U.S. Department of Homeland Security
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Washington, DC 20529

U.S. Citizenship and Immigration Services

L2

[redacted]

FILE: [redacted] Office: NATIONAL BENEFITS CENTER Date:

IN RE: Applicant: [redacted]

SEP 01 2004

APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), *amended by* LIFE Act Amendments, Pub. L. 106-554. 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT: Self-represented

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 the matter 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, Director
Administrative Appeals Office

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identifying data deleted to prevent clearly unwarranted invasion of personal privacy

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director, National Benefits Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director concluded the applicant had not established that he had applied for class membership in any of the requisite legalization class-action lawsuits prior to October 1, 2000 and, therefore, denied the application.

On appeal, the applicant provides copies of previously submitted and new documents to support his claim that he filed a written claim for class membership with the Immigration and Naturalization Service, or the Service (now Citizenship and Immigration Services, or CIS) prior to October 1, 2000.

An applicant for permanent resident status under the LIFE Act must establish that before October 1, 2000, he or she filed a written claim with the Attorney General for class membership in any of the following legalization class-action lawsuits: *Catholic Social Services, Inc. v. Meese*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993), *League of United Latin American Citizens v. INS*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993), or *Zambrano v. INS*, vacated sub nom. *Immigration and Naturalization Service v. Zambrano*, 509 U.S. 918 (1993). *See* 8 C.F.R. § 245a.10.

The regulations provide an illustrative list of documents that an applicant may submit to establish that he or she filed a written claim for class membership before October 1, 2000. The regulations also permit the submission of "[a]ny other relevant document(s)." *See* 8 C.F.R. § 245a.14.

On his LIFE Act application, the applicant indicated that he filed a claim for *CSS/LULAC* class membership on June 19, 1991. The applicant included photocopies of the following documents with his LIFE Act application and in his response to the notice of intent to deny:

- a "Form for Determination of Class Membership in CSS v. Meese" that is signed by the applicant and dated June 19, 1991;

- a form dated June 19, 1991 that is signed by Service officer, Yolanda Rangel, which bears the applicant's name and the Alien Registration Number, otherwise known as a A-number or file number, "093 348 298." This document indicates that the applicant is a member of the *CSS* or *LULAC* subclass and that employment authorization is to be granted, and;

- a letter from the Service's Northern Service Center dated January 13, 1993, which purportedly confirmed that the applicant had filed for class membership in CSS and that no final decision had at yet been reached in his case. The letter is addressed to the applicant and bears the A-number "093 348 298." The letter also contains a stamp from the Service's Southern Service Center and a handwritten notation indicating that the applicant was to be interviewed regarding his claim to class membership by June 30, 1993.

It must be noted that in the determination form, the applicant specified that his only absence from the United States in the period from January 1, 1982 to May 4, 1988, occurred when he visited Mexico from July 12, 1987 to July 23, 1987.

These documents are listed in 8 C.F.R. § 245a.14 as examples of documents which may be furnished in an effort to establish that an alien had previously applied for class membership. Although all of the documents provided by the applicant are dated well before October 1, 2000, the record contains no evidence that any of these documents were submitted to the Service or its successor CIS prior to the filing of the LIFE Act

application on January 21, 2003. While two of the documents contain the A-number "093 348 298," a review of Service and CIS records demonstrates that this A-number does not exist and has never been issued to any individual.

On appeal, the applicant provides copies of the documents cited above, as well as photocopies of the following documents:

- a Form I-72 Notice with attachment from the Service that is dated September 10, 1993, which is addressed to the applicant and contains the contain the A-number "093 348 298," and informs him that he failed to establish class membership under *CSS/LULAC* because he admitted under oath that he was sick and out of the United States seeking treatment from his doctor in Mexico on May 4, 1988 and, therefore, he did not apply for legalization on or before May, 4, 1988, and;

- a Notice of Action from the Service dated June 13, 1995, informing the applicant that individuals who had previously filed applications and been denied class membership in *CSS* would be re-interviewed for another determination of eligibility.

The photocopied Service documents such as that the applicant provides may be considered as evidence of having made a written claim for class membership, pursuant to 8 C.F.R. § 245a.14(d). However, all of the Service documents submitted by the applicant except the determination form contain typewritten notations including but not limited to the applicant's name, address, and purported A-number. These typewritten notations are the same size and style of font throughout all of the documents, but do not conform to any of the sizes and styles of printing utilized in each of these respective documents. In addition, as has been previously discussed, a review of the relevant records shows that the A-number contained in these documents, "093 348 298," does not exist and has never been issued to any individual.

As has been previously noted, the applicant specified that his only absence from this country in the period from January 1, 1982 to May 4, 1988, occurred when he visited Mexico from July 12, 1987 to July 23, 1987 on the determination form. This information is at variance with information cited as the basis for the applicant being denied *CSS* class membership in the Form I-72 Notice dated September 10, 1993. Specifically, this notice stated that the applicant failed to establish class membership under *CSS/LULAC* because he admitted under oath that he was sick and out of the United States seeking treatment from his doctor in Mexico on May 4, 1988 and, therefore, he did not apply for legalization on or before May, 4, 1988. The applicant did not put forth any explanation to resolve this discrepancy and failed to state any reason why he omitted this absence on the determination form.

Additionally, the applicant offered no explanation as to *why*, if he truly had any of the new documents included with the appeal and referencing his purported claim to class membership in his possession since at least June 1995, he did not submit such documents with his LIFE Act application. Applicants were instructed to provide qualifying evidence *with* their applications and the applicant did include other supporting documentation with his LIFE Act application. A review of relevant records reveals no evidence that the applicant had a pre-existing file prior to filing of his LIFE Act application on January 21, 2003, in spite of the fact that he claims to have been issued Service documents relating to class membership beginning in 1991. These factors raise serious questions regarding the authenticity and credibility of the supporting documentation, as well as the applicant's claim that he filed for class membership. Given these circumstances, it is concluded that photocopied Service documents provided by the applicant in support of his claim to class membership are of questionable probative value.

Doubt cast on any aspect of the evidence may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. It is incumbent upon an 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. *See Matter of Ho*, 19 I. & N. Dec. 582 (BIA 1988).

The applicant has failed to submit documentation which credibly establishes his having filed a timely written claim for class membership in one of the aforementioned legalization class-action lawsuits. Accordingly, the applicant is ineligible for permanent resident status under section 1104 of the LIFE Act.

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