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**U.S. Citizenship  
and Immigration  
Services**

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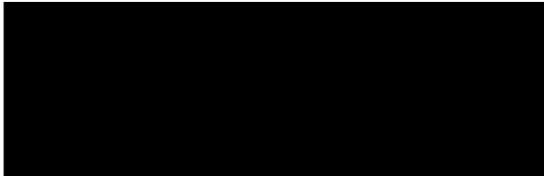
Office: HARTFORD

Date: SEP 20 2007

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Status as a Temporary Resident pursuant to Section 245A of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1255a

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the office that originally decided your case. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application for temporary resident status pursuant to the terms of the settlement agreements reached in *Catholic Social Services, Inc., et al., v. Ridge, et al.*, CIV. NO. S-86-1343-LKK (E.D. Cal) January 23, 2004, and *Felicity Mary Newman, et al., v. United States Immigration and Citizenship Services, et al.*, CIV. NO. 87-4757-WDK (C.D. Cal) February 17, 2004, (CSS/Newman Settlement Agreements) was denied by the District Director, Hartford, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director determined that the applicant could not prove that he entered the United States illegally prior to January 1, 1982 and that he resided continuously in the United States in an unlawful status since before January 1, 1982 until he filed his application for temporary residence. As a result, the director denied the application.

On appeal, the applicant asserted that the director erred as a matter of law and abused his discretion. The applicant reviewed the evidence he presented in support of his claim of presence in the United States during the requisite period. The applicant also asserted that the director had imposed a standard that was beyond a preponderance of the evidence and was impossible to meet, thereby abusing his discretion. Finally, the applicant asserted that the director had given no weight to the applicant's testimony.

An applicant for temporary residence must establish entry into the United States before January 1, 1982, and continuous residence in the United States in an unlawful status since such date and through the date the application is filed. Section 245A(a)(2) of the Immigration and Nationality Act (Act), 8 U.S.C. § 1255a(a)(2).

An applicant for adjustment to temporary resident status must establish that he or she has been continuously physically present in the United States since November 6, 1986. Section 245A(a)(3) of the Act, 8 U.S.C. § 1225a(a)(3).

For purposes of establishing residence and presence in accordance with the regulation at 8 C.F.R. § 245a.2(b), "until the date of filing" shall mean until the date the alien attempted to file a completed Form I-687 application and fee or was caused not to timely file, consistent with the class member definitions set forth in the CSS/Newman Settlement Agreements. CSS Settlement Agreement, paragraph 11 at page 6; and Newman Settlement Agreement, paragraph 11 at page 10.

An applicant for adjustment of status has the burden of proving by a preponderance of the evidence that he or she has resided in the United States for the requisite periods, is admissible to the United States under the provisions of section 245A of the Act, and is otherwise eligible for adjustment of status. The inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility, and its amenability to verification. *See* 8 C.F.R. § 245a.2(d)(5).

Although the regulation at 8 C.F.R. § 245a.2(d)(3) provides an illustrative list of contemporaneous documents that an applicant may submit in support of his or her claim of continuous residence in the United States in an unlawful status since prior to January 1, 1982, the

submission of any other relevant document is permitted pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L).

The “preponderance of the evidence” standard requires that the evidence demonstrate that the applicant's claim is “probably true,” where the determination of “truth” is made based on the factual circumstances of each individual case. *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm. 1989). In evaluating the evidence, *Matter of E-M-* also stated that “[t]ruth is to be determined not by the quantity of evidence alone but by its quality.” *Id.* Thus, in adjudicating the application pursuant to the preponderance of the evidence standard, the director must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true.

Even if the director has some doubt as to the truth, if the petitioner submits relevant, probative, and credible evidence that leads the director to believe that the claim is “probably true” or “more likely than not,” the applicant or petitioner has satisfied the standard of proof. *See U.S. v. Cardozo-Fonseca*, 480 U.S. 421 (1987) (defining “more likely than not” as a greater than 50 percent probability of something occurring). If the director can articulate a material doubt, it is appropriate for the director to either request additional evidence or, if that doubt leads the director to believe that the claim is probably not true, deny the application or petition.

