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**U.S. Citizenship  
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[REDACTED]

FILE: [REDACTED] Office: LOS ANGELES Date: **JUN 19 2008**  
MSC-05-235-15728

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:  
[REDACTED]

**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.

A handwritten signature in black ink, appearing to read "R. Wiemann", written over a circular stamp.

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 she had continuously resided in the United States in an unlawful status for the duration of the requisite period. The director denied the application, finding that the applicant had not met her burden of proof and was, therefore, not eligible to adjust to temporary resident status pursuant to the terms of the CSS/Newman Settlement Agreements.

On appeal, the applicant asserts her claim of eligibility for temporary resident status.

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).

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. See 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 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, 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 or her 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 Supplement to Citizenship and Immigration Services (CIS) on May 23, 2005. 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 indicated that she initially resided in Woodland Hills in California from 1980 to 1985; at Woodman in Van Nuys, California from 1985 to 1986; and at [REDACTED] in North Hollywood, California, from 1986 to 1989. Similarly, at part #33, she indicated that she was employed as a babysitter for [REDACTED] from 1980 to 1981; as a lunch truck assistant from 1981 to 1985; cleaning house for [REDACTED] from 1986 to 1987; and as a truck assistant from 1987 to 1990.

In an attempt to establish continuous unlawful residence in this country since prior to January 1, 1982, the applicant submitted the following attestations:

- A declaration from [REDACTED] manager of Courtesy Caterers, in which he stated that the applicant worked for an independent lunch truck owner as a cook in 1980. Here, the declaration does not conform to the regulatory standards for attestations by employers at 8 C.F.R. § 245a.2(d)(3)(i). Specifically, the company manager does not specify the length of the applicant's employment or the places of residence where the applicant resided throughout the claimed employment period. The company representative fails to state whether or not the information he provided was taken from official company records. The declarant fails to identify the independent truck owner. It is also noted that the record does not contain pay stubs, cancelled checks, personnel records, W-2 Forms, certification of filing of Federal income tax returns, or time cards to corroborate the assertions made by the declarant. Because the affidavit is not in

compliance with regulatory standards, it can be accorded little weight in establishing that the applicant resided in the United States throughout the requisite period.

- A declaration dated November 15, 2005 from [REDACTED], CS of Our Lady of the Holy Rosary Church, in which he stated that the applicant has resided at [REDACTED] in Sun Valley, California for 12 years, and that she has lived in the United States for 26 years. He further stated that the applicant attends services at the parish. Here, the declarant failed to state when the applicant began attending services at the church. There is nothing in the record that reveals the source of the declarant's knowledge. In addition, the declaration does not conform to regulatory standards for attestations by churches. Specifically, the letter does not state the address where the applicant resided during the requisite period or the origins of the information attested to. 8 C.F.R. § 245a.2(d)(3)(v). Because this letter does not conform to regulatory standards, it can be accorded only minimum weight in establishing that the applicant resided in the United States during the requisite period.
- A declaration from [REDACTED] in which he stated that the applicant is his sister and that she resided with him at [REDACTED], Woodland Hills, California, from November of 1980 to 1985; when they moved to [REDACTED], Van Nuys, California, where the applicant lived until 1986. The declarant also stated that he has been in regular communication with the applicant over the years. Here, the declarant has failed to submit independent documentary evidence to substantiate his claim. The statement made by the declarant is inconsistent with the applicant's statement on her Form I-687 dated 1990, at part #30 where she indicated that she lived at [REDACTED], North Hollywood, California, from November of 1980 to November of 1989. This inconsistency calls into question the declarant's ability to confirm that the applicant resided in the United States during the requisite period.

In denying the application the director noted multiple discrepancies in the applicant's statements made during her interview with the immigration officer, on her Form I-687 filed in 1990, and on her Form I-687 application dated May 23, 2005. The director further noted the applicant's inability during her interview with immigration officers to recall where she lived or the nature of her employment during the requisite period. The director also noted the minimum weight to be attributed to the attestations submitted by the applicant.

On appeal, the applicant attempts to explain the numerous inconsistencies by asserting that she was nervous during her interview with immigration, that she does not speak or read English and was not aware of the mistakes that had been made by the person who filled out her Form I-687 applications. In addition, the applicant asserts that she explained to the interviewing officer her employment history, including the names of the independent truck owners, since being in the United States. The applicant requests that the passage of time be taken into consideration in considering her case on appeal.

In the instant case, the applicant has failed to provide sufficient, credible and probative evidence to establish her continuous unlawful residence in the United States since prior to January 1, 1982, and throughout the requisite period. The applicant has failed to overcome the issues raised by the director. It

is noted that the applicant signed her statements under penalty of perjury, and has not submitted independent documentary evidence to substantiate her claimed inadequacies. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972). Doubt cast on any aspect of the applicant's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. Any attempt to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho, Supra*. Furthermore, the attestations submitted by the applicant are lacking in detail and contain conflicting information, and therefore, can be accorded only minimal weight in establishing that the applicant resided in the United States throughout the requisite period, as claimed.

The absence of sufficiently detailed documentation to corroborate the applicant's claim of continuous residence for the entire requisite period seriously detracts from the credibility of this 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 applicant's contradictory statements on her applications and her reliance upon documents with minimal probative value, it is concluded that she has failed to establish continuous residence in an unlawful status in the United States for the requisite period 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.