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



U.S. Citizenship  
and Immigration  
Services

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Date: **MAY 24 2012** Office: CALIFORNIA SERVICE CENTER

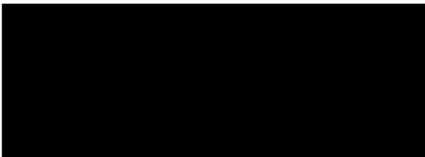


IN RE: Petitioner:  
Beneficiary:



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:

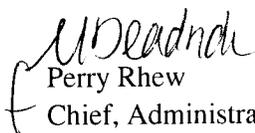


INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

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, denied the employment-based immigrant visa petition. The Administrative Appeals Office (AAO) remanded the matter to the director for consideration under new regulations. The director again denied the petition and certified the decision to the AAO for review. The AAO will affirm the denial of the petition.

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 missions pastor. The director noted the negative findings of two site visits and found that the petitioner failed to establish that it is operating as a bona fide religious organization. The director also determined that the petitioner failed to establish that the beneficiary would in fact be employed by the petitioning organization. The director additionally found that the petitioner had not established its ability to compensate the beneficiary.

In response to the notice of certification, the petitioner submits a letter from counsel.

Section 203(b)(4) of the Act provides classification to qualified special immigrant religious workers as described in section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C), which pertains to an immigrant who:

(i) for at least 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States;

(ii) seeks to enter the United States--

(I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,

(II) before October 31, 2009, in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or

(III) before October 31, 2009, 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 U.S. Citizenship and Immigration Service (USCIS) regulation at 8 C.F.R. § 204.5(m)(3)

provides that in order to be eligible for classification as a special immigrant religious worker, an alien must be coming to work for a bona fide non-profit religious organization in the United States, or a bona fide organization which is affiliated with the religious denomination in the United States. The regulation at 8 C.F.R. § 204.5(m)(5) states, in pertinent part:

(5) Definitions. As used in paragraph (m) of this section, the term:

*Bona fide non-profit religious organization in the United States* means a religious organization exempt from taxation as described in section 501(c)(3) of the Internal Revenue Code of 1986, subsequent amendment or equivalent sections of prior enactments of the Internal Revenue Code, and possessing a currently valid determination letter from the IRS confirming such exemption.

*Bona fide organization which is affiliated with the religious denomination* means an organization which is closely associated with the religious denomination and which is exempt from taxation as described in section 501(c)(3) of the Internal Revenue Code of 1986, subsequent amendment or equivalent sections of prior enactments of the Internal Revenue Code and possessing a currently valid determination letter from the IRS confirming such exemption.

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

*Evidence relating to the petitioning organization.* A petition shall include the following initial evidence relating to the petitioning organization:

- (i) A currently valid determination letter from the Internal Revenue Service (IRS) establishing that the organization is a tax-exempt organization; or
- (ii) For a religious organization that is recognized as tax-exempt under a group tax-exemption, a currently valid determination letter from the IRS establishing that the group is tax-exempt; or
- (iii) For a bona fide organization that is affiliated with the religious denomination, if the organization was granted tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986, or subsequent amendment or equivalent sections of prior enactments of the Internal Revenue Code, as something other than a religious organization:
  - (A) A currently valid determination letter from the IRS establishing that the organization is a tax-exempt organization;

(B) Documentation that establishes the religious nature and purpose of the organization, such as a copy of the organizing instrument of the organization that specifies the purposes of the organization;

(C) Organizational literature, such as books, articles, brochures, calendars, flyers and other literature describing the religious purpose and nature of the activities of the organization; and

(D) A religious denomination certification. The religious organization must complete, sign and date a religious denomination certification certifying that the petitioning organization is affiliated with the religious denomination. The certification is to be submitted by the petitioner along with the petition.

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.

The petitioner filed the Form I-360 petition on behalf of the beneficiary on April 25, 2001. On the petition, the petitioner indicated that the beneficiary was residing in Boynton Beach, Florida. In a letter accompanying the petition, the petitioner indicated that it was offering the beneficiary a full time permanent position as a missions pastor for an annual salary of \$21,000 plus a housing allowance of \$5,000. The letter stated, in pertinent part:

Church, a non-profit organization, was founded little over ten years ago in New Haven County, Connecticut, United States of America purposely to preach the gospel, to lead people to Christ, minister to parishioners, reach the community, plant churches here and abroad. The membership of the congregation is fifty. We are supplying the needy in our midst and the community with pastries and non-perishable foods twice a week. Also we are reaching out to Liberian people through the on a monthly basis.

