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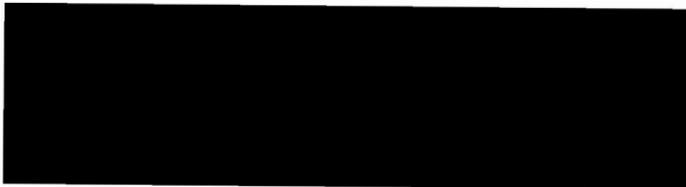
FILE: MSC-05-312-12914 Office: LOS ANGELES Date: **AUG 29 2008**

IN RE: Applicant:



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. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

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, Los Angeles. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant submitted a Form I-687, Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act (Act), and a Form I-687 Supplement, CSS/Newman Class Membership Worksheet. The director determined that the applicant had not established by a preponderance of the evidence that he had continuously resided in the United States in an unlawful status for the duration of the requisite period. Specifically, in her Notice of Intent to Deny (NOID), the director stated that there were inconsistencies in the evidence the applicant submitted in support of his application regarding dates the applicant resided with his cousins. She also noted that, though the applicant asserted that he used the name Juan Magana and submitted documents bearing this name, he failed to establish that he and Juan Magana were one and the same. The director granted the applicant 30 days within which to submit additional evidence in support of his application. Although the applicant submitted additional evidence in response to the NOID, the director determined that this evidence did not allow him to overcome the reasons for denial as stated in that NOID. Therefore, the director concluded that the applicant was not eligible to adjust to temporary resident status pursuant to the CSS/Newman Settlement Agreements and denied the application.

On appeal, the applicant asserts through counsel that he is appealing the director's decision because the director did not accord due weight to evidence that he submitted in response to the director's NOID.

An applicant for Temporary Resident Status 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 Act, 8 U.S.C. § 1255a(a)(2). The applicant must also 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. § 1255a(a)(3). The regulations clarify that the applicant must have been physically present in the United States from November 6, 1986 until the date of filing the application. 8 C.F.R. § 245a.2(b)(1).

For purposes of establishing residence and physical presence under the CSS/Newman Settlement Agreements, the term "until the date of filing" in 8 C.F.R. § 245a.2(b) means until the date the applicant attempted to file a completed Form I-687 application and fee or was caused not to timely file during the original legalization application period of May 5, 1987 to May 4, 1988. CSS Settlement Agreement paragraph 11 at page 6; Newman Settlement Agreement paragraph 11 at page 10.

The applicant has the burden of proving by a preponderance of the evidence that he or she has resided in the United States for the requisite period, 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 amenability to verification. 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.* at 80. 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 applicant 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 has satisfied the standard of proof. *See U.S. v. Cardozo-Fonseca*, 480 U.S. 421, 431 (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.

At issue in this proceeding is whether the applicant has submitted sufficient credible evidence to meet his burden of establishing continuous unlawful residence in the United States during the requisite period. Here, the applicant has failed to meet this burden.

The record shows that the applicant submitted a Form I-687 application and a Form I-687 Supplement, CSS/Newman Class Membership Worksheet, to CIS on August 8, 2005. At part #4 where the applicant was asked to list all other names he has used or has been known by, he indicated he had also used the name [REDACTED]. At part #30 of the Form I-687 application where applicants were asked to list all residences in the United States since first entry, the applicant showed his addresses in the United States during the requisite period to be: [REDACTED] until 1983; and [REDACTED] in [REDACTED] California from 1983 until 1992. At part #32 where the applicant was asked to

list all of his absences from the United States, he indicated that he had one absence during the requisite period. Specifically, he indicated that from October 3 to November 19, 1987 he went to visit his ill mother in Mexico. At part #33, where the applicant was asked to list all of his employment in the United States since he first entered, he stated that he was employed at Uncle [REDACTED] Family Restaurant in Beverly Hills, California from 1981 to 1983; at Eastfood Seafood Company in Kodiak, Alaska for an unspecified length of time in 1984; and at Teledyne Picco from 1984 to 1987. It is noted that the applicant did not indicate whether he was employed during 1988. It is also noted that, though the applicant indicates he was employed by a company in Kodiak, Alaska, he has not provided an address of residence in Kodiak, Alaska.

