

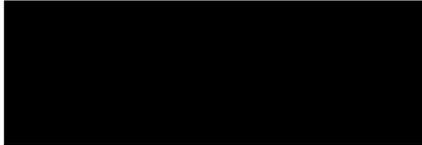
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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

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DATE: **MAY 16 2011** OFFICE: CALIFORNIA SERVICE CENTER FILE:

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:**

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, California Service Center, initially approved the employment-based immigrant visa petition. Upon further review, the director determined that the petition had been approved in error. The director properly served the petitioner with a notice of intent to revoke, and subsequently revoked the approval of the petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will dismiss the appeal.

The petitioner describes itself as “a church and mission center” affiliated with Global Education Mission, based in South Korea. 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 an evangelist. The director determined that the petitioner had failed the compliance review process after site inspections and interviews revealed the petitioner to be a complex of student boarding houses.

On appeal, the petitioner submits supporting exhibits and a brief from counsel.

Section 205 of the Act, 8 U.S.C. § 1155, states: “The Secretary 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 un rebutted, 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 Dec. 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 approval of a visa petition vests no rights in the beneficiary of the petition, as approval of a visa petition is but a preliminary step in the visa application process. The beneficiary is not, by mere approval of the petition, entitled to an immigrant visa. *Id.* at 589.

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 September 30, 2012, 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 September 30, 2012, 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 petitioner filed the Form I-360 petition on April 4, 2006. In an accompanying letter, [REDACTED] stated:

[The beneficiary] has been serving our church as a full-time Evangelist since September of 2005 on R-1 status. . . .

Our church . . . is located at [REDACTED] . . . We also established a branch office in California, and it is located at [REDACTED] . . .

As a church and mission center, the main purpose of our organization is to worship God, to spread the Gospel of Jesus Christ, to implement visions of Christ, and also to provide spiritual training and guidance to the Korean youths around the world.

At our worship centers in California and Texas, we hold main services on Sundays, weekly Bible study meetings, Friday night evening services and early morning prayer services. We are also very actively involved with various mission projects. Our organization is operated by member donations and community charity contributions, not to mention offerings from our youth members and their parents. . . .

[The beneficiary] will be responsible for assisting the senior pastor, leading the worship services in lieu of the senior pastor; teaching the Bible to Korean speaking youths and new members. She will provide religious counseling and guidance for the Korean youths and young adults.

Additionally, [the beneficiary] will be responsible for preparing newsletters, creating both educational and religious programs; and will be in charge of creating special Christian education programs. In addition, she will spend [a] substantial amount of time . . . witnessing . . . God's love and the gospel of Lord Jesus Christ. . . .

For our religious organization, the offered position is an intrinsic part of religious functions at our church. We have a definite need for a permanent Evangelist.

subsequently signed a June 16, 2006 job description, which read, in part:

[The beneficiary] will assist senior pastor administer [sic] Sunday worship services and Bible studies. She will lead dawn worship service, Friday worship, and Bible group studies. She will attend the church education department meeting as well as the staff meetings to share administrative matters, discuss Christian education programs and current issues in Christian Ministry. [The beneficiary] will research and develop church programs and outreach activities for church members. She will hold office hours to provide spiritual guidance and offer prayers to those in need.

The petitioner submitted a March 20, 2006 letter attesting to the beneficiary's experience "as Evangelist from April 13, 2003 to August 31, 2005." The signature on the letter is illegible, with no title provided. The letter is on the letterhead of the petitioner's parent organization, . . . A printed legend at the bottom of the page reads: . . .

To establish its financial status, the petitioner submitted three bank statements dated December 2005 and January and February 2006. The statements show the following credits to the account:

Date	Transaction	Amount
12/07/2005	Deposit	\$600.00
12/07/2005	Wire transfer from G.V.C.S	19,982.00
12/09/2005	Purchase adjustment	119.72
12/15/2005	Wire transfer from G.V.C.S	74,441.00
12/16/2005	Deposit	2,141.98
12/16/2005	Wire transfer from G. V. C. S	19,982.00
12/21/2005	Wire transfer from G.V.C.S	10,504.39
01/04/2006	Wire transfer from Kim Su Kyung	61,018.64
01/13/2006	Deposit	12,960.00
01/13/2006	Wire transfer from G.V.C.S	88,190.00

01/24/2006	Wire transfer from G. V. C. S	19,982.00
01/25/2006	Deposit	6,160.00
02/01/2006	Wire transfer from G.V.C.S	89,982.00
02/10/2006	Wire transfer from Yoon So In	89,982.00

██████████, identified on the parent organization's letterhead, appears to be the ██████████ identified as the main source of the petitioner's funding.

The petitioner submitted copies of Korean-language materials, accompanied by a translator's note: "Attached worship bulletins are dated March 12, 2006, March 5, 2006, and February 19, 2006. / It shows the Church Name [and address] . . . It also shows ██████████ as the church senior pastor" (emphasis in original). The bulletins themselves, though mostly in Korean, show, in English, the name of the petitioning organization and the legend ██████████. The address listed on the bulletins is the same ██████████ address shown on Form I-360 and specified as the petitioner's location in ██████████ letter. The bulletins show no other address.