As Missions Pastor, his duties will include 1) daily administration of home and foreign missions; 2) preaching, teaching, administering the ordinances of Water Baptism and the Lord's Supper for the church and coordinating the church planting ministry; 3) planning and conducting mission conferences here and Africa; 4) he shall prepare, implement missions budget, and aid ways and means committee in raising needed funds for the church; finally, he shall perform other duties as directed by senior Pastor or the church board.

Accompanying the petition, the petitioner also submitted a determination letter from the IRS, dated August 18, 1993, confirming that the petitioning organization is exempt from taxation as described in section 501(c)(3) of the Internal Revenue Code.

On July 22, 2002 and September 11, 2002, the petitioner was instructed to submit a list of current employees and their salaries, as well as additional evidence regarding the beneficiary's employment history. In a letter dated August 26, 2002, the petitioner listed four current employees including the signatory of the petition, senior pastor [REDACTED] and three part-time employees. The beneficiary was not listed as a current employee, but the petitioner asserted its need for the beneficiary to "serve as a full-time staff." In a letter dated October 24, 2002, the petitioner stated, in part:

Because [REDACTED] does not have any work permit we or any other ministry could not hire him while our I-360 application for him is in process. However, as an experience [sic] pastor and missionary, he continued his full-time ministry by fellowshipping with many churches in this country.

The petitioner also submitted several letters from churches in Florida stating that the beneficiary has been providing assistance at their organizations.

On October 6, 2008, the director issued a Notice of Intent to Deny the petition based, in part, on two failed site visits. The notice stated that an Immigration Officer visited the petitioner's address on December 18, 2007 and February 14, 2008 "during posted hours of business for the church," but no contact was made on either visit. The officer noted that on each occasion neighbors were questioned and stated that "the place was not busy and few people were seen coming and going." Additionally, a patrolman who accompanied the officer on the second visit stated that he was not aware of the petitioning organization despite his familiarity with the neighborhood. The officer's report also noted that the petition's signatory, [REDACTED] "has 10 separate property tax liens in New Haven and West Haven, CT and 3 judgements [sic] against him." The notice also stated:

The Immigration Officer failed the organization verification due to fraud.

Elsewhere in the report, the Immigration Officer writes, "The petitioner claims to be a Baptist Church with Liberian roots. The parish is stated to have a membership of around 50 people. Church hours are posted at the site but no activity was seen

during both site visits which occurred during posted church hours.

“The organization does not exist as stated in the petition. The address is the site of a duplex in a neighborhood where much gang activity and violence occurs. One half of the duplex is a rental and the other half has two small signs with posted service hours under the organization name.... The site is in disrepair and is in a condition that is obvious no finances have been put into it.... There was no contact with the signatory and the beneficiary is residing and employed in Florida.”

In the Notice of Intent to Deny, the director also noted that the beneficiary applied for and was granted Temporary Protected Status and was also granted employment authorization pursuant to that status. The director observed that, despite the beneficiary’s employment authorization, “[t]he evidence in the file and the evidence gathered from the site investigation does not show that the beneficiary has attempted to move to New Haven, Connecticut, in order to work for the petitioner.” The director therefore questioned whether the petitioner had willfully misrepresented its intent to employ the beneficiary as a religious worker as stated in the Form I-360 petition and supporting materials.

In response to the Notice of Intent to Deny, former counsel for the petitioner objected to the officer’s characterization of the neighborhood and the property, stating “what better place is there to place a church that aims to lift people’s spirits than a ‘violence plagued’ neighborhood.” Former counsel also argued against the implication that the petitioning organization is not an active and legitimate religious organization and noted that, while the petitioning organization still owns the property at [REDACTED] where the site visit occurred, the petitioning organization moved to a new location at [REDACTED] in June, 2008. In support of that assertion, the petitioner submitted evidence of its ownership of the original property at [REDACTED] as well as its purchase of the new property at [REDACTED] with settlement in February, 2006. Additionally, the petitioner submitted documents to show that the petitioner was incorporated in July, 1992, affidavits from various individuals confirming that they have attended services at the current and former locations of the petitioning organization, and copies of the petitioner’s IRS Form 990 tax returns for the years 2002 through 2004.

Regarding the beneficiary’s employment, the petitioner submitted an affidavit from the signatory, [REDACTED] stating:

[REDACTED] who is being sponsored by our Church, is operating a mission in Boynton Beach, Florida. The mission is sponsored by the [REDACTED] [REDACTED] CT. That is the reason why [REDACTED] does not reside in New Haven, Connecticut.

The petitioner did not submit any documentary evidence to support the signatory’s assertions regarding the beneficiary’s work. 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)).

