

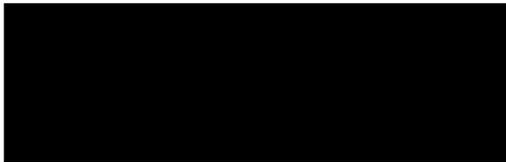
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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DATE: **NOV 18 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, denied the employment-based immigrant visa petition. The Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is now before the AAO on a motion to reopen and reconsider. The AAO will grant the motion and reaffirm the denial of the petition. The AAO will also enter a separate finding of willful misrepresentation of a material fact.

The petitioner is identified as “a nonprofit religious organization . . . [that] has participated in the establishment of twelve (12) non-English speaking Presbyterian churches” throughout the United States. 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 the pastor of the South Asian Presbyterian Fellowship of Valley Stream, New York.

The AAO’s prior decision contains a detailed discussion of the early stages of this proceeding, and therefore the AAO will not repeat that discussion at length here; the AAO incorporates the prior decision by reference. To summarize, the director denied the petition on four grounds: (1) the beneficiary appeared to have entered the United States for a purpose other than to carry on the vocation of a minister; (2) the petitioner did not establish its ability to compensate the beneficiary; (3) the beneficiary, who held a limousine driver’s license and listed his occupation as “Limo Service” on three consecutive income tax returns, did not appear to have been engaged continuously in qualifying religious work for two years immediately preceding the filing of the petition; and (4) the petitioner had failed a compliance review intended to verify its claims.

The AAO dismissed the petitioner’s appeal on January 13, 2010, withdrawing ground number (1) above but affirming the remaining three grounds for denial. The AAO found that the petitioner’s unsupported claims lacked credibility, and that the petitioner had not addressed or contested the director’s assertion that the petitioner had failed the compliance review. The AAO also found an additional ground for denial, in that the petitioner had not submitted the detailed attestation required by the U.S. Citizenship and Immigration Services (USCIS) regulation at 8 C.F.R. § 204.5(m)(7).

On February 12, 2010, the petitioner filed a timely motion to reopen and reconsider the AAO’s appellate decision. On motion, the petitioner submits arguments from counsel, a letter from an official of the petitioning organization, and copies of documents from the Internal Revenue Service (IRS) and other sources. Below, the AAO will consider the petitioner’s submissions with relation to each of the grounds that the AAO cited in its dismissal order.

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 . . . ; 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).

PAYMENTS TO THE BENEFICIARY

The USCIS regulation at 8 C.F.R. § 204.5(m)(10) states:

Evidence relating to compensation. Initial evidence must include verifiable evidence of how the petitioner intends to compensate the alien. Such compensation may include salaried or non-salaried compensation. This evidence may include past evidence of compensation for similar positions; budgets showing monies set aside for salaries, leases, etc.; verifiable documentation that room and board will be provided; or other evidence acceptable to USCIS. If IRS documentation, such as IRS Form W-2 or certified tax returns, is available, it must be provided. If IRS documentation is not available, an explanation for its absence must be provided, along with comparable, verifiable documentation.

The petitioner filed the Form I-360 petition on January 31, 2007. The prior appellate decision described the petitioner's submission of IRS Form 990 Returns of Organization Exempt From Income Tax for 2004 and 2005 and Form W-2 Wage and Tax Statements for 2005 and 2006, along with other documents intended to show that the petitioner has been paying the beneficiary \$12,000 per year plus housing worth \$4,000 per year and other benefits worth \$2,400 per year, for total annual compensation worth \$18,400. In dismissing the appeal, the AAO found inconsistencies in the petitioner's documentation. For instance, the AAO concluded that photocopies of the beneficiary's purported monthly paychecks from the petitioner are not consistent with information on the petitioner's IRS Form 990 returns. The AAO also found that the federal employer identification number (EIN) on the Form I-360 petition and other documents did not match the EIN on IRS Form W-2 Wage and Tax Statements that the petitioner had issued to the beneficiary.

On motion, the petitioner submits copies of IRS correspondence dated 1994 and 1997, showing two different EINs for the petitioner. The 1994 documentation shows the EIN from the IRS Forms W-2; the 1997 documentation shows the EIN used on the Form I-360. The two EINs share several digits, indicating that a transcription error is a plausible explanation for the similar but not identical numbers. The AAO notes that the Forms W-2 show an "Employer's state ID number" that matches the New Jersey "corporation number" shown on corporate documentation from the 1990s. This number persuasively ties the petitioner to the beneficiary's past payments.

