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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
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U.S. Citizenship
and Immigration
Services

PUBLIC COPY



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Date: **MAY 14 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.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen with the field office or service center that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to 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 on May 2, 2006. On further review, the director determined that the beneficiary 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 stating the reasons therefore and subsequently exercised her discretion to revoke the approval of the petition on June 23, 2010. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will dismiss the appeal.

The petitioner is a church corporation. 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 in San Francisco, California and a representative of the petitioning organization to Hispanic ministers in the United States. The director found that the petitioner had not submitted sufficient evidence to overcome the grounds for revocation including questions raised in the notice of intent to revoke as to whether the beneficiary has been continuously employed in a full time ministerial position. Additionally, the director determined that there were inconsistencies in the petitioner's evidence which cast doubt on the evidence offered in support of the visa petition. The director also determined that the beneficiary had failed to maintain his lawful R-1 nonimmigrant status and that the petitioner had not established that the petitioner and the beneficiary's employer are members of the same religious denomination.

On appeal, the petitioner submits a letter and brief from counsel, a declaration from the beneficiary, a copy of an amended lease agreement, documentation regarding [REDACTED] including a copy of the Articles of Incorporation and mission statement, documentation regarding [REDACTED] including a copy of the By-Laws and printouts from the organization's website, and documentation regarding [REDACTED] including a website printout and founding documents. The petitioner also submits a statement regarding the beneficiary's schedule, a letter from the petitioner regarding the beneficiary's radio ministry, and IRS certified Account Transcript and Wage and Income Transcripts for the beneficiary from 2003 to 2009, as well as copies of documents already in the record.

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).

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 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 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.*

At the time the petition was approved, the regulation at 8 C.F.R. § 204.5(m)(1) provided:

(m) *Religious workers.* (1) An alien, or any person in behalf of the alien, may file an I-360 visa petition for classification under section 203(b)(4) of the Act as a section 101(a)(27)(C) special immigrant religious worker. Such a petition may be filed by or for an alien, who (either abroad or in the United States) for at least the two years immediately preceding the filing of the petition has been a member of a religious denomination which has a bona fide nonprofit religious organization in the United States. The alien must be coming to the United States solely for the purpose of carrying on the vocation of a minister of that religious denomination,

working for the organization at the organization's request in a professional capacity in a religious vocation or occupation for the organization or 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. All three types of 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. Professional workers and other workers must obtain permanent resident status through immigration or adjustment of status on or before September 30, 1997, in order to immigrate under section 203(b)(4) of the Act as section 101(a)(27)(C) special immigrant religious workers.

The regulation at 8 C.F.R. § 204.5(m)(2), in effect when the petition was approved, defined "minister" as follows:

Minister means an individual duly authorized by a recognized religious denomination to conduct religious worship and to perform other duties usually performed by authorized members of the clergy of that religion. In all cases, there must be a reasonable connection between the activities performed and the religious calling of the minister. The term does not include a lay preacher not authorized to perform such duties.

The Form I-360 petition was filed on September 2, 2005. In a letter accompanying the petition, the petitioner asserted its intent to employ the beneficiary, stating in part:

Due to the need that we have in San Francisco, California, to build a Church among Spanish speaking people in the inner city and after extensive recruiting, I have found that [REDACTED] has demonstrated his expertise for this task, He will be receiving an anticipated salary of \$4,000 per month as [REDACTED] [REDACTED] in San Francisco and representative to Hispanic Ministers in the United States for [REDACTED]

On February 2, 2006, USCIS issued a Request for Evidence which, in part, instructed the petitioner to submit evidence to show that the beneficiary's services are needed, including evidence regarding the "specific duties which the beneficiary will be undertaking vs. specific duties of other staff" and the "circumstances [that] created a need for the beneficiary's services."

In response, the petitioner re-submitted a copy of the first letter originally submitted in support of the petition, quoted above. The petitioner additionally submitted a letter from [REDACTED] [REDACTED] stating the following:

The present letter is to certify that [REDACTED]... has been planting and pioneering this inner city mission in San Francisco, California, Mission District, since January of 2003 and to the present.

Through his hard work and efforts this local church has been growing and is now in the process of being incorporated as [REDACTED] [REDACTED] which is affiliated with [REDACTED]

For his Missionary Work and pastoral duties, he has been receiving from our Group Donations and Offerings amounting to approximately \$1,000 (*One thousand dollars*) per month in cash.