On January 6, 2009, the director denied the petition, noting that the petitioning organization had not submitted evidence regarding the mission in Boynton Beach, Florida which was purportedly affiliated with or sponsored by the petitioner and currently employing the beneficiary as a religious worker. Therefore, the director determined that the petitioner had not established that the beneficiary would be working in a qualifying position for a bona fide, tax-exempt religious organization.

On appeal, the petitioner's current counsel stated: "The point of this appeal is primarily to show that the [redacted] is a bona fide religious organization who in no way committed fraud or conspired to commit such an act." In an affidavit, [redacted] explained the appearance of the property, acknowledging that it is in a poor area and stating that the petitioner spends its money on helping the poor rather than on the appearance of its property. Regarding the absence of any church officials during the visit, [redacted] stated that "[T]he Monday through Thursday Prayer was an optional time for use of the church" as a resource for members, who hold keys to the petitioner's locations. The petitioner also submitted evidence to show its active operation as a legitimate church in New Haven, Connecticut. This evidence included photographs, "personal testimonies" from church members, letters addressed to the petitioning organization regarding its activities and its involvement with other religious and charitable organizations, copies of church newsletters and "Reports on Missions to Liberia," among other documents. The petitioner also resubmitted a copy of its 501(c)(3) tax-exemption determination letter from the IRS.

In [redacted] affidavit, he stated, "As for [redacted] I would still like him to come and work for the church." Additionally, he stated:

In 2001, when we filed this application, I did not know many of the rules of filing for a religious worker. I was told that we were qualified by the attorney who was putting this together. I did not question his knowledge of his field. If [redacted] is or was not qualified for some reason, that has nothing to do with me submitting a fraudulent application.

The beneficiary was mentioned in one of the copies of the church newsletter submitted on appeal, Volume 6, Issue 14 of "Outreach." The pertinent section reads, in full:

#### **REV. LIBERTY'S PARTNERSHIP WITH FRTC**

[redacted] friend and brother in Christ, joint-founders of [redacted], [sic] Liberia came to the US in 2001 by God's leading. By the grace of God, he and his wife [redacted] settled in Boynton Beach, Florida. We are working together, after long years of separation. [redacted] - I am grateful to Jesus for enabling FRTC and me to be a part of the great work the

Lord is doing through [REDACTED] and him.

The petitioner did not submit any further statements or evidence regarding the beneficiary or regarding the petitioner's purported affiliation with a mission in Boynton Beach, Florida.

On March 26, 2010, the AAO remanded the petition for consideration under new regulations that took effect in November 2008. On August 17, 2010, the director issued a Notice of Intent to Deny the petition, instructing the petitioner to submit evidence in compliance with the new regulations and again citing the negative findings of the site visits.

In a letter responding to the August 17, 2010 Notice of Intent to Deny, counsel for the petitioner states, in part:

The issues raised in the current NOID exactly correspond to the issues raised in the original denial and appeal thereof. That is, basically, is [REDACTED] qualified for such a position under the INA to be petitioned for by the [REDACTED] [REDACTED], and is the petitioner a bona fide religious organization?

Simply put, I enclose a copy of my previous brief and evidence for your consideration, as it dealt with both of these issues....

As for the application of [REDACTED] the original application submitted documentation as to whether the beneficiary was eligible for status under the petition. The FRTC are not immigration lawyers, and at the time of filing had no idea whether the petition was sufficient for an approval. If [REDACTED] is not qualified under the Immigration laws to obtain a benefit under this petition, that is not the fault of the church. The FRTC filed the application in good faith, and at that time knew nothing, beyond what their attorney told them, as to what was required in terms of background and experience of the beneficiary. If the beneficiary is not eligible, then deny the petition on that basis; please do not impugn the reputation of a poor but hardworking church.

Accompanying the letter from counsel, the petitioner submitted a copy of the appeal brief and all the supporting evidence originally submitted on appeal with no additional evidence.

On December 9, 2010, the director again denied the petition. In the certified decision, the director stated that "[t]he issue to be discussed is whether the petitioner has established that they are operating in the capacity claimed on the petition and are a bonafide religious organization that can support the beneficiary and whether the petitioner has satisfactorily completed a compliance review site inspection." The director again discussed the failed site visits and the lack of evidence of the beneficiary's purported employment in Florida. The director noted that, although the petitioner has shown that it is a tax exempt religious organization under section 501(c)(3) of the Internal Revenue Code, the petitioner did not submit evidence of an affiliated mission in Florida where the

beneficiary is purportedly working for the petitioner.

To the extent that the director found that the petitioner is not operating as a legitimate church in New Haven, Connecticut, or as a bona fide religious organization, the AAO will withdraw such a finding. The petitioner has submitted sufficient documentary evidence to establish that it is an active and bona fide religious organization.

