner: [redacted]  
Beneficiary: [redacted]

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:  
[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.

  
Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, Texas 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 a member church of the Presbyterian Church (U.S.A.) (PCUSA). 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 Christian education director. The director determined that the petitioner had not established that the beneficiary had the requisite two years of continuous work experience as a Christian education director immediately preceding the filing date of the petition. In addition, the director determined that the petitioner had not established that the beneficiary's position qualifies as a religious occupation, or that the petitioner had made a valid offer of paid employment.

On appeal, the petitioner submits a brief from counsel, copies of bank statements, and other materials.

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).

We first turn our attention to the issue of the beneficiary's past experience. 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 28, 2005. Therefore, the petitioner must establish that the beneficiary was continuously performing the duties of a Christian education director throughout the two years immediately prior to that date.

In a letter accompanying the initial submission, [REDACTED], Senior Pastor of the petitioning church, stated that the beneficiary "is a full time employee of the church as Christian Education Director from July 7, 2003 to present and has been compensated \$700 per month for her service."

The petitioner submitted copies of Internal Revenue Service (IRS) Form W-2 Wage and Tax Statements, showing that the petitioner paid the beneficiary \$4,200 in 2003 and \$8,400 in 2004. These amounts are consistent with [REDACTED]'s assertion that the petitioner has paid the beneficiary \$700 per month since July 2003. Copies of the joint income tax returns filed by the beneficiary and her spouse for 2003 and 2004 show no income other than the amounts reported on the Forms W-2. The returns identified two children in addition to the beneficiary and her spouse, and specified the beneficiary's occupation as "Religious Teacher."

On December 8, 2005, the director issued a request for evidence (RFE) instructing the petitioner to submit evidence of the beneficiary's past employment, including "detailed time sheets" and IRS-certified copies of the beneficiary's income tax returns.

In response, counsel stated that the beneficiary had requested certified copies of her 2003 and 2004 income tax returns, but the IRS had not yet provided the copies. The petitioner submitted a copy of the beneficiary's Form W-2 for 2005, showing that the petitioner had paid the beneficiary \$8,400. Counsel also stated that the petitioning "church has no time sheet to fill or log to process for its employees."

The director denied the petition on March 13, 2007, stating:

A review of the tax returns submitted demonstrated that the beneficiary claimed four dependents. . . . The form 1040 [tax return] and attachments show no other income for the beneficiary's household. The evidence on hand clearly states that the beneficiary does not receive additional compensation, therefore it is questionable that the beneficiary has been able to sustain her family with the mere compensation received [from] the church, without having to rely on outside employment for support.

In the above passage, the director seemed to accept that the beneficiary received some compensation, however minimal, from the petitioner. In the same decision, however, the director also stated: "In the absence of certified income tax returns, the petitioner failed to establish that it had employed the beneficiary in any particular occupation, religious or otherwise, during the two-year qualifying period." These conclusions are somewhat in conflict. If the director accepts that the petitioner has paid the beneficiary a salary, however minimal, then the director cannot also find that the petitioner has not shown that it has employed the beneficiary.

The director found the beneficiary's salary to be insufficient to support her family, and therefore the director inferred that the beneficiary may have had "to rely on outside employment for support." The director cited no affirmative evidence of this outside employment. The beneficiary's income tax returns do not show any income except for the amounts reported on Forms W-2 issued by the petitioning church. The director's decision is somewhat inconsistent with regard to the tax returns. When the returns contain information that the director considers to be damaging to the petitioner's claims, the director cites the returns as evidence of

ineligibility. When, on the other hand, the returns support the petitioner's claims, the director dismisses the tax returns because they are not IRS-certified copies.

The record is not without ambiguities concerning the beneficiary's compensation, but the director has cited nothing in the record that would tend to cast doubt on the IRS Forms W-2 for 2003 through 2005. Absent evidence of forgery or other fraud, these Forms W-2 are *prima facie* evidence of payment, and the amounts shown are consistent with a monthly salary of \$700. If the director can cite no specific grounds for rejecting the authenticity or accuracy of the Forms W-2, then the director must accept them as evidence of compensation during the qualifying period. We will, nevertheless, revisit the issue of compensation.