The petition was approved on May 2, 2006. However, on April 21, 2010, the director issued a Notice of Intent to Revoke the petition based in part on a failed site visit. In the notice, the director instructed the petitioner to submit evidence of past compensation including certified, computer generated copies of the beneficiary's federal tax return transcripts and wage and income transcripts. The director further instructed the petitioner to submit evidence that the beneficiary had been working continuously as a pastor since two years prior to filing the petition until the present, stating:

Evidence may include letters written by the previous and current employers that include a breakdown of specific job duties, dates of employment, number of hours worked per week, form and amount of compensation, and level of responsibility/supervision. In addition, submit evidence that shows compensation payment, such as pay stubs along with tax income records or other verifiable records that were independently issued showing the beneficiary received compensation to date. ...

NOTE: Each experience letter must be written by an authorized official from the specific location at which the experience was gained. Each authorized official may only write an experience letter for the experience gained at the office's location.

Additionally, the notice instructed the petitioner to submit a "copy of the business plan or article of incorporation of [REDACTED] business (on the beneficiary's 2008 tax return)."

In response, counsel for the petitioner asserted that the beneficiary has been continuously working as a Pentecostal pastor since entering the United States. Counsel stated, in part:

Though Pastor [REDACTED] has performed "translation services" such as translation of religious texts and dubbing of Pentecostal audio and video materials, such work has always been closely related to his occupation as a Pastor, in that the true

purpose of these activities has been to spread and communicate his religious teachings through the Pentecostal religion and affiliated institutions.

In a statement submitted in response to the notice, the beneficiary provided more information about the translation services he performed, including spending four days every other month from July, 2005 to October, 2007 translating a weekly television program for the Faith Fellowship International church in New Jersey, and translating a religious book in 2006 for the pastor of the Oahu South Foursquare church in Hawaii. The beneficiary stated that, before beginning the translations in New Jersey, he consulted an immigration consultant who advised him "that since it was religious translation, that it would fit into my job description." The beneficiary further asserted that he does not have a separate translation services company and the Employer Identification Number listed on his 2008 tax return belonged to Centro Cristiano Internacional Kingsway (CCIK).

The petitioner submitted Social Security Administration (SSA) records regarding the beneficiary's earnings and some of the requested IRS documentation. An SSA record of earnings statement for the period 2003 to 2007 indicates that the beneficiary earned the following amounts reported as "Self Employment:" \$3,691 in 2003, \$4,407 in 2004, \$16,762 in 2005, \$7,521 in 2006, and \$1,158 in 2007. The record for that period also indicates that CCIK paid the beneficiary \$32,000 in 2006 and "None" in 2007. An IRS transcript for 2005 indicates that the beneficiary earned \$16,868 during that year but does not identify the source of the income. A Form W-2 for 2006 indicates that the beneficiary was paid \$32,000 by CCIK. An IRS transcript for 2007 indicates that the beneficiary earned \$38,000 during that year but does not indicate the source of the income. A Form W-2 from CCIK for 2008 indicates that the beneficiary was paid \$46,800 plus a \$22,800 housing allowance. A Form W-2 from CCIK for 2009 indicates that the beneficiary was paid \$48,000 plus a \$22,800 housing allowance. Uncertified tax returns for 2008 and 2009 reflect the same amounts as the Forms W-2 for those years. The petitioner additionally submitted photocopies of processed checks from CCIK to the beneficiary indicating that the beneficiary earned \$3,500 in January 2009, \$3,600 in February 2010, \$3,200 in March 2010, \$4,585 in April 2010, and \$1,000 in May 2010. A photocopy of an additional processed check for \$2,000 was submitted, but the date was illegible.

The petitioner additionally submitted a letter from [REDACTED] Assistant Executive Overseer of [REDACTED] attaching what she referred to as a "detailed breakdown of Rev. [REDACTED] [sic] Specific Job Duties, Dates of Employment, number of hours worked per week, form and amount of compensation and level of responsibility/supervision." Although the attachment did not include any information regarding compensation or dates of employment, it did include a detailed weekly schedule for the beneficiary.