With respect to the Form 990 returns, review of the record shows that the petitioner left parts of those returns blank. On the 2006 return, the petitioner indicated that it paid \$48,000 to its officers, and listed the beneficiary as one of those officers, but neglected to indicate whether it paid the beneficiary. (Some officers – but not the beneficiary – were specifically listed as uncompensated.)

The AAO obtained a copy of the petitioner's 2008 IRS Form 990, which the petitioner filed with the IRS on April 13, 2009. On that form, the petitioner reported that the beneficiary worked an average of 20 hours per week, earning a total of only \$9,500 for the year. The AAO advised the petitioner of this derogatory information on September 29, 2011, as required by the USCIS regulation at 8 C.F.R. § 103.2(b)(16)(i).

In response, the petitioner submitted a letter dated October 10, 2011 and jointly signed by [REDACTED], respectively the petitioner's director and chair of its board of directors.

The officials state:

[I]n 2008 contributions to our ministry did not come in as expected, and by the end of the year [the beneficiary] received only \$9,500. The remaining balance of \$2,500 of his salary was paid to him as the funds became available. But [the beneficiary's] W-2 for 2008 showed his income to be \$12,000 and the taxes was [*sic*] paid on \$12,000.

The petitioner submits no IRS documentation, such as Form W-2 or IRS-certified transcripts, to support the claim that the petitioner paid additional compensation to the beneficiary. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

Furthermore, the claim that the petitioner underpaid the beneficiary only because funds were unavailable does not explain why the petitioner reported that the beneficiary worked only 20 hours a week in 2008. The petitioner has not addressed this information.

The AAO also advised the petitioner that, according to available records, the beneficiary purchased a house in Valley Stream, New York, in 2001 – before he began working for the petitioning church – and has apparently lived there ever since. The AAO stated that this information contradicts the petitioner's claim to have been providing housing to the beneficiary as part of his compensation package.

In response, the petitioner resubmits a partial copy of a previously submitted statement, in which the petitioner acknowledged that the beneficiary purchased the home “to accommodate his brother, who then paid the mortgage and other related expenses of the home.” The petitioner asserted that, notwithstanding the beneficiary's prior purchase of the home, “all givings and offerings are given to the beneficiary to compensate for his living expenses, which includes housing, travel and medical.” The petitioner then contradicts this prior statement, asserting that the beneficiary's brother's mortgage payments were “considered as an in kind financial help,” and that “this arrangement . . . saved us \$4000.00 a year on housing allowance.”

The above two explanations conflict with one another. The petitioner claimed that donations to the church went to the beneficiary for housing and other expenses, which would result in a net expense to the petitioner. Now, however, the petitioner claims that the brother's mortgage payments "saved us \$4000.00 a year on housing allowance" because the brother, not the petitioner, covered those expenses. The petitioner effectively admits that, on IRS Forms W-2, it reported paying a \$4,000 housing allowance to the beneficiary, even though the petitioner did not pay this housing allowance. Thus, on motion, the petitioner has succeeded only in establishing that its IRS documentation contains falsified and unreliable information.

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 has overcome some specific issues of concern, such as the apparent use of other EINs. Nevertheless, the AAO affirms its basic finding that the petitioner has not submitted independent objective evidence regarding the beneficiary's compensation.

EXPERIENCE

The second issue the AAO will consider on motion concerns the beneficiary's past experience. The USCIS regulation at 8 C.F.R. § 204.5(m)(4) requires the petitioner to show that the beneficiary has been working as a minister or in a qualifying religious occupation or vocation, either abroad or in lawful immigration status in the United States, continuously for at least the two-year period immediately preceding the filing of the petition. The petitioner filed the petition on January 31, 2007. Therefore, the petitioner must establish that the beneficiary was continuously performing qualifying religious work throughout the two years immediately prior to that date.

The USCIS regulation at 8 C.F.R. § 204.5(m)(11) reads:

(11) *Evidence relating to the alien's prior employment.* Qualifying prior experience during the two years immediately preceding the petition or preceding any acceptable break in the continuity of the religious work, must have occurred after the age of 14, and if acquired in the United States, must have been authorized under United States immigration law. If the alien was employed in the United States during the two years immediately preceding the filing of the application and:

- (i) Received salaried compensation, the petitioner must submit IRS documentation that the alien received a salary, such as an IRS Form W-2 or certified copies of income tax returns.

(ii) Received non-salaried compensation, the petitioner must submit IRS documentation of the non-salaried compensation if available.

(iii) Received no salary but provided for his or her own support, and provided support for any dependents, the petitioner must show how support was maintained by submitting with the petition additional documents such as audited financial statements, financial institution records, brokerage account statements, trust documents signed by an attorney, or other verifiable evidence acceptable to USCIS.