Section 212(a)(6)(C) of the Act provides in pertinent part:

Misrepresentation. – (i) Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

At issue in this proceeding is whether the applicant has submitted sufficient credible evidence to establish continuous residence in the United States from prior to January 1, 1982 through the date he attempted to file a Form I-687 application with the Service in the original legalization application period from May 5, 1987 to May 4, 1988. Here, the submitted evidence is not relevant, probative, and credible.

The applicant submitted Form I-687 Application for Status as a Temporary Resident on September 12, 1998. At Part 33 where applicants were asked to list all residences in the United States since first entry, the applicant listed the following addresses during the requisite period: [REDACTED], Los Angeles, California from November 1981 to February 1983; [REDACTED] New York, New York from March 1983 to August 1987; and [REDACTED] Los Angeles, California from September 1987 to October 1988. At Part 34 where applicants were asked to list all affiliations or associations with clubs, organizations, churches, unions, businesses, etc., the applicant stated, “N/A.” At Part 35 where applicants were asked to list all absences from the United States since entry, the applicant listed only a trip to Pakistan due to family illness, from August 14, 1987 to September 11, 1987. At Part 36 where applicants were asked to list all employment in the United States since first entry, the applicant

listed the following positions during the requisite period: Handyman at [REDACTED] Los Angeles, California from November 1981 to February 1983; painter at Shining Star Waterproofing Inc., [REDACTED] Brooklyn, New York from April 1983 to August 1987; and cleaner and mopper at [REDACTED], Culver City, California from September 1987 to October 1988.

With his Form I-687 application the applicant submitted multiple affidavits and letters. The form affidavit from [REDACTED] dated September 7, 1990, affirms that the applicant resided in the United States in Los Angeles, California from 1981 to present. This affidavit is found to be inconsistent with the applicant's statements on Form I-687, which indicate the applicant resided in New York from March 1983 to August 1987. This inconsistency calls into question [REDACTED] ability to confirm the applicant resided in the United States during the requisite period. An additional version of the affidavit from [REDACTED] was submitted by the applicant. This version was similar to the other affidavit from [REDACTED] in that it stated that the applicant resided in Los Angeles, California from 1981 to present. In addition, specific date and address information for the applicant was handwritten on the form in ink that does not appear to match the color of the ink used in [REDACTED] signature. The address information that was handwritten on the form is consistent with the address information provided by the applicant on Form I-687. Since the affidavit states that the applicant resided in Los Angeles throughout the requisite period and that the applicant lived in New York from 1983 to 1987, this affidavit is found to be internally inconsistent. This inconsistency calls into question whether [REDACTED] can actually confirm the applicant resided in the United States throughout the requisite period.

The applicant also submitted a letter dated October 27, 1988 from [REDACTED] Manager, printed on [REDACTED] letterhead. The letter declares that the applicant worked from September 1987 to October 1988 as a cleaner and mopper. This letter does not conform to the standard for employment confirmation letters established by 8 C.F.R. § 245a.2(d)(3)(i). Specifically, the letter does not include the applicant's address at the time of employment, whether the information was taken from official company records, where the records are located, and whether CIS may have access to the records. 8 C.F.R. § 245a.2(d)(3)(i).

The applicant submitted a letter from Shining Star Waterproofing Inc. dated August 5, 1987 and signed by [REDACTED] identified as "The Manager." On July 17, 2007 the applicant was notified of information that has come to light that seriously compromises the credibility of his claims and given an opportunity to respond, pursuant to CIS regulations at 8 C.F.R. § 103.2(b)(16)(i). As of this date, he has not responded to this new information. As a result, the record will be considered complete. The following adverse information regarding [REDACTED] letter was revealed to the applicant in the notification issued on July 17, 2007:

- The letter confirms the applicant's employment there from April 1983 to August 1987. AutoTrack XP Corporate Records lists an entry for Shining Star Waterproofing, Inc. at [REDACTED] Brooklyn, New York, and indicates the company was not incorporated until June 5, 1987.

This establishes that the applicant utilized documents in a fraudulent manner and made material misrepresentations in an attempt to establish his residence within the United States during the requisite period.

On August 17, 2001, the applicant filed Form I-485 Application to Register Permanent Resident or Adjust Status. At Part 3C where applicants were asked to list present and past membership in or affiliation with every political organization, association, fund, foundation, party, club, society, or similar group, the applicant listed "none" and then later added in handwriting, "I go to school."