In the denial notice, the director stated: "It cannot be determined that a Religious Teacher and a Christian Education Director are the same occupation, therefore it is demonstrated that the beneficiary has not performed continuously the proffered occupation for the required two years prior to filing the visa petition." The director also asserted that the beneficiary's self-identification as a "religious teacher" has "contradicted" the petitioner's claim that the beneficiary is a "Christian education director."

On appeal, counsel asserts that the use of the phrase "religious teacher" instead of "Christian education director" is "immaterial." We are inclined to agree. A provider of Christian education is, by definition, a religious teacher, and the change in terminology does not contradict or otherwise cast doubt on any claims put forth by the petitioner or by the beneficiary. If the beneficiary had identified her occupation as, for instance, a "homemaker" or "sales manager" on her tax returns, there would be a major contradiction, justifying further inquiry. Here, however, the terms "Christian education director" and "religious teacher" both relate to religious instruction. We note, also, that the typed phrase "RELIGIOUS TEACHER" (in all capital letters on the tax returns) just barely fits into the space provided on the tax return; there is not enough room on the return for the longer phrase "Christian education director." This alone would arguably justify a rephrasing of the job title on the tax return.

In summation, the preponderance of available evidence indicates that the petitioner did compensate the beneficiary during the 2003-2005 qualifying period, and there is no indication that the beneficiary worked for the petitioner in a different capacity than the petitioner has claimed. The AAO therefore withdraws the director's findings regarding these points.

The remaining issue of concern regarding the beneficiary's past work is that the beneficiary's claimed monthly compensation of \$700 is not consistent with full-time pay at the legal minimum wage, which was \$5.15 per hour during the qualifying period. Therefore, either the petitioner paid the beneficiary an unlawfully low wage, or else the beneficiary actually worked only part-time. The petitioner's uncorroborated claim that the beneficiary worked full-time is not *evidence* of full-time employment. See *Matter of Soffici*, 22 I&N Dec. 158, 165 (Commr. 1998) (unsubstantiated claims do not meet the burden of proof).

On appeal, counsel concedes that the beneficiary's salary from the church, even following an increase to \$950 per month, "is not sufficient to support a family of four. However. . . the Beneficiary[']s family receives financial support from her parents and her parents-in-laws in Korea." The petitioner submits copies of bank

statements showing that the beneficiary received wire transfers in excess of \$65,000 in 2006. Some individual transfers have exceeded \$10,000 in value.

Copies of the beneficiary's bank statements from 2006 do, in fact, show incoming wire transfers as described by counsel. What the bank statements do not show are salary payments from the petitioning church to the beneficiary, which one would expect to appear at regular intervals. The petitioner does not explain this anomaly. There may well be an explanation consistent with eligibility – *e.g.*, the beneficiary may have cashed her paychecks instead of depositing them, or she may have deposited them into a different account – but speculation of this kind cannot meet the petitioner's burden of proof. Another possible explanation for the apparent absence of paycheck deposits would be that the petitioner did not pay the beneficiary in 2006. Absent first-hand evidence, the choice between these alternatives rests, in considerable part, on the petitioner's credibility, which will receive further attention elsewhere in this decision.

The director questioned whether the petitioner seeks to employ the beneficiary in a qualifying occupation. The regulation at 8 C.F.R. § 204.5(m)(2) defines "religious occupation" as:

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.

8 C.F.R. § 204.5(m)(3)(ii)(D) requires the prospective employer to show that the beneficiary is qualified in the religious occupation and provide evidence establishing that the work to be done relates to a traditional religious function.

In his November 16, 2005 "Statement in Support of Petition," [REDACTED] stated that the beneficiary's duties were to "plan, organize, and direct Christian education programs designed to promote Christian education among youth congregation membership," for which the beneficiary "will be paid at \$950.00 per month for her services." Documents in the record corroborate [REDACTED] claims that the beneficiary "received a Bachelor of Arts in Chinese Studies," "has been certified by [the] Ministry of Education, Korea as [a] Secondary School Teacher," and "has more than two years of prior experience as [a] Christian Education Teacher in [a] school managed by Youngnak Presbyterian Church in Korea." We note that the beneficiary's educational credentials show no specialization in religious education.

In the RFE issued December 8, 2005, the director requested "published material detailing the requirements for this position," and "evidence clearly identifying how the beneficiary qualifies [for] the proffered job." In response, counsel stated:

The church requires a Christian Education Director who has:  
A. Graduate of regular 4 years college, majoring in education.