If the alien was employed outside the United States during such two years, the petitioner must submit comparable evidence of the religious work.

In the denial notice, the director noted that the beneficiary holds a Class E New York State driver license, classified as a "taxi and livery license," and that the beneficiary repeatedly listed his occupation as "Limo Service" on his income tax returns for 2005, 2006 and 2007. The director concluded: "It is not clear that the beneficiary has been working solely in a religious occupation for the two years immediately preceding the filing of the petition. The evidence reflects that the beneficiary has been working as a taxi or limousine operator during the qualifying period."

The director noted that the beneficiary filed amended tax returns in 2008, seeking to change his listed occupation to "pastor," but the director found that these amended returns lack credibility because the beneficiary evidently created them specifically in response to the director's findings. A petitioner may not make material changes to a petition that has already been filed in an effort to make an apparently deficient petition conform to USCIS requirements. *See Matter of Izummi*, 22 I&N Dec. 169, 175 (Commr. 1998). The filing of amended tax returns years after the fact raise serious questions regarding the truth of the facts asserted. *Cf. Matter of Bueno*, 21 I&N Dec. 1029, 1033 (BIA 1997); *Matter of Ma*, 20 I&N Dec. 394 (BIA 1991)(discussing the evidentiary weight accorded to delayed birth certificates in immigrant visa proceedings). For similar reasons, the beneficiary's acquisition of a Class D driver license in 2009 does not explain away his earlier use of a taxi and livery license.

The petitioner has submitted two letters (dated July 8, 2008 and 2009, no date specified) attributed to [REDACTED] the individual who prepared the beneficiary's income tax returns. Both letters indicate that most of [REDACTED] clients "are Limo Drivers," and he used that designation on the beneficiary's tax returns simply out of habit. The signatures on the two letters are visibly different from each other, and from the preparer's signatures on the beneficiary's income tax returns.

Even if the letters attributed to [REDACTED] are authentic, the explanation offered is not credible. It does not explain why the beneficiary himself repeatedly signed those tax returns, thereby attesting under penalty of perjury that the information on the returns was true to the best of his knowledge. On the other hand, the information on the income tax returns is entirely consistent with the beneficiary's possession of a Class E driver's license.

On appeal, the AAO found that the petitioner's attempted explanations for the documents that identified the beneficiary as a taxi/limousine driver failed to overcome the derogatory information in the record. The AAO asserted that "a reputable accountant would have noticed that the beneficiary's Forms W-2 were allegedly issued by a religious institution."

On appeal, counsel had argued that the beneficiary's Class E driver license, alone, would not have authorized him to drive a taxi or limousine because "under New York State Law . . . a Taxi and Limousine license must be procured. A Taxi and Limousine license can only be procured in New York State if you either have an Employment Authorization Card or you are [a] Legal Permanent Resident or United States Citizen." The AAO, in its dismissal notice, noted that the petitioner had not submitted documentary evidence to support this claim.

On motion, the petitioner submits documentation from the New York City Taxi and Limousine Commission, indicating that applicants must "furnish proof of U.S. citizenship, or proof of legal U.S. residency, or a U.S. Employment Authorization card." This documentation is from a city commission, and concerns only New York City municipal requirements rather than "New York State Law" that would apply outside of the city limits. The beneficiary resides on Long Island, outside of New York City and the jurisdiction of the commission.

Documentation from the New York State Department of Motor Vehicles includes general information about requirements for obtaining a state driver license. In this instance, it is beyond dispute that the beneficiary did in fact obtain a class E driver license, and therefore this information adds nothing of substance to the issue at hand. Similarly, documentation from the Nassau County Taxi and Limousine Commission is general in nature, much of it concerning the registration of vehicles rather than the drivers thereof. It is undisputed that the beneficiary's brother owns a limousine, which establishes the beneficiary's access to such a vehicle. Even if the materials on motion indicated that state law prohibited the beneficiary from driving a taxi or limousine, which they do not, this would not prove that he did not work as a driver. It would show only that the beneficiary did not lawfully do so.

In its September 2011 notice, the AAO stated: "a USCIS search of automobile registration records showed that, between 2001 and 2008, the beneficiary has registered at least 13 vehicles in New York State for "business use," including a 2000 Ford Explorer sport utility vehicle, a 2008 Honda Odyssey EXL Sport Van, and several Lincoln Town Cars."