The applicant submitted numerous affidavits and other documents in support of his Form I-485 application. In their affidavits, [REDACTED] confirmed that they have known the applicant since "on or about October 1981." In two virtually identical affidavits, the affiants provided significant detail regarding the applicant's residential and employment history throughout the requisite period that is consistent with the information provided on Form I-687. The affiants also provided specific details regarding the applicant's manner of entry into the United States. However, the affiants provided no detail or explanation regarding the manner in which they became acquainted with the applicant, the nature of their relationships with the applicant, or the manner in which they became familiar with details regarding the applicant's entry into the United States. This lack of detail, together with the striking similarities between the two affidavits, calls into question whether the affiants can actually confirm the applicant's residence in the United States throughout the requisite period. Although not required, the affiants also did not provide documentation of their identities or presence in the United States during the requisite period.

The applicant also submitted a letter from [REDACTED] of New York. In this letter dated April 6, 1984, [REDACTED] provided the applicant's address and stated that the applicant "has been a regular member of [this] mosque from March 25, 1983 until April 2, 1984." This letter is found to be inconsistent with the information provided by the applicant on Form I-485 and Form I-687. Specifically, both forms asked applicants to list affiliations with certain types of groups, and the applicant failed to mention the Muslim Center of New York on either form. This inconsistency calls into question the ability for [REDACTED] to confirm the applicant's residence in the United States during the requisite period. In addition, this letter does not conform to the requirements established by 8 C.F.R. § 245a.2(d)(3)(v) for attestations to the applicant's residence by churches, unions or other organizations. Specifically, the letter is not signed by an official whose title is shown. 8 C.F.R. § 245a.2(d)(3)(v).

The applicant also included a letter from [REDACTED] circulation director of Popular Electronics, dated December 14, 1981. In this letter, [REDACTED] thanked the applicant for his interest in Popular Electronics and provided information regarding an offer to try the magazine for free. In the notification issued on July 17, 2007, the applicant was informed of the following adverse information regarding the letter he submitted from Popular Electronics:

- The letterhead lists the company's address as P.O. Box, Mt. Morris, Illinois, and it fails to list a specific post office box number. A Business Comprehensive Report for Popular Electronics Inc., obtained from Choicepoint lists the address for Popular Electronics Inc. as P.O. Box 9932, Mt. Morris, Illinois.
- According to the Choicepoint report, Popular Electronics Inc. in Mt. Morris, Illinois was not incorporated until January 28, 2003.
- The letterhead lists the company's zip code as 61054-9932. According to the website [http://en.wikipedia.org/wiki/ZIPI\\_code](http://en.wikipedia.org/wiki/ZIPI_code), the United States Postal Service did not begin using the expanded zip code system, called "ZIP+4", often called "plus-four codes" or "add-on codes" until 1983.

Again, this establishes that the applicant utilized documents in a fraudulent manner and made material misrepresentations in an attempt to establish his residence within the United States during the requisite period.

The applicant submitted a letter from [REDACTED] Chief, Plastic and Reconstructive Surgery, dated March 20, 1984. This letter was written to [REDACTED] but mentioned that [REDACTED] had referred the applicant "for excision of lesion" on March 7, 1984. This letter does not specifically confirm that the applicant resided in the United States for any portion of the requisite period. Although not required, this letter was not accompanied by copies of official medical records for the applicant or copies of identity documentation for [REDACTED]

The applicant submitted a letter from [REDACTED] dated March 24, 1988. In this letter, [REDACTED] stated that the applicant is known to [REDACTED] since 1984. This letter fails to confirm the applicant resided in the United States for any specific portion of the requisite period. [REDACTED] also failed to explain the manner in which he became acquainted with the applicant and the nature of their relationship.

The applicant submitted a letter from [REDACTED] to [REDACTED] dated August 15, 1985. The letter explains the applicant had been consulting [REDACTED] regarding anxiety and sleep difficulties since November 8, 1984. This letter does not confirm that the applicant resided in the United States for any specific portion of the requisite period. It is noted that the letter appears to be an original document, yet the letter is addressed to [REDACTED]. The applicant provided no explanation regarding how he obtained the letter.