On June 23, 2010, the petition was revoked. In the decision, the director notes that the petitioner submitted some, but not all, of the requested documentation regarding the beneficiary's compensation. The director additionally notes that the beneficiary provides translation services for various "other customers beyond his church employers," and "has received income from

sources other than his employing church” before and after the approval of the petition. She states:

The petitioner submitted some computerized tax return transcripts for some years (year 2007 transcript in Exhibit EE, year 2006 in Exhibit FF), some W-2s for some years (submitted W-2s for years 2008 – Exhibit DD, 2007 – Exhibit EE, and 2006 – Exhibit FF); but, no computerized wage and income transcript was submitted, as requested. Although there was no W-2s submitted for years 2005 and 2004, previously submitted form W-2s for year 2005 of the beneficiary show that he received \$15,650 income from other organization named ‘ [REDACTED] ’ in New Jersey and \$4,750 dollars from [REDACTED] Church (previously submitted Exhibit 6).

The director also points out that in 2006 and 2007, the beneficiary was paid less than the proffered \$4,000 per month (\$48,000 per year) by [REDACTED]. In the decision, the director later concludes that “the petitioner has not submitted sufficient supporting evidence to overcome the grounds for revocation, discussed above.”

On appeal, counsel for the petitioner argues that the submitted documentation establishes that the beneficiary has been continuously “performing the work of a ‘minister.’” Counsel states, in part:

Although [REDACTED] has received income from other sources during the course of his occupation as the [REDACTED] operating as a charter of [REDACTED], such compensation has been consistent with his duties as a “minister” and fully endorsed by both [REDACTED] and [REDACTED]..

Petitioner now submits additional documentation, including IRS certified transcripts and wage reports for [REDACTED] evidencing that he has consistently derived income from his occupation as a Pentecostal minister. ...

The AAO finds that the petitioner has not submitted sufficient evidence to establish the continuity of the beneficiary’s employment as a full time pastor. In the notice of intent to revoke, the petitioner was instructed to submit verifiable evidence of the beneficiary’s compensation for his continuous employment as a pastor. The evidence submitted in response did not include any evidence to identify the source of the beneficiary’s income for 2005 or 2007. Although the petitioner submits additional IRS income tax transcripts and wage and income transcripts on appeal, the AAO will not consider this evidence. The petitioner was put on notice of required evidence and given a reasonable opportunity to provide it for the record before the visa petition was adjudicated. The petitioner failed to submit the requested evidence and now submits it on appeal. However, the AAO will not consider this evidence for any purpose. *See Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988); *Matter of Obaighena*, 19 I&N Dec. 533, 537 (BIA 1988). The appeal will be adjudicated based on the record of proceeding before the director.

Furthermore, although the notice of intent to deny indicated that experience letters could be used as evidence of the beneficiary's continuous employment, the director specified that such letters must include dates of employment and form and amount of compensation. The director further specified that "[e]ach experience letter must be written by an authorized official from the specific location at which the experience was gained." In response, the petitioner submitted a letter written by an official from the petitioner's office in Iowa regarding the beneficiary's employment in California. Further, the letter did not include dates of employment, information regarding compensation, or any statement regarding the continuity of the beneficiary's employment. The regulations state that the petitioner shall submit additional evidence as the director, in his or her discretion, may deem necessary. The purpose of the request for evidence is to elicit further information that clarifies whether eligibility for the benefit sought has been established, as of the time the petition is filed. *See* 8 C.F.R. §§ 103.2(b)(8) and (12). The 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).

The AAO agrees with the director that the petitioner has not submitted sufficient evidence to overcome the grounds for revocation as set forth in the notice of intent to revoke. Specifically, the petitioner has not submitted sufficient evidence to establish that the beneficiary has been continuously employed by [REDACTED] as a full time pastor. Although the regulations in effect at the time did not prohibit the beneficiary from receiving income from additional religious employers, the petitioner failed to establish through verifiable evidence that the beneficiary was continuously employed and compensated by [REDACTED] or [REDACTED].

The next issue to be discussed is the director's finding that "there were inconsistencies found in [the] evidence" submitted by the petitioner.