- B. She/he must have experience in designing Christian Education program both in Korean and English languages.
- C. A person who has over 2 years of experience in teaching middle or high school.
- D. A person who has ability to be a role model to others in Christian faith.

The petitioner did not submit the requested published materials to show that the PCUSA denomination in general recognizes the above requirements. The assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1, 3 n.2 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

The petitioner also submitted a summary report from the web site of the Occupational Information Network (O\*NET), <http://online.onetcenter.org/link/summary/21-2021.00>, regarding "Directors, Religious Activities and Education." The O\*NET printout states "Extensive Preparation [is] Needed" for the position, including knowledge of "Psychology," "Philosophy and Theology," "Sociology and Anthropology," "Economics and Accounting" among other skill areas. If the general "summary report" applies to this particular position, then the petitioner must show that the beneficiary possesses "extensive preparation" in all the listed areas (which the petitioner has not done). If, on the other hand, the position does not have these requirements, then the "summary report" is inapplicable and irrelevant. The ideal standard is what the PCUSA requires, but the petitioner has submitted nothing from the PCUSA's *Book of Order* or any other authoritative denominational publication or source. If the petitioner desires that we take the O\*NET printout into consideration (and it was the petitioner's idea to submit it; the director did not request it), then we must take note of the petitioner's failure to show that the beneficiary meets the rather extensive and stringent requirements listed on that document.

We note that at the top of the petitioner's O\*NET printout appears a menu that lists eleven categories: Tasks, Knowledge, Skills, Abilities, Work Activities, Work Context, Job Zone, Interests, Work Values, Related Occupations, and Wages & Employment. The printout shows the text of the first nine categories, ending with "Work Values." The individual who prepared the printout obscured the "Related Occupations" and "Wages & Employment" sections with a piece of blank paper, leaving the bottom of the page visible, and then copied the page. The top and bottom edges of this piece of paper are visible in the submitted copy, as is a fragment of partially obscured text.

As of August 23, 2007, when the AAO visited the O\*NET web page, part of the obscured section read as follows:

**Wages & Employment Trends**

National

Median wages (2005)	\$15.64 hourly, \$32,540 annual
Employment (2004)	90,000 employees
Projected growth (2004-2014)	Average (10-20%)
Projected need (2004-2014)	27,000 additional employees

The petitioner's concealment of the above information does not readily indicate that the petitioner submitted the O\*NET printout in good faith. The petitioner has sought to have us consider those portions of the printout that support the petitioner's claims, while attempting to hide those parts that are clearly incompatible with the

petitioner's claims. If the petitioner desires that we take the job description and title into account, then we must also take the median wage into account.

The AAO takes the petitioner's concealment of the above information very seriously, as it has every appearance of an attempt to obtain immigration benefits by misrepresentation of material facts. The petitioner, by submitting an altered printout to support its claims while hiding unfavorable information, has gravely diminished its own 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).

The O\*NET printout, which is the closest thing to authoritative evidence that the petitioner has seen fit to provide, indicates that the position of director of religious education is generally recognized as an occupation, but an occupation with requirements and compensation demonstrably at variance with the beneficiary's qualifications and claimed compensation. The O\*NET printout, in short, does not establish that the petitioner has extended a *bona fide* job offer to the beneficiary; it points, rather, in the opposite direction. Bank records from 2006, which fail to show any salary payments from the church but indicate that the beneficiary has received very sizeable sums of money from overseas, do nothing to dispel our conclusions in this regard. The record contains no affirmative documentary evidence of a *bona fide* offer of continuing paid employment to the beneficiary as Christian education director at the petitioning church.

Because of the questions arising from the petitioner's own submissions, including the information that the petitioner chose to conceal in those submissions, we concur with the director's finding that "It cannot be determined that this is a full-time, paid or remunerated job offer." Rather, the petitioner has shown, at best, that the beneficiary received minimal compensation for just long enough to meet the two-year experience requirement. Discrepancies and alterations in the petitioner's evidence prevent a finding that the petitioner has presented true and credible evidence of eligibility. 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 *Anetekhai v. I.N.S.*, 876 F.2d 1218, 1220 (5th Cir.1989); *Systronics Corp. v. INS*, 153 F. Supp. 2d 7, 15 (D.D.C. 2001); *Lu-Ann Bakery Shop, Inc. v. Nelson*, 705 F. Supp. 7, 10 (D.D.C.1988).

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.