Also in the record is a Form I-687 that the applicant signed on July 24, 1990. This Form I-687 states the applicant's alias, his addresses of residence, and his absence from the United States consistently with his subsequently filed Form I-687. Though he did not indicate employment during the requisite period on this Form I-687, it appears that he submitted pay stubs that are relevant to the requisite period with this application.

The applicant has the burden of proving by a preponderance of the evidence that he or she has resided in the United States for the requisite period. 8 C.F.R. § 245a.2(d)(5). To meet his burden of proof, an applicant must provide evidence of eligibility apart from his or her own testimony. 8 C.F.R. § 245a.2(d)(6). The regulation at 8 C.F.R. § 245a.2(d)(3) provides an illustrative list of documentation that an applicant may submit to establish proof of continuous residence in the United States during the requisite period. This list includes: past employment records; utility bills; school records; hospital or medical records; attestations by churches, unions or other organizations; money order receipts; passport entries; birth certificates of children; bank books; letters or correspondence involving the applicant; social security card; selective service card; automobile receipts and registration; deeds, mortgages or contracts; tax receipts; and insurance policies, receipts or letters. An applicant may also submit any other relevant document pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L).

Prior to the director's issuance of the NOID, the applicant submitted the following documents that are relevant to the requisite period:

1. A declaration from [REDACTED] that was signed on June 13, 2005. The declarant submits a photocopy of her California Driver's License with her declaration. The declarant states that she has known the applicant since 1981 when he came to her house. Though she states that the applicant would sometimes visit with her family, she does not indicate the frequency with which he did so during the requisite period. Further, she does not state whether there were periods of time during the requisite period when she did not see the applicant.
2. A declaration from [REDACTED] that was signed on June 8, 2005. The declarant submits a photocopy of her California Driver's License with her declaration. The declarant states that she has known the applicant since 1971. She states that in 1986 when she went

to her aunt's residence for summer vacation the applicant, who is her cousin, was residing there.

3. A declaration from [REDACTED] that was signed on June 8, 2005. The declarant submits photocopies of her Permanent Resident Card and her California Driver's License with her declaration. The declarant states that she has known the applicant, who is her nephew, since 1960. She further states that she spent Christmas with her sister [REDACTED] in 1987 and that the applicant was with them at that time.
4. A declaration from [REDACTED] that was signed on June 8, 2005. The declarant submits a photocopy of his California Driver's License with his declaration. The declarant states that he has known the applicant since 1978 when he met him in Inglewood, California at a family celebration.
5. A declaration from [REDACTED] that was signed on June 8, 2005. The declarant submits a photocopy of her California Driver's License with her declaration. The declarant states that she first met the applicant in 1984 in Baldwin Park at a family celebration. However, she does not indicate that she personally knows that the applicant resided in the United States during the requisite period.
6. A declaration from [REDACTED] that was signed on June 8, 2005. The declarant submits a photocopy of her California Driver's License with her declaration. The declarant states that she was born in 1974 in Los Angeles, California and that she has known the applicant since that time. She states that the applicant is her cousin and that he resided at her parent's residence from 1980 until 1993. She states that this residence was on [REDACTED] in Baldwin Park and that she herself also resided at this address. It is noted that the dates associated with the applicant's residence at this address in this declaration are not consistent with: what is stated on the applicant's Form I-687, what [REDACTED] indicated on her June 8, 2005 declaration; or with what [REDACTED] indicated on her declaration made in 2005 or in her affidavit submitted in 2001. This casts doubt on the assertions made in this declaration regarding the applicant's address of residence during the requisite period.
7. A declaration from [REDACTED] that was signed on June 8, 2005. The declarant submits a photocopy of her California Driver's License that indicates she was born in 1970. The declarant states that the applicant is her cousin. She goes on to state that he resided with her parents from 1986 until 1989. She indicates that she resided at this same address of residence for the duration of the requisite period. It is noted that this declarant's mother, also named [REDACTED] submitted inconsistent declarations, one in 2005 and another in 2001. These declarations state that the applicant resided with this family from 1980-1989 and 1983-1987 respectively. These inconsistencies cast doubt on the applicant's assertion that he resided in the United States for the duration of the requisite period.

