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[REDACTED]

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: **SEP 09 2010**

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Nonimmigrant Petition for Religious Worker Pursuant to Section 101(a)(15)(R)(1) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(R)(1)

ON BEHALF OF PETITIONER:

[REDACTED]

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 \$585. 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
Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the employment-based nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a regional headquarters of the Redeemed Christian Church of God (RCCG). It seeks to classify the beneficiary as a nonimmigrant religious worker under section 101(a)(15)(R)(1) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(R)(1), to perform services as its general overseer. The director determined that the petitioner had not established that the beneficiary sought to enter the United States to work for at least 20 hours per week.

On appeal, counsel asserts that the director's decision was based on an erroneous conclusion of fact. The petitioner submits no new documentation in support of the appeal

Section 101(a)(15)(R) of the Act pertains to an alien who:

- (i) for the 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; and
- (ii) seeks to enter the United States for a period not to exceed 5 years to perform the work described in subclause (I), (II), or (III) of paragraph (27)(C)(ii).

Section 101(a)(27)(C)(ii) of the Act, 8 U.S.C. § 1101(a)(27)(C)(ii), pertains to a nonimmigrant who seeks to enter the United States:

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

The issue presented is whether the petitioner has established that the beneficiary seeks to enter the United States to work for at least 20 hours per week.

The regulation at 8 C.F.R. § 214.2(r)(1) provides that:

To be approved for temporary admission to the United States, or extension and maintenance of status, for the purpose of conducting the activities of a religious worker for a period not to exceed five years, an alien must:

- (i) Be a member of a religious denomination having a bona fide non-profit religious organization in the United States for at least two years immediately preceding the time of application for admission;
- (ii) Be coming to the United States to work at least in a part time position (average of at least 20 hours per week);
- (iii) Be coming solely as a minister or to perform a religious vocation or occupation as defined in paragraph (r)(3) of this section (in either a professional or nonprofessional capacity);
- (iv) Be coming to or remaining in the United States at the request of the petitioner to work for the petitioner; and
- (v) Not work in the United States in any other capacity, except as provided in paragraph (r)(2) of this section.

In its February 18, 2009 letter submitted in support of the petition, filed on February 20, 2009, the petitioner stated that the beneficiary would undertake the following duties:

1. *Ministering during all the [the petitioner's] Convention(s) at the Redemption Camp . . . annual Conventions.*
2. *Perform the Ordination of Ministers*
3. *Conduct the graduation ceremony of graduants [sic] of the Redeemed Bible College*
4. *Conduct the special festival of life program in the Redemption Camp*
5. *Ministering during Workers and Ministers' Conference in Maryland from October 14-16, 2009*
6. *Ministering during Festival of Life in Washington DC on October 16, 2009*
7. *Ministering during the Workers and Ministers' Conference at the Redemption Camp in Greenville, Texas from October 22-24, 2009*
8. *Honoring any other invitation that may come up in the United States during the year*
9. *As the general Overseer presides of the general assembly meeting of the Churches in the [petitioning organization]*
10. *Conducts the dedication of Parishes in North America*
11. *Presides of the assembly of Ministers RCCGNA*
12. *Presides of the assembly of workers in RCCGNA*
13. *Presides over the special session/meetings of the Board of Coordinators at least twice in a year[]*

14. He oversees the general health and the wellbeing of the Church in North America and other parts of the world.

In response to the director's April 8, 2009 Notice of Intent to Deny (NOID) the petition, the petitioner stated that the beneficiary is the general overseer of the RCCG Worldwide with its international headquarters in Lagos, Nigeria. The petitioner also stated that the beneficiary was not seeking to live in the United States but wanted to be free to enter as needed to carry out his obligations. The petitioner again listed the specific activities and duties enumerated above that it stated the beneficiary would be involved in while in the United States.

In a request for evidence (RFE) dated May 30, 2009, the director instructed the petitioner to "[p]rovide the number of hours per week the beneficiary will be performing his duties. Include a daily and weekly schedule for the proffered position." [Emphasis in the original.]

In response, counsel stated:

The beneficiary would work for at least 22 hours per week ministering during Sunday services from 8am to 2pm, Tuesday, Wednesday, and Thursday Services from 6pm to 10pm. Preside over general assembly meeting of the churches in [the petitioning organization]. In addition, the beneficiary will minister during all the [petitioner's] Conventions both at the Redemption Camp and in Washington DC. He will also minister during the RCCG Workers and Minister's conference. He will also perform the ordination of Ministers, conduct graduation ceremony of graduates of the Redeemed Bible College.

Nothing in the record, however, supports counsel's assertion that the beneficiary would minister during Sunday and weekday church services or the number of the hours that he will work. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

The director denied the petitioner finding that the duties enumerated by counsel totaled only 18 hours per week, and therefore the petitioner had not established that the beneficiary sought to enter the United States to work at least 20 hours per week.

On appeal, counsel asserts that the documentation provided "clearly stated" the beneficiary's duties, which includes ministering during Sunday services from 6 pm to 10 pm and Tuesday through Thursday services from 6 pm to 10 pm. There had been no allegation prior to the appeal that the beneficiary would work during Sunday services. While counsel alleged in his letter accompanying the petitioner's response to the RFE that the beneficiary would minister at Sunday services from 8 am to 2 pm and services on Tuesday through Thursday, as stated above, the unsupported assertions of counsel are not evidence. The petitioner failed to provide the detailed daily and weekly work schedule as requested by the director in her RFE. The petition may be

denied on that ground alone. 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 petitioner stated that the beneficiary does not intend to live in the United States but seeks nonimmigrant religious worker status to enter the United States as needed to meet his obligations. If we accept counsel's statement that the beneficiary will minister at Sunday, Tuesday, Wednesday and Thursday services, the petitioner offers no explanation as to how he will meet these weekly obligations without taking up residence in the United States.

The record does not establish that the beneficiary seeks to enter the United States to work on a part-time basis of a minimum of 20 hours per week.

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.