However, the petitioner has not resolved the inconsistencies in its own statements and evidence regarding its intended employment of the beneficiary. 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).

In the job offer letter submitted with the petition, the petitioner did not specifically indicate where the beneficiary would work, but the petitioner discussed its congregation and activities in New Haven, Connecticut, thereby giving the impression that the beneficiary would be working at that location. In a letter responding to a request for evidence in October, 2002, the petitioner indicated that the reason the beneficiary was not yet working for the petitioning organization was because he lacked a "work permit." In the October 6, 2008 Notice of Intent to Deny, the director pointed out that the beneficiary remained in Florida even after receiving work authorization. In response, the petitioner claimed that the beneficiary was currently employed by the petitioning organization to work at an affiliated mission in Florida, but provided no evidence to support that assertion even though documentary evidence of the beneficiary's employment was requested. The statement by the signatory on appeal that, "As for [REDACTED] I would still like him to come and work for the church," would suggest that the beneficiary was not, in fact, currently employed by the petitioner as previously claimed. Further, on appeal and in response to the notice of certification, the petitioner makes no further mention of currently employing the beneficiary and submits no evidence to establish such employment. 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. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).

Therefore, the AAO agrees with the director's determination that the petitioner has not established that the beneficiary will in fact be employed by the petitioning organization, and therefore has not established that the beneficiary will be working in a qualifying position for a bona fide religious organization.

In the certified decision, the director also found that the petitioner had not established its ability to compensate the beneficiary. The regulation at 8 C.F.R. § 204.5(m)(10) states:

(10) *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.

In the job offer letter submitted with the Form I-360 petition, the petitioner stated that it intended to pay the beneficiary an annual salary of \$21,000 plus a housing allowance of \$5,000. The petitioner additionally submitted a document entitled "Budget for 2001," which included "Salary – Missions Pastor" at \$21,000 under expenses, and indicating "Net Accumulated Funds for 2001" of \$62,286.

The Requests for Evidence issued on July 22, 2002 and September 11, 2002 instructed the petitioner to "submit conclusive evidence" of its ability to compensate the beneficiary. In response the petitioner submitted a "Budget for 2002," again including "Salary – Missions pastor" among its expenses. The budget listed total accumulated funds for 2002 of \$426,710, total expenditures of \$336,903, and net accumulated funds of \$89,007. The petitioner submitted a letter from the New Haven Savings Bank, dated October 5, 2002, stating that the petitioner holds an account, opened on May 10, 2001, with a current balance of \$8,035. The petitioner also submitted a letter from First Union National Bank, listing six checking accounts held by the petitioner.

In the Notice of Intent to Deny issued on October 6, 2008, the director issued the following instruction:

The petitioner needs to submit valid, documented evidence of its ability to pay wages, such as, bank statements and tax records. This office also wants to see copies of the petitioner's Quarterly Wage Reports filed with the State of Connecticut listing wages paid and to whom.

In response, the petitioner submitted evidence of its ownership of two properties, discussed above, as well as unsigned, uncertified copies of its Form 990 tax returns for the years 2002 through 2004. The return for 2002 listed total revenue of \$41,994, total expenses of \$48,395, and "Net assets or fund balances" of -\$6,401. The petitioner did not provide an explanation for the large discrepancies between the figures listed on its 2002 budget and those on its 2002 tax return. 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. at 591-92. The petitioner did not submit copies of the petitioner's Quarterly Wage Reports as requested by the director.

On appeal from the January 6, 2009 decision, the petitioner additionally submitted uncertified copies of its Form 990 tax returns for the years 1999 through 2001. The tax return for 1999 indicated a deficit for the year of \$1,150, the tax return for 2000 indicated a balance of \$10,019, and the tax return for 2001 indicated a balance of \$8,585.

As stated above, on March 26, 2010, the AAO remanded the petition for consideration under the new regulations that took effect in November 2008. In the Notice of Intent to deny issued on August 17, 2010, the petitioner was instructed to submit additional evidence in order to comply with the new regulations including the regulation at 8 C.F.R. § 204.5(m)(10). The petitioner did not submit any additional evidence regarding its ability to compensate the beneficiary.

In the certified decision dated December 9, 2010, the director listed the petitioner's ability to "support the beneficiary" as one of the issues to be discussed. The director quoted the October 6, 2008 Notice of Intent to Deny instructing the petitioner to submit "valid, documented evidence" of its ability to pay, and concluded that the petitioner "has not submitted convincing or compelling evidence to overcome the grounds of denial."