8. A declaration from [REDACTED] that was signed on June 16, 2005. The declarant submits a photocopy of her California Driver's License with her declaration. The declarant states that she first met the applicant in 1985 at a family celebration in an unspecified location. She states that the applicant also attended a sweet 16 birthday party for his cousin in 1988. However, she does not indicate where this birthday party was held or whether she saw the applicant on other occasions during the requisite period.
9. A declaration from [REDACTED] Puentes that was signed on June 8, 2005. The declarant submits a photocopy of his California Driver's License. The declarant states that he first met the applicant in 1985. He goes on to state that he has seen the applicant at family reunions and celebrations. However, he does not indicate where these events occurred or state the frequency with which he saw the applicant at these events during the requisite period.
10. A declaration from [REDACTED] that was signed on June 16, 2005. The declarant indicates that she has submitted a photocopy of her California Driver's License with her declaration. The declarant states that she first met the applicant in 1986 when she saw him at her brother's residence.
11. A declaration from [REDACTED] that was signed on June 16, 2005. The declarant submitted a photocopy of his California Driver's License with his declaration. The declarant states that he has known the applicant since 1986 when he met the applicant at his brother-in-law's residence. He states that he saw the applicant frequently at birthday celebrations and at the applicant's uncle's funeral.
12. A declaration from [REDACTED] that was signed on June 9, 2005. The declarant states that he saw the applicant at a sweet 16 celebration in La Puente, California. However, he does not provide a date that corresponds with this meeting. He further states that the applicant attended his own grandmother's funeral in Los Angeles in 1986. He asserts that he helped the applicant by finding a job for him working at Telydine Picco.
13. A declaration from [REDACTED] that was signed on June 13, 2005. The declarant submits a photocopy of her California Driver's License with her declaration. The declarant states that she first met the applicant in 1985 through her uncle. She states that the applicant came to her house frequently.
14. A declaration from [REDACTED] that was signed on June 13, 2005. The declarant submits a photocopy of his California Driver's License with his declaration. The declarant states that he first met the applicant in 1973 when he was introduced to him through his brother. He states that he himself first entered the United States in 1976. He states that when he first met the applicant he himself was residing in Ontario, California.

15. A declaration from [REDACTED] that was signed on June 8, 2005. The declarant submits a photocopy of her California Driver's License. The declarant states that the applicant is her nephew and that he resided with her from 1980 to 1989. The declarant indicates that she resided at [REDACTED] California for the duration of the requisite period. It is noted that the applicant indicated on his Form I-687 that he resided at this address from 1983 to 1992. It is also noted that this same affiant has stated that the applicant resided with her from 1983 to 1987 in an affidavit she submitted that was notarized on October 15, 2001.
16. An affidavit from the applicant that was notarized on July 26, 1990. In this affidavit, the applicant states that he adopted the false identity of [REDACTED] because he did not have a Social Security Number and he wanted to do his income taxes. It is noted that the applicant has not submitted income tax returns.
17. An affidavit from [REDACTED] that was notarized on October 15, 2001. The affiant states that the applicant, who is her nephew, resided with the affiant from 1983 until 1987.
18. An affidavit of employment from Pacific Alternators that was notarized on August 7, 1990. This affidavit is signed, but the signature is not legible. The affidavit states that the applicant worked for Pacific Alternators from February 1981 until October 1981 as a handyman, carpenter, alternator assembler and housekeeper. The affidavit states that the applicant worked on an on call, as needed basis. It is noted that the applicant did not indicate that he ever worked for Pacific Alternators on his Form I-687.
19. An affidavit from [REDACTED] that was notarized on October 15, 2001. The affiant states that she has known the applicant since 1993 when she met him through a friend named [REDACTED].
20. An affidavit from [REDACTED] that was notarized on October 9, 2001. The affiant states that she was born in the United States. She states that she has known the applicant since 1981 when she met him through family members. Though she states that she has been in touch with the applicant since she first met him, she does not indicate that she knows the applicant resided in the United States during the requisite period. She fails to state the frequency with which she saw the applicant during the requisite period, or to indicate whether there were periods of time during that period when she did not see him. Because this affidavit is significantly lacking in detail, and because the affiant does not state that she knows that the applicant resided in the United States during the requisite period, no weight can be accorded to it as evidence that the applicant resided in the United States during the requisite period.
21. An affidavit from [REDACTED] that was notarized on October 15, 2001. The affiant states that he has known the applicant since 1983. He states that the applicant is his cousin. The affiant does not indicate where he met the applicant or whether he first met him in the