In response, the petitioner states that the beneficiary "claims that none of his cars which he purchased for personal use over the years are being used for business." The petitioner submits nothing to support this claim. It remains that the beneficiary appears to have purchased a significant number of automobiles and registered them for business use, while holding a taxi/livery license and calling himself a "limo driver" on his income tax returns. The unsupported assertion that the beneficiary bought more than a dozen cars "for personal use" over the course of seven years, all on a claimed salary of less than \$20,000 per year, lacks credibility.

The materials submitted on motion do not support the claim that the beneficiary somehow accidentally obtained a class E driver license, and then, by coincidence, inadvertently signed multiple tax returns identifying his occupation as "Limo Service" up until the time he sought permanent immigration benefits as a religious worker. The preponderance of the evidence supports the conclusion that the beneficiary worked as a limousine driver during the 2005-2007 qualifying period, consistent with his driver's license, statements on his tax returns, registration of multiple vehicles and regular access to a limousine. The AAO affirms the prior finding that the beneficiary did not work solely as a minister during the qualifying period. The AAO notes, also, that any work as a limousine driver would have violated his R-1 nonimmigrant status. Any unauthorized employment by a nonimmigrant constitutes a failure to maintain status within the meaning of section 241(a)(1)(C)(i) of the Act. 8 C.F.R. § 214.1(e).

It is in light of this finding that the various anomalies in the evidence of the petitioner's payments to the beneficiary are most significant. As the AAO has already noted, the sums listed under "compensation" on the petitioner's IRS Form 990 returns cannot account for the salaries of ministers at twelve churches, and therefore the AAO concludes that such salary payments are the responsibility of individual churches rather than the petitioning umbrella organization. From the available evidence, it appears that these payments were intended to create a "paper trail" that suggested employment. This conclusion appears to be more probable and plausible than the petitioner's tenuous claim that a series of innocent errors led not only to the beneficiary's listing as a limousine driver on his tax returns, but also to his receiving a specialized license as such a driver. The greatest doubt lies not in whether the petitioner was capable of paying the beneficiary, but whether these payments reflect compensation for past employment and a *bona fide* intent to continue compensating him in this manner.

The AAO notes that, in the original denial notice, the director stated that a photocopy of the beneficiary's IRS Form W-2 for 2007 showed evidence of alteration, with some information obscured with correction fluid and then overtyped. The AAO can find no response to this allegation.

Also, some of the beneficiary's income tax returns in the record show visible evidence of alteration, with the "occupation" line seemingly obscured with correction fluid. Such alteration would be consistent with an effort to conceal the beneficiary's reported occupation. The concealment occurred after the tax returns were filed, as shown by the beneficiary's attempts to amend his tax returns to change the "occupation" information. If the beneficiary had changed the returns before he ever filed them, then the amended returns would serve no purpose.

The AAO reaffirms its prior finding that the beneficiary was more likely a limousine driver than a minister during the two-year qualifying period. Even if the beneficiary engaged in some qualifying religious employment during that period, the preponderance of evidence indicates that the beneficiary also engaged in unauthorized, disqualifying secular work as a limousine driver.

Further evidence of more recent secular business activity by the beneficiary has surfaced which casts still more doubt on the beneficiary's intent to work solely as a minister in the United States. In its September 2011 letter to the petitioner, the AAO stated:

[P]ublicly available records identify the beneficiary as the owner of [REDACTED], which operates [REDACTED] at [REDACTED]

[REDACTED] The *Yelp* page for the restaurant includes information, "Provided by [the] business," identifying the "Business Owner" as [REDACTED] an abbreviation of [REDACTED] name. The *Yelp* page added that "Ifti B." "[h]as experience with several other locations." The beneficiary also registered the domain name [REDACTED] in November 2010.

Given the beneficiary's reported part-time employment with your church, his documented involvement with a taxi and limousine service, and his later ownership of a restaurant, the AAO cannot reasonably conclude that the beneficiary intends to work solely as a minister, as required by the regulation at 8 C.F.R. § 204.5(m)(2)(i) and by the statute at section 101(a)(27)(C)(ii)(I) of the Act.

(Evidentiary citations omitted; the AAO's complete letter, including the citations, is incorporated by reference.) In response, the petitioner states:

The Board and I are totally shocked to know about his alleged involvement with [REDACTED] [REDACTED] the names we had never heard before. We have no reason to doubt the information you have provided, neither do we have any answer for this. [The beneficiary] continues to deny any involvement with these businesses, and he claims that he is not the owner of any of these businesses (please see exhibit 4).