The regulation at 8 C.F.R. § 204.5(m)(10) requires that the petitioner submit IRS documentation, such as IRS Form W-2 or certified tax returns, if available, or provide an explanation for its absence, along with comparable, verifiable documentation. The only IRS documentation submitted by the petitioner was uncertified, and the petitioner did not submit any other verifiable documentation. Furthermore, a petitioner must establish eligibility at the time of filing. *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm'r 1971). In this case, the petition was filed in April of 2001. The uncertified tax returns submitted by the petitioner for the years 1999 through 2002 indicated net balances well below the salary being offered to the beneficiary, so they do not support the petitioner's claimed ability to pay such a salary. Therefore, the AAO agrees with the director's determination that the petitioner has not established its ability to compensate the beneficiary.

As an additional matter, the AAO finds that the petitioner has not established that the beneficiary has the requisite two-years of continuous, lawful, qualifying work experience immediately preceding the filing of the petition.

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 petition was filed on April 25, 2001. Therefore, the petitioner must establish that the beneficiary was continuously performing qualifying religious work in lawful immigration status throughout the two-year period immediately preceding that date.

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

*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.

The petition was filed on April 25, 2001. According to the Form I-360 petition and supporting materials, the beneficiary arrived in the United States on June 23, 2000 in B-1 nonimmigrant visitor status which expired on September 23, 2000. The regulation at 8 C.F.R. § 214.1(e) states that aliens in such status “may not engage in any employment.” Service records do not indicate that the beneficiary held any lawful status in the United States that would have authorized him to work for the petitioner during the qualifying two-year period. Accordingly, any work performed by the beneficiary in the United States during the qualifying period is not considered qualifying prior experience under 8 C.F.R. § 204.5(m)(11).

At the time of filing the petition, the only documentary evidence submitted by the petitioner regarding the beneficiary’s two years of qualifying experience was a letter from [REDACTED], asserting that the beneficiary served as senior pastor “in this ministry from September 1981 in Liberia.” The letter did not state when the employment ended or provide information about compensation.

In response to the Request for Evidence issued on September 11, 2002, the petitioner submitted another letter from [REDACTED], which stated that the beneficiary served as senior pastor from May 20, 1982 until June 15, 2000. [REDACTED] also attached signed photocopies of its payroll from January 1999 to June 2000 and explained that all of their transactions are done in cash because the “majority of the financial institutions in Monrovia cannot be trusted.” Regarding the beneficiary’s employment since arriving in the United States, in a letter dated October 24, 2002, the petitioner stated the following:

From June 2000 to August 2002 period, the following has been duties of [REDACTED] [REDACTED] is an ordained and full-time minister who proclaims and teaches the Word of God in churches, open-air services, homes, hospitals etc....

Because [REDACTED] does not have any work permit we or any other ministry could not hire him while our I-360 application for him is in process. However, as an experience pastor and missionary, he continued his full-time ministry by fellowshipping with many churches in this country. (Attached are letters of endorsement from some of the churches that he had and is ministering to. Due to his devotion in serving the Lord, a church [REDACTED] provided him a free apartment and a little office to serve the Christian Community until he can take up his assignment with us when our application is approved.

The petitioner submitted letters from three churches in Florida describing the beneficiary's assistance at those institutions and the "support" they provided to him.

The August 17, 2010 Notice of Intent to Deny informed the petitioner of the new requirements for the beneficiary's qualifying experience pursuant to the regulations issued in November 2008 and instructed the petitioner to submit additional evidence to comply with those regulations. However, in response, the petitioner did not submit any additional evidence regarding either the beneficiary's immigration status during the qualifying period or the continuity of his employment during that time. Therefore, the petitioner has not established that the beneficiary has the requisite two years of continuous, lawful, qualifying work experience in the two years immediately preceding the filing date of the petition.

Lastly, the AAO notes that 8 C.F.R. § 204.5(m)(7) requires an authorized official of the prospective employer of an alien seeking religious worker status to complete, sign and date an attestation providing specific information about the employer, the alien, and the terms of proposed employment. Although the director advised the petitioner of this requirement in the August 17, 2010 Notice of Intent to Deny, the petitioner failed to submit an attestation. The absence of this required document from the record represents an additional basis for denial of the petition. Failure to submit requested evidence which precludes a material line of inquiry shall be grounds for denying the application or petition. 8 C.F.R. § 103.2(b)(14).

The AAO may deny an application or petition that fails to comply with the technical requirements of the law even if the Service Center does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9<sup>th</sup> Cir. 2003); *see also Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004) (noting that the AAO conducts appellate review on a *de novo* basis).

The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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 director's decision of December 9, 2010 is affirmed. The petition is denied.