United States. He does not state whether he knows that the applicant resided in the United States during the requisite period. Therefore, this affidavit carries no weight as evidence that he did so.

22. An affidavit from [REDACTED] that was notarized on October 9, 2001. The affiant states that she has known the applicant since 1984. She states that at that time the applicant resided on Plaska Avenue in Huntington Park, California. It is noted that the applicant has not indicated that he ever resided in Huntington Park or on Plaska Avenue in another city on his Form I-687.
23. A photocopy of a border crossing card issued to the applicant on February 14, 1977.
24. A photocopy of a print out from the Social Security Administration that indicates that during the requisite period [REDACTED], who has Social Security Number [REDACTED] worked at Uncle Johns Family Restaurant from 1982 to 1983. This document does not indicate that the applicant was employed for other years during the requisite period or prior to 1982.
25. A declaration from [REDACTED] that is dated March 11, 2003. The declarant, who indicates she is a Human Resources Assistant, states that [REDACTED] who had Social Security number [REDACTED] was employed by PAC Foundries Industry Operations that was formerly known as Teledyne PICCO from January 18, 1985 until January 9, 1987. It is noted that the applicant has indicated that he began work for Teledyne PICCO in 1984. It is also noted that this Social Security Number is not consistent with the social security number shown on other documents in the record that are associated with [REDACTED]. However, it is consistent with the Social Security Number shown on the document issued to Mario Morales by the Social Security Administration.
26. An affidavit from [REDACTED] that was notarized on July 25, 1990. The affiant states that he drove with the applicant from Los Angeles, California to Tijuana, Mexico and back to allow the applicant to see his sick mother. He asserts that the applicant was absent from the United States from October 3, 1987 until November 19, 1987.
27. Pay stubs issued to [REDACTED] that begin on December 13, 1986
28. A photocopy of an Explanation of Dental Benefits Form that was issued on May 28, 1986. This form was mailed to an [REDACTED] in Ontario, California. This form indicates that M [REDACTED] was insured to cover the cost of dental work performed on [REDACTED] on May 7, 1986.
29. A photocopy of a request for vacation for [REDACTED] that was approved on December 15, 1986. This document indicates that [REDACTED] was hired on January 18, 1985. The

letterhead on this form indicates it was issued by [REDACTED]. It is noted that the applicant indicated that he began working for this company in 1984 on his Form I-687.

30. Pay stubs issued by [REDACTED] an Interlake company," that indicate that in August 1987 an unnamed individual using social security number [REDACTED] was paid wages. This document does not indicate a name associated with those wages nor does it indicate where Arwood is located. It is noted that the applicant did not indicate that he ever worked for a company named [REDACTED] on his Form I-687.
31. A document that states that [REDACTED] who uses the Social Security Number that is partially legible as [REDACTED] earned wages in California during quarters in September 1985, December 1985, March 1986 and June 1986 and was recommended for an award.
32. A check issued to [REDACTED] from [REDACTED] in Chino, California. This check is dated June 18, 1986 and is for 62 dollars and 50 cents.
33. Pay stubs issued to [REDACTED]. These pay stubs indicate they were issued by Eastpoint Seafood Company in Kodiak, Alaska. The applicant's Form I-687 verifies that this place of employment was located in Kodiak, Alaska. These pay stubs indicate that Juan Magana was paid for work that began February 18, 1984 and continued until April 14, 1984. It is noted that the applicant indicated that he resided in Baldwin Park, California from 1983 until 1992 on his Form I-687. It is further noted that the applicant did not indicate that he resided in Alaska before, during or subsequent to the requisite period on his Form I-687.
34. Pay stubs issued to [REDACTED]; Family Restaurant that begin with the period ending on April 18, 1982. These pay stubs indicate he was paid by this restaurant until at least January 23, 1983.