As the first example of the inconsistencies in the petitioner's evidence, the director discusses inconsistencies between the beneficiary's detailed weekly schedule and the church usage hours as listed in [REDACTED] commercial lease from December 23, 2007 to December 23, 2009, submitted in response to the notice of intent to revoke. The director points out that the lease indicates that [REDACTED] has use of the premises on Fridays at 5:00 pm and on Sundays from 1:30 to 6:00 pm, with a note that [REDACTED] Sunday service ends at 5:00 pm and the remaining hour is used for dismantling instrumental equipment. The director then notes that the weekly schedule indicates that the church service ends at 5:30 pm and then the pastor conducts "biblical counseling and fellowship with congregants" until 7 pm, with no mention of instrumental equipment.

On appeal, the petitioner submits a current lease for the period from December 23, 2009 to December 23, 2011 containing the same listed days and hours of usage as the previous lease. The petitioner additionally submits a declaration from the beneficiary in which he explains that he has a good relationship with the landlord, [REDACTED] and they "have a verbal understanding that [REDACTED] can benefit from the church space as needed, especially on Fridays and Sundays." In a letter and a brief, counsel for the petitioner argues that the one hour difference between the lease and the schedule is "extremely minor" and has been resolved by the

beneficiary's explanation. The AAO agrees that the beneficiary's declaration provides a logical and convincing explanation regarding the discrepancy between the lease and the schedule.

As an additional discrepancy, the director notes the fact that, although the petitioner stated that the beneficiary would receive \$4,000 per month for his work as a pastor, records indicate that he received less than that amount in 2006 and 2007. On appeal, counsel for the petitioner asserts that "to the extent that [redacted] compensated [redacted] less than his guaranteed \$4,000 per month, they did so because [redacted] 'was doing the translation services... which they recognized as part of [his] duties to spread the gospel through the media.'" Although the beneficiary provides this explanation in his declaration, the petitioner itself makes no statement regarding its reasons for failing to pay the beneficiary the proffered wage. 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. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). Furthermore, this explanation is not convincing as, even including the additional income from the beneficiary's translation services, his income was below the proffered wage. Although not mentioned by the director, the AAO additionally notes that, in his declaration on appeal, the beneficiary states "My income for 2005 is lower than my guaranteed \$48,000 salary because I did not begin my relationship with Kingsway until September 2005." This statement directly contradicts the declaration of the beneficiary submitted in response to the notice of intent to revoke, in which he stated that the relationship began in January 2005. In that declaration, the beneficiary stated the following:

We rented the space ... until January 2005. After that, [redacted] the [redacted] offered us to continue our vision under the [redacted] umbrella. The [redacted] guaranteed me and my family a livable salary.

With this offer, our church moved to [redacted] [redacted] in January 2005, and it was inaugurated in March 2005.

The director also notes discrepancies between the job offer letter submitted with the petition and the beneficiary's job duties as listed in the weekly schedule, stating "the petitioner did not provide truthful certification regarding the beneficiary's job duties filed with USCIS." The job offer letter indicated that the beneficiary was being hired "to establish a Church among Hispanic people in the San Francisco, California area," and "to serve as a representative of [redacted] [redacted] to Hispanic Ministers throughout the United States." The weekly schedule submitted in response to the notice of intent to revoke indicated that a large amount of the beneficiary's time is dedicated to teaching at [redacted] and to producing a weekly religious internet radio program. The director noted that these duties were not mentioned at the time of filing and that no information was provided at any time regarding [redacted]. The director stated:

Although supporting duties for an internet radio might be religious promotional in nature, such supporting and teaching duties were not disclosed at all in the submitted employment offer. Moreover, the duties become material when it's time to determine whether they support a fulltime or part-time schedule of a minister position.

In a declaration submitted on appeal, the beneficiary asserts that [REDACTED] and Theological seminary is part of [REDACTED]. In support of this assertion, the petitioner only submits what appears to be a printed out screenshot from a website (no URL address is included) entitled [REDACTED] College San Francisco." The document contains the same street address as [REDACTED] but does not refer to [REDACTED] and the remainder of the text is in Spanish. Because the petitioner failed to submit a certified translation of the document, the AAO cannot determine whether the evidence supports the petitioner's claims. *See* 8 C.F.R. § 103.2(b)(3).

The AAO agrees with the director that the petitioner has not resolved discrepancies regarding the beneficiary's compensation and job duties. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Id.*, at 582, 591 (BIA 1988).

The next issue to be discussed is the director's finding that the beneficiary failed to maintain his R-1 nonimmigrant status. The AAO will withdraw the director's findings on this issue.