The applicant included an ultrasound report that indicates the applicant was 21 years old at the time of the report, so the report must have been produced at some time in 1983 or 1984. This report does not confirm the applicant resided in the United States for any portion of the requisite period.

The applicant provided a letter from [REDACTED] Customer Service Manager at Emigrant bank, dated April 8, 1983. This letter is addressed to the applicant at an address that is consistent

with the information he provided on Form I-687. However, the letter does not confirm the applicant resided in the United States for any portion of the requisite period other than April 8, 1983. The applicant submitted a letter from [REDACTED] Vice President of Western Union, dated August 16, 1985. The letter is addressed to the applicant at an address that is consistent with the information he provided on Form I-687. This letter is a form letter advertising a customer discount. The letter does not confirm the applicant's residence in the United States for any period outside of the date of August 16, 1985. The applicant also provided a letter printed on JCPenney Catalog letterhead, dated April 5, 1984. The letter was addressed to the applicant at an address that is consistent with the information the applicant provided on Form I-687 and confirms his residence only on April 5, 1984. The applicant also submitted a letter from an individual whose name is illegible but whose title is listed as Manager, Customer Services, from New York Telephone. The letter was addressed to the applicant at an address that is consistent with the information the applicant provided on Form I-687. The applicant also submitted a remittance form from Habib Bank Limited, New York Branch, dated November 4, 1985. The line on the form where the account number should be listed is left blank. The address listed for the applicant is consistent with information the applicant provided on Form I-687. The letters from Emigrant bank, Western Union, JCPenney Catalog, and New York Telephone; and the remittance form all list the applicant's address as the [REDACTED] address he provided on Form I-687. However, all four documents list the address with the same unconventional use of a comma after the street directional indicator, as follows: "380 East, 18 St." The repetition of this unconventional manner of listing an address in documents from five different companies casts doubt on the authenticity of the five documents.

In response to a Notice of Intent to Deny the I-485 application issued on February 6, 2004, the applicant submitted a lease agreement, which lists the applicant as the tenant on the lease for [REDACTED] [REDACTED] "Los Angeles" is consistently incorrectly spelled as "Los Angelas" on the lease. This document appears to have been crumpled into a ball and then flattened. The lease is signed by both the purported landlord and the purported tenant. However, the space for a witness signature is left blank. The lack of the witness signature calls into question the authenticity of the document.

The applicant also submitted a rent receipt dated January 15, 1984. This receipt does not list an address for the rented property. As a result, the receipt does not confirm the applicant's residence in the United States for any portion of the requisite period.

In denying the application, the director found the applicant could not prove he entered the United States illegally prior to January 1, 1982 and that he resided continuously in the United States in an unlawful status since before January 1, 1982 until he filed his application.

On appeal, the applicant asserted that the director erred as a matter of law and abused his discretion. The applicant reviewed the evidence he presented in support of his claim of presence in the United States during the requisite period. The applicant also asserted that the director had imposed a standard that was beyond a preponderance of the evidence and was impossible to

meet, thereby abusing his discretion. Finally, the applicant asserted that the director had given no weight to the applicant's testimony.

The record also contains a letter the applicant submitted in support of his I-485 appeal. The letter from [REDACTED] dated April 3, 1987, declares the applicant was [REDACTED] patient since January 8, 1986. [REDACTED] listed the applicant's address as [REDACTED]. The fact that [REDACTED] used the same unconventional manner of listing an address as is used in other documentation submitted by the applicant calls into question the authenticity of the letter from [REDACTED]. The applicant also submitted a document from Lincoln Medical Laboratory in Elmhurst, New York that suggests the applicant had lab work on April 29, 1987. This document does not list the applicant's address. As a result, it does not confirm the applicant's residence in the United States during the requisite period.

The applicant also submitted a letter from [REDACTED] stock manager for Office Furniture (Factory Outlet). This letter confirms the applicant's address and employment for January 10, 1986 to July 27, 1986. However, the letter is inconsistent with information the applicant provided on Form I-687. Specifically, the only position the applicant listed during this period was with Shining Star Waterproofing Inc., from April 1983 to August 1987. This inconsistency calls into question whether [REDACTED] can actually confirm the applicant resided in the United States during the requisite period.