It is noted that the applicant also submitted evidence of his residence in the United States subsequent to the requisite period. However, the issue in this proceeding is whether the applicant submitted sufficient evidence to prove that he resided in the United States for the duration of the requisite period. Because this evidence does not pertain to the requisite period, it is not relevant for this proceeding. Therefore, it is not discussed here.

The director issued a Notice of Intent to Deny (NOID) to the applicant on January 23, 2006. In this NOID, the director stated that there were inconsistencies between the evidence in the record and the applicant's Form I-687 regarding his employment and addresses of residence during the requisite period. She noted that though the applicant claimed that he worked using the name [REDACTED] he failed to submit evidence, such as an identification card bearing that name that would prove that he did so. The director noted, in particular, the affidavits from [REDACTED] and [REDACTED] and their mother, also [REDACTED], all stated that the applicant resided with them during the requisite period. However, these documents were not consistent regarding the dates that he did so. The director noted that [REDACTED] submitted an affidavit in June 2005 in which he stated

that he first met the applicant in 1978 when he met him in Inglewood, California but also submitted an affidavit in October 2001 in which he stated that he first met the applicant in 1983. The director granted the applicant 30 days within which to submit additional evidence in support of his application.

In response to the director's NOID, the applicant submitted the following additional documents:

- A declaration from the applicant that was signed on February 9, 2006. The applicant stated that he began working as a dishwasher for Uncle John's Family Restaurant in Beverly Hills, California in 1981 and continued that employment until 1983. He states that he attempted to obtain paycheck stubs from that restaurant for 1981, but found that the restaurant no longer existed when he attempted to do so. He states that he worked cleaning carpets in 1983 and that he found a social security card bearing the name- [REDACTED] [REDACTED] at a job site at that time. He states that he obtained a California Driver's License bearing that name and used it to gain employment. He asserts that he worked for Eastpoint Seafood in 1984 using the name [REDACTED]. However, he asserts that when he attempted to obtain a statement from the Social Security Administration with the records of [REDACTED] was denied because he does not have any identification that would prove that he is [REDACTED]. He states that in 1983 he began residing on Hornbrook Avenue with his aunt, [REDACTED] and his cousins [REDACTED] [REDACTED]. He states that because of the passage of time, his family members have forgotten the exact dates associated with events.
- An affidavit from [REDACTED] that was signed February 17, 2006. The affiant submits photocopies of her California Driver's License and her Permanent Resident Card as well as a photograph of her with the applicant. The affiant states that the applicant used the name [REDACTED] when he worked for Tele Dynne Picco. She states that she often saw the applicant at family celebrations. However, she does not state where these celebrations occurred or indicate whether they occurred during the requisite period.
- An affidavit from [REDACTED] that was notarized on January 20, 2006. The affiant submits a photocopy of her California Driver's License and a photograph of her with the applicant. The affiant states that the applicant resided with her at her house from 1983 until 1987. She states that the applicant began to use the name [REDACTED] when he worked during the requisite period. The affiant does not indicate why she indicated in a previously submitted affidavit that the applicant resided with her from 1980 to 1989.
- An affidavit from [REDACTED] that was notarized on February 20, 2006. The affiant submits a photocopy of his California Driver's License and a photograph of him with the applicant. The affiant states that he first met the applicant in 1978 in Tijuana, Mexico at a family gathering. He states that the first time he saw the applicant in the United States was in 1979. He states that the applicant resided with his family from 1983

until 1987. He states that he erred when he stated that he had first met the applicant in Inglewood, California in 1979.