In the decision, the director states the following:

The beneficiary was admitted by U.S. consulate as an R-1, non-immigrant religious worker, in September 2003 only to build a Spanish church for [REDACTED] but, the beneficiary has worked for the petitioner, [REDACTED] and others without authorization until the [REDACTED] organization filed the petition. ...

In addition, [REDACTED] and the petitioner are not members of a same denomination....

As noted by counsel on appeal, the regulations in effect at the time did not require the beneficiary to maintain lawful status during the two years immediately preceding the filing of the petition. Therefore, the beneficiary's unauthorized employment and his failure to maintain his R-1 nonimmigrant status are not relevant. Further, the denomination of the beneficiary's previous employer for whom he stopped working more than two years before the filing of the petition is not relevant.

The final issue to be discussed is the director's determination that the petitioner has not established that the petitioner and the beneficiary's employer are members of the same religious denomination. The AAO will withdraw the director's findings on this issue.

The former regulation at 8 C.F.R. § 204.5(m)(2) as was in effect at the time the petition was approved contained the following definition:

Religious denomination means a religious group or community of believers having some form of ecclesiastical government, a creed or statement of faith, some form of worship, a formal or informal code of doctrine and discipline, religious services and ceremonies, established places of religious worship, religious congregations or comparable indicia of a bona fide religious denomination. For the purposes of this definition, an interdenominational religious organization which is exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986 will be treated as a religious denomination.

As stated above, in a letter accompanying the Form I-360 petition, the petitioner indicated that it intended for the beneficiary to plant "a [redacted] in San Francisco." The petitioner also submitted a Certificate of Ordination indicating that the beneficiary was ordained as [redacted] on June 5, 1998.

In response to the request for evidence issued on February 2, 2006, the petitioner submitted a letter from the San Francisco church, stating in part that it was "in the process of being incorporated as [redacted] which is affiliated with [redacted]

In the notice of intent to revoke, issued on April 21, 2010, the petitioner was instructed to submit evidence explaining the connection between [redacted]. In response, the petitioner submitted a [redacted] dated July 20, 2006, stating the following:

This is to certify that [redacted] of San Francisco, California is affiliated with [redacted] and is in full accordance with the Articles of Incorporation and By-Laws and recognition with an Internationally known Fellowship.

The petitioner submitted the Articles of Incorporation for [redacted] filed June 14, 2006. Article 1.03 stated "This Corporation is affiliated with [redacted] of Des Moines, Iowa." The petitioner additionally submitted a copy of [redacted] bylaws.

In the decision, the director stated that [redacted] were each established "as an independent and separate entity." The director acknowledged that the Articles of Incorporation for [redacted] stated that it is affiliated with [redacted] but stated:

However, it does not mean that [they are] affiliated organizations having similar religious practices or organizational structure. Records show that there was no shared ecclesiastical government body of the two organizations found. In addition, governing structure, pastor qualification, membership rules of the two organizations are significantly different. The [redacted] does not establish overseer and advocate positions like the [redacted]. The [redacted] does not require specific religious training for pastor position. ... On the contrary, the [redacted] requires recommendation by two licensed or ordained ministers, an endorsement from one's own pastor, and by one or more Sectional/State or Regional Superintendent. ... As another example the [redacted] ministerial membership must be renewed annually...; in contrast, the [redacted] pastoral membership is indefinite. ... Additionally, [redacted] [sic] prohibits dual membership; nevertheless, the [redacted] organization permits multiple memberships. Records show that two of the [redacted] board of directors, [redacted] ... are members of the [redacted] organization.

On appeal, counsel notes that the petitioner has submitted evidence which demonstrates that [redacted] is a charter church of [redacted]. Counsel argues that, despite the "minor differences between [redacted] and [redacted] Articles of Incorporation and By-Laws," [redacted] is a charter church of [redacted] and the beneficiary works "directly for, and under the leadership of, [redacted]."

The AAO finds that the evidence submitted by the petitioner sufficiently establishes that the beneficiary's employer church, [redacted], is affiliated with and of the same denomination as the petitioner, [redacted].

Because the AAO agrees with the director's determinations regarding the inconsistencies in the petitioner's evidence and the petitioner's failure to overcome the grounds for denial regarding the continuity of the beneficiary's employment, the AAO will affirm the director's decision and dismiss the appeal.

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, that burden has not been met. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.