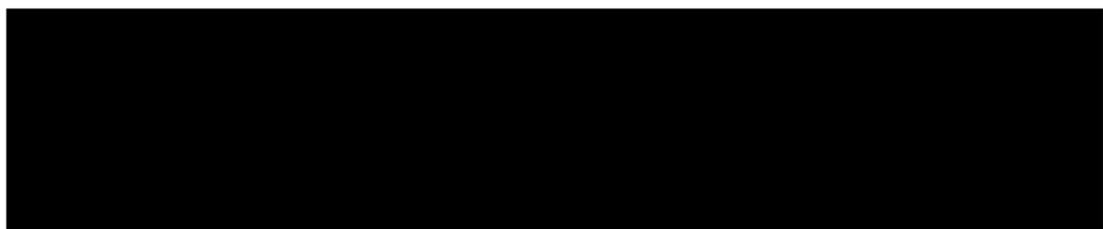


identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy  
**PUBLIC COPY**

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



C1

DATE: **FEB 21 2012** 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.

Thank you,

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Texas Service Center, (“the director”) initially approved the employment-based immigrant visa petition. On October 7, 2009, the matter was transferred to the California Service Center. Upon further review, the director determined that the petition had been approved in error. The director served the petitioner with a notice of intent to revoke, and subsequently revoked the approval of the petition. The petitioner timely filed an appeal to the Administrative Appeals Office (“AAO”). The decision of the director will be withdrawn and the petition will be remanded for further action and consideration.

The petitioner is 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 pastor. The petition was initially approved on January 6, 2006. On October 20, 2009, a Notice of Intent to Revoke (“NOIR”) was sent to the Respondent’s attorney, informing her that the Respondent had until November 19, 2009 to issue a response. No response was received, and on January 21, 2010, the USCIS revoked the Form I-360 petition.

The petitioner’s attorney filed an appeal, arguing that the service made erroneous conclusions of fact, since the NOIR was sent to the wrong address. This appeal is accompanied by a brief, an affidavit and several documents.

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 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. *Matter of Ho*. 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 582.

8 C.F.R. § 205.2(b) states:

*Notice of intent.* Revocation of the approval of a petition or self-petition under paragraph (a) of this section will be made only on notice to the petitioner or self-petitioner. The petitioner or self-petitioner must be given the opportunity to offer evidence in support of the petition or self-petition and in opposition to the grounds alleged for revocation of the approval.

Here, the director did not properly issue the NOIR. On the Form I-360 petition, the petitioner listed its address as [REDACTED]. With that Form I-360 petition, a Form G-28 was submitted with the petitioner's address listed as [REDACTED]. Both forms have the same date. Regardless, the NOIR does not indicate that it was sent to the petitioner at either address. Instead, the record only reflects that the NOIR was mailed to the petitioner's attorney, at [REDACTED] on October 20, 2009. This was the address that counsel provided on the Forms G-28 submitted at filing and on December 24, 2006. However, the petitioner's counsel asserts that she submitted a letter to the director dated April 22, 2009, almost six months prior to the issuance of the NOIR, stating that she had moved to [REDACTED]. USCIS records confirm counsel's assertions regarding the April of 2009 change of address letter. Further, the last page of the NOIR indicates that it also sent to [REDACTED] is an immigration attorney based in Minnesota who handles religious worker cases. There are no Forms G-28 in the record showing that [REDACTED] has any connection to the petitioner.

As the record does not establish that the petitioner and counsel were provided proper notice of the NOIR, this matter will be remanded. The director shall reissue the NOIR to both the petitioner and the petitioner's counsel, at the current address of record listed for each party. The AAO notes that since the petition was approved prior to November of 2008, the pre-2008 regulations apply in this case.

**ORDER:** The director's decision is withdrawn. The petition is remanded to the director for further action in accordance with the foregoing and entry of a new decision which, if adverse to the petitioner, is to be certified to the Administrative Appeals Office for review.