The petitioner submitted photographs showing the beneficiary "giving prayer in front of the congregation." Photographs of the congregation show less than 30 people, mostly teenagers and young adults, outside a one-story commercial structure. No address is legible on any of the exterior photographs.

The director approved the petition on May 31, 2006. Subsequently, USCIS officers conducted a routine compliance review. On May 11, 2007, a USCIS officer traveled to the ██████████ address listed on Form I-360, ██████████ letter, and on the petitioner's church bulletins. The officer found "a single-family home located in a residential community. No one was at the site." This house was clearly not the church depicted in the previously submitted photographs.

On July 26, 2007, a USCIS officer interviewed ██████████, identified as the petitioner's assistant pastor, who indicated that the petitioner is, in the interviewing officer's words, "an organization for international students from Korea wishing to attend private Christian schools in the United States." ██████████ stated that 44 foreign students resided at four homes in ██████████ and ██████████, and attended Christian schools in those two towns. The petitioner did not claim to operate its own school, and the record contains nothing from officials of the schools the students attend. ██████████ stated that ██████████, was the petitioner's "main office," but that the petitioner held religious services at Southwest Christian Church at ██████████. The officer's report appears to indicate that only 11 students belonged to the petitioner's church, but this may be a typographical error. Asked how the church supports itself, ██████████ stated that the parents of the students send donations, and "he is trying to recruit Korean families in the area to attend Services."

During the compliance review process, USCIS repeatedly requested a copy of the petitioner's Internal Revenue Service (IRS) Form 1023, Application for Recognition of Exemption. The petitioner did not provide the requested document.

On August 29, 2007, a USCIS officer interviewed [REDACTED] of Southwest Christian Church, who stated that “approximately 40 individuals,” mostly “children and teenager[s] with few adults,” attend the petitioner’s services.

On June 15, 2009, the director issued a notice of intent to revoke the approval of the petition, stating: “the site check reveals the location [provides] room and board for foreign students and the beneficiary is employed more as a house parent, rather than a full [time] evangelist.”

In response, [REDACTED] stated that “USCIS does not understand the nature and the activities of” the petitioning entity. [REDACTED] described several activities such as retreats, mission trips, and a [REDACTED] none of which the petitioner had previously mentioned in the initial filing. He provided a revised job description for the beneficiary, stating that she “prepares for the [REDACTED] every year,” “leads daily quiet time at 8:00pm,” and “prepares for the Sunday worship services and everyday Early Morning Services. She also prepare[s] . . . church literatures including church bulletins.” [REDACTED] did not explain why this list of duties is so very different from the descriptions provided earlier. This drastic revision of the beneficiary’s duties would raise questions under the best of circumstances. That the petitioner did so when confronted with derogatory information compounds the credibility issues.

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.

The petitioner submitted a letter from [REDACTED] office administrator for [REDACTED], confirming that the petitioner uses the “facility for their worship services . . . during the week and on Sundays.” The petitioner did not explain why its initial submission contained no mention at all of [REDACTED] or its [REDACTED] location. The petitioner did not disclose this address until after USCIS officers found that the [REDACTED] site is a house rather than a church.

The petitioner submitted a copy of a church bulletin dated July 13, 2008. An accompanying translator’s certification indicated that the bulletin shows that “the church . . . is located at [REDACTED] [sic [REDACTED]].” The accompanying bulletin, however, shows the [REDACTED] address of [REDACTED]. The bulletin also shows the beneficiary’s name and title, “Evangelist,” both in English.

A “Church Member List” shows 73 names, but no contact information to permit verification. We note that, if the petitioner does, in fact, have a sizeable congregation in California, then [REDACTED] must have provided false information to the USCIS officer who interviewed him.

The petitioner submitted copies of purported schedules and itineraries for various travel events, as well as several photographs. The only internal evidence in the photographs to link them to the petitioner is a banner that reads: [REDACTED], [REDACTED]” The petitioner had already indicated that its principal location is in [REDACTED]. The record contains no evidence that the individuals shown in the “Winter Vision Camp” photographs are from the California congregation rather than the one in Texas (although we acknowledge that [REDACTED] is roughly halfway between [REDACTED] and [REDACTED]). The photographs do not show or imply that the petitioner has a legitimate need for a full-time, year-round evangelist.

Also, the bulk of the evidence submitted in response to the notice of intent to revoke deals with a period of time well after the petition’s April 4, 2006 filing date. Under the regulations at 8 C.F.R. § 103.2(b)(1) and (12), the petitioner must establish eligibility for the requested benefit at the time of filing the application or petition. Therefore, subsequent events cannot cause a previously ineligible alien to become eligible after the filing date. *See Matter of Katigbak*, 14 I&N Dec. 45, 49 (Regl. Commr. 1971). The materials from 2008 and 2009 do not contradict or overcome what USCIS learned during the 2007 compliance review and site inspections.