In summary, the applicant submitted numerous affidavits, letters, and other documents in support of his application. The affidavits from [REDACTED] are inconsistent with the applicant's statements on Form I-687 and are internally inconsistent. The letter from [REDACTED] does not conform to regulatory standards. The affidavits from [REDACTED] and [REDACTED] are virtually identical to each other and lack sufficient detail. The letter from [REDACTED] is inconsistent with information provided by the applicant on Form I-485 and Form I-687, and the letter does not conform to regulatory standards. The letters from [REDACTED] and [REDACTED] the ultrasound report; and the Lincoln Medical Laboratory document all fail to specifically confirm the applicant resided in the United States for any portion of the requisite period. The letters from Emigrant bank, Western Union, JCPenney Catalog, New York Telephone, and [REDACTED] and the remittance form all list the applicant's address with the same unconventional use of a comma after the street directional indicator. This casts doubt on the authenticity of these documents. The lease agreement the applicant submitted lacks a witness signature. The rent receipt does not list an address for the rented property. The letter from [REDACTED] is inconsistent with the information the applicant provided on Form I-687.

Lastly, the applicant submitted documentation of his residence in the United States that is found to be fraudulent. Facts that were provided to the applicant in the letter issued July 17, 2007 establish that the applicant utilized documents in a fraudulent manner and made material misrepresentations in an attempt to establish his residence in the United States throughout the requisite period. Specifically, the letter from Popular Electronics was dated December 14, 1981, yet Popular Electronics was not incorporated until January 28, 2003. The letter includes letterhead that fails to list a specific post office box number, and it lists a zip code that was not in

use until 1983. The Shining Star Waterproofing letter confirms the applicant's employment started in April 1983, although the company was not incorporated until June 5, 1987. By engaging in fraudulent utilization of documents and making material misrepresentations, the applicant has seriously undermined his own credibility as well as the credibility of his claim of continuous residence during the requisite period. Because the applicant has submitted false documents in support of relevant aspects of his application, the weight accorded to all relevant claims he has made is limited. The applicant provided no explanation or supporting evidence in response to this finding. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant 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. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

The absence of sufficiently detailed supporting documentation that conforms to regulatory standards, the existence of conflicting evidence that contradicts critical elements of the applicant's claim of residence, and the existence of derogatory information that establishes the applicant used documents in a fraudulent manner and made material misrepresentations all seriously undermine the credibility of the supporting documents, as well as the credibility of the applicant's claim of residence in this country for the requisite period. Pursuant to 8 C.F.R. § 245a.2(d)(3), the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. The applicant has failed to submit sufficient credible documentation to meet his burden of proof in establishing that he has resided in the United States since prior to January 1, 1982 to May 4, 1988 by a preponderance of the evidence as required under both 8 C.F.R. § 245a.2(d)(3) and *Matter of E-M-*, 20 I&N Dec. 77 (Comm. 1989).

Given the applicant's reliance upon supporting documents with minimal or no probative value, it is concluded that he has failed to establish continuous residence in an unlawful status in the United States from prior to January 1, 1982 until the date of filing the application, as required under 8 C.F.R. § 245a.2(b)(1). The applicant is, therefore, ineligible for temporary resident status under 8 C.F.R. § 245a.2(b)(1) on this basis.

In addition, the fact that the applicant utilized documents in a fraudulent manner and made material misrepresentations in an attempt to establish his residence within the United States for the requisite period rendered him inadmissible to this country pursuant to Section 212(a)(6)(C) of the Act. By filing the instant application and submitting falsified documents, the applicant has sought to procure a benefit provided under the Act through fraud and willful misrepresentation of a material fact. Because the applicant has failed to provide independent and objective evidence to overcome, fully and persuasively, our finding that he submitted falsified documents, we affirm our finding of fraud. The applicant failed to establish that he is admissible to the United States as required by 8 C.F.R. § 245a.2(d)(5). Consequently, the applicant is ineligible to adjust to permanent resident status under Section 245A of the Act on this basis as well.



**ORDER:**

The appeal is dismissed with a finding of fraud. This decision constitutes a final notice of ineligibility.