The director denied the application for temporary residence on May 26, 2006. The director found that statements from affiants alone were not sufficient to establish that the applicant used the name [REDACTED]. The director noted that though the applicant stated that he obtained a Driver's License with the name [REDACTED] he stated at the time of his interview with a Citizenship and Immigration Services (CIS) officer that he did not have identification in that name. Though the director noted the updated affidavits submitted by the applicant, she found it was not sufficient to overcome her grounds for denial as stated in her NOID.

On appeal, the applicant submits a brief through counsel. In this brief, counsel asserts that the director ignored evidence in the record and failed to accord due weight to the applicant's testimony and to evidence submitted by the applicant. Counsel asserts that the applicant provided an explanation for perceived inconsistencies in the record.

The AAO has reviewed the documents the applicant has submitted in support of his claim of having resided continuously in the United States for the duration of the requisite period. Though he claims that he worked for Uncle John's Restaurant from 1981 until 1983, pay stubs from that restaurant indicate that he worked there starting in 1982. While it is reasonable that the applicant may have lost some of his pay stubs due to the passage of time, the Social Security Administration print out that he submitted show that he worked for that restaurant from 1982 to 1983 and does not show that he worked in the United States prior to 1982.

Though the applicant has claimed that he used the name and Social Security Number of [REDACTED] so that he could work and pay taxes, and though he asserts that he obtained both a Social Security Card and a Driver's License bearing this name, he has not submitted these documents. Though it is reasonable that the applicant could have misplaced these documents due to the passage of time, he has not submitted any evidence other than his own statement and the statement from his aunt, [REDACTED] to prove that he used the name [REDACTED] during the requisite period. Further, as previously noted, other testimony from [REDACTED] in the record is not consistent regarding the dates of his residence with her during the requisite period. This casts doubt on the credibility of statements made by this affiant.

The record contains notable discrepancies regarding the applicant's alleged residence with [REDACTED] in Baldwin Park, California. He has submitted affidavits and declarations from [REDACTED], and [REDACTED] that indicate that the applicant resided with the family of [REDACTED] from 1980 to 1989, and 1983 to 1987; 1986 to 1989; and 1980 to 1993 respectively. The applicant's Form I-687 indicates that his dates of residence at his aunt's address were from 1983 to 1992. Though the applicant asserts that these dates of his residence were just estimates, the differences in these estimates are significant. Further, the applicant has stated on his Form I-687 that he worked for Eastfood Seafood Company in Kodiak, Alaska in 1984. He has also submitted pay stubs from this employer that

bear the name [REDACTED] and indicate that this employer is located in Kodiak, Alaska. However, he does not indicate that he ever resided in Alaska on his Form I-687. Rather, he indicates that he resided in Baldwin Park, California continuously from 1983 to 1992.

Though the applicant states that he found identification for a [REDACTED] and used it to obtain work, that does not explain why he would use this name when he went to a dentist and then why a statement from that dentist would indicate that the applicant was insured under a policy held by an [REDACTED] who resided in Ontario, California. Moreover, it also does not explain why he would use this name to obtain work when he apparently had already obtained a Social Security number in his own name.

In this case, the absence of credible and probative documentation to corroborate the applicant's claim of continuous residence for the entire requisite period, as well as the inconsistencies and contradictions noted in the record, seriously detract from the credibility of his claim. Pursuant to 8 C.F.R. § 245a.2(d)(5), the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. Given the inconsistencies in the record and the lack of credible supporting documentation, it is concluded that he has failed to establish by a preponderance of the evidence that he has continuously resided in an unlawful status in the United States for the requisite period as required under both 8 C.F.R. § 245a.2(d)(5) and *Matter of E- M--*, *supra*. The applicant is, therefore, ineligible for Temporary Resident Status under section 245A of the Act on this basis.

**ORDER:** The appeal is dismissed. This decision constitutes a final notice of ineligibility.