The director issued a notice of revocation on September 9, 2009. The director noted that, while [REDACTED] may operate a Christian school in South Korea, there is no evidence that the petitioner runs a school in California. Rather, an official of the petitioning entity stated that the petitioner provided housing for students at nearby Christian schools, but the petitioner neither claimed nor showed any affiliation with those schools. The director also noted that, despite repeated requests for a copy of the petitioner’s IRS Form 1023 application, the petitioner had not yet provided that document. The director concluded that the wire transfers from South Korea appear to cover the students’ housing costs, rather than the expenses of a full-time religious organization.

On appeal, counsel contends that “IRS Form 1023 is a mere application form” and therefore the petitioner need not comply with the director’s request for a copy of the document. 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). Moreover, section 6104(d) of the Internal Revenue Code generally requires non-profit organizations to provide copies of their IRS Form 1023 applications upon request, and failure to comply may result in a fine.

Counsel then argues that the petitioner qualifies as a religious organization under IRS guidelines. Counsel’s assertions along this line fail to address the key findings that led the petitioner to fail the compliance review. Regarding that compliance review, counsel states:

[REDACTED] statements about the petitioner at the time of the interview during the site visit on May 11, 2007 were not reliable because he did not have enough knowledge about the petitioner to be a reliable witness, especially on May 11, 2007 even before he started to work for the petitioner. Nor has he ever been in the position to represent

the petitioner because he worked only in the position of volunteer for the petitioner less than one month.

As one of the examples that [REDACTED] statement is not reliable, [REDACTED] stated that there were between 8-10 student members at the location of the petitioner while [the petitioner] has maintained around 60 registered members in fact (Please, see the Church Member List, attached as Exhibit 7) and around two thirds of the registered members generally attend the Sunday worship services. This is supported by the pastor for [REDACTED] [REDACTED] statement, during the site visit, that the petitioner "had about 40" members who gathered for Sunday services.

The appeal includes no evidence to support counsel's claims regarding [REDACTED]. The unsupported assertions of counsel do not constitute evidence. See *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).

Furthermore, counsel's account is not consistent with the facts. The interview with [REDACTED] did not occur on May 11, 2007. Rather, that was the date that a USCIS officer visited the petitioner's claimed address, only to find a house rather than a church. The officer then mailed a written interview request to the [REDACTED] address, asking to speak to [REDACTED]. On the appointed date (July 26, 2007), [REDACTED] did not appear. Instead, the petitioner sent [REDACTED] and the beneficiary. Counsel does not explain why, when USCIS requested an interview with [REDACTED] the petitioner would have sent in his place a new volunteer who was not "in the position to represent the petitioner" and "did not have enough knowledge about the petitioner to be a reliable witness." We note that, during his first interview, [REDACTED] provided the names of three Christian schools and the street addresses of four houses where the petitioner boarded Korean students. His ability to provide these details does not suggest that he was as uninformed as counsel claims. [REDACTED] was also present later, when a USCIS officer interviewed [REDACTED] on September 17, 2007, a further indication that the petitioner consciously chose to include [REDACTED] among those authorized to speak on behalf of the petitioner. Therefore, we give little credence to counsel's unsubstantiated attempts to discredit [REDACTED] statements by painting [REDACTED] as an uninformed volunteer.

The appeal includes a new "Church Member List" showing 62 names and birth dates. Many of the named individuals have signed identical "form" affidavits, stating that the beneficiary works "as a full time Evangelist" who "has led early morning service meetings and group bible study meetings for the members." The first six names on the list correspond to claimed church workers: senior pastor, associate pastor, financial manager, spiritual minister (the beneficiary), pianist and youth minister. The list identifies the remaining 56 individuals as "church members." All but ten of the 56 church members were under the age of 18 when the petitioner submitted this list. This age distribution is consistent with statements from [REDACTED] and [REDACTED] that the church consisted primarily of about 40 students, with a handful of adults.

The petitioner has not submitted credible, verifiable documentation to show that it legitimately employs almost one worker for every nine members of its congregation. Over the course of this proceeding, the petitioner has very significantly changed its description of the beneficiary's claimed duties, and of the petitioning organization itself. The initial description, for instance, offered no indication that the vast majority of its members are teenagers who live in boarding houses operated by the petitioner. Only after launching an inquiry did USCIS learn about these houses, or that the petitioner does not have a church at the only address provided in the initial filing.

The petitioner has also provided inconsistent information about its means of support. [REDACTED] originally stated that the petitioner's support comes from "member donations and community charity contributions, not to mention offerings from our youth members and their parents," but the record shows that the bulk of the petitioner's support comes in the form of wire transfers from the parent organization in Korea. The record does not indicate that the petitioner would be self-sufficient if it relied on donations from its ten adult members and the local community. The petitioner has claimed that the students' parents are members themselves, but the petitioner's own member list does not name them. Also, if the parents are in South Korea, it is not clear in what meaningful sense we could consider them members of a church congregation in California. As the director has already made clear, contributions from those parents (evidently funneled through the parent entity) appear to be payment for room and board while the students attend (unaffiliated) Christian schools in the area.

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 met that burden. Accordingly, the AAO will dismiss the appeal.

**ORDER:** The appeal is dismissed.