Exhibit 4 is a printout from the New York State Department of State, Division of Corporations, identifying the beneficiary's spouse as the agent for service of process for [REDACTED]. The petitioner's latest submission, therefore, includes further evidence that ties the beneficiary's immediate family to [REDACTED] and thus to [REDACTED]

The petitioner acknowledges that it has no response to the above information, including material from web sites accessible to the public that identify the beneficiary as the owner of [REDACTED]. The available evidence heavily favors the conclusion that the beneficiary has and continues to pursue secular business ventures, and therefore is not employed exclusively as a full-time minister as originally claimed.

COMPLIANCE REVIEW

The third issue under consideration here relates to USCIS's efforts to verify the petitioner's claims. The USCIS regulation at 8 C.F.R. § 204.5(m)(12) reads:

Inspections, evaluations, verifications, and compliance reviews. The supporting evidence submitted may be verified by USCIS through any means determined appropriate by USCIS, up to and including an on-site inspection of the petitioning organization. The inspection may include a tour of the organization's facilities, an

interview with the organization's officials, a review of selected organization records relating to compliance with immigration laws and regulations, and an interview with any other individuals or review of any other records that the USCIS considers pertinent to the integrity of the organization. An inspection may include the organization headquarters, satellite locations, or the work locations planned for the applicable employee. If USCIS decides to conduct a pre-approval inspection, satisfactory completion of such inspection will be a condition for approval of any petition.

In the January 24, 2009 denial notice, the director stated: "On June 28, 2007, an Immigration Officer of the USCIS initiated an on-site inspection of the petitioning organization . . . as part of the compliance review process. The on-site inspection resulted in a failed verification of the petitioning religious organization." On appeal, the petitioner did not even address this finding, let alone contest it. The AAO stated as much in its dismissal notice, affirming the director's finding.

On motion, [REDACTED], director of the petitioning entity, states that the USCIS officer visited the petitioning organization's New Jersey office, but not the beneficiary's church in New York. [REDACTED] observes that the site visit related to an alien other than the beneficiary. The petitioner, however, failed the compliance review not simply because of details specific to the other alien, but because of [REDACTED] failure to provide credible or accurate information to the interviewing officer.

More fundamentally, the petitioner abandoned the compliance review issue because the petitioner did not raise the issue on appeal. See *United States v. Cunningham*, 161 F.3d 1343, 1344 (11th Cir. 1998), citing *Cross v. United States*, 893 F.2d 1287, 1289 n. 4 (11th Cir.1990). The AAO correctly found that the petitioner failed to address this issue on appeal, and the petitioner's efforts to resurrect the issue on motion are irrelevant to that finding. The AAO's prior finding stands. As explained above, subsequent inquiries have yielded still more derogatory information, directly involving the beneficiary himself.

ATTESTATION

In contrast to the discussion relating to the compliance review, the fourth and final issue on motion did not surface prior to the AAO's appellate decision. Therefore, the petitioner did not have a prior opportunity to address the issue, and the AAO can properly consider the petitioner's submissions here.

The USCIS regulation at 8 C.F.R. § 204.5(m)(7) requires an authorized official of the beneficiary's prospective employer to complete, sign and date an attestation addressing several specified points. The director's denial notice included no mention of the petitioner's failure to submit the required attestation. The AAO cited the omission as a fourth ground for dismissal of the appeal. On motion, the petitioner submits answers to the questions specified in the regulations. The petitioner has, therefore, satisfied the regulatory requirement by submitting the necessary attestation. The AAO withdraws the prior finding in this regard. The petition remains denied, however, for reasons already explained.

The AAO notes that, in the new attestation, [REDACTED] asserts that the petitioner will “provide salary and other benefits [to the beneficiary] till such time that his congregation become[s] self sufficient,” which may explain why the petitioner is said to pay the beneficiary’s salary but not those of employees at other churches affiliated with the petitioner. This explanation, however, does not resolve the very serious credibility issues concerning the beneficiary’s secular employment.

The AAO will reaffirm the dismissal of the appeal for the above stated reasons, with each considered as an independent and alternative basis for dismissal. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not met that burden.

The AAO also finds that the petitioner knowingly submitted documents containing false statements in an effort to mislead USCIS 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 finds that the beneficiary participated in this willful misrepresentation, for example by filing amended income tax returns and changing his driver’s license classification in an attempt to conceal his previously reported income from driving a limousine. The AAO will enter a finding of willful misrepresentation of a material fact.

Additionally, the evidence is not credible and will not be given any weight in this proceeding. If USCIS fails to believe that a fact stated in the petition is true, USCIS 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).

ORDER: The AAO’s decision of January 13, 2010 is affirmed. The petition remains denied.

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