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**U.S. Citizenship  
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Services**

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[Redacted]

FILE: [Redacted] Office: LOS ANGELES Date: **JUL 27 2006**

IN RE: Applicant: [Redacted]

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:

[Redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

  
Robert I. Wiemann, Chief  
Administrative Appeals Office

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

The district director denied the application because the applicant had not demonstrated that he had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988.

On appeal, counsel states that "it is difficult if not impossible to find evidence of illegal stay when the alien was ensuring to leave no evidence of illegal stay at the time of his stay . . . Viewed in this context, the alien has carried his burden of meeting the preponderance of evidence standard." Counsel submits copies of previously submitted documentation in support of the appeal.

An applicant for permanent 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 May 4, 1988. Section 1104(c)(2)(B) of the LIFE Act; 8 C.F.R. § 245a.11(b).

An applicant for permanent resident status under section 1104 of the LIFE Act has the burden to establish 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 and is otherwise eligible for adjustment of status under this section. 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.12(e).

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.

Although Citizenship and Immigration Services (CIS) regulations provide an illustrative list of contemporaneous documents that an applicant may submit, the list also permits the submission of affidavits and any other relevant document. 8 C.F.R. § 245a.2(d)(3)(vi)(L).

The applicant alleges that he first entered the United States in September 1980, when he crossed the border without inspection from Canada. In an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, the applicant submitted the following evidence:

1. An April 11, 1990 sworn statement from Dr. Pammi Belvi, in which she stated that she has known the applicant for 20 years and knows from personal knowledge that the applicant has resided in the United States since 1981. In a March 3, 2003 sworn affidavit, Dr. Belvi stated :

He lived at [REDACTED] Illinois from September 1981 to May 1987 . . . He then lived in [REDACTED] California . . . from June 1987 to April 1990. He lived with us during this period.

This statement conflicts with that of the applicant, who stated on his Form I-687 that he lived [REDACTED] in Glendale Heights from September 1981 until May 1987. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). We note that on the Form I-687, Application for Status as a Temporary Resident, signed on April 11, 1990, the applicant did not indicate that he had lived at [REDACTED] at any time.

2. A March 3, 2003 sworn affidavit from [REDACTED] who stated that she is a close friend of the applicant, and that she can attest to the fact that the applicant arrived in the United States in September 1981. The affiant stated that she lives [REDACTED] further stated:

He lived at [REDACTED] in Chicago, Illinois from September 1981 to May 1987 . . . He then lived in [REDACTED] California . . . from June 1987 to April 1990. He lived with me during this period.

As noted above, the applicant stated that he lived on [REDACTED] from 1981 to May 1987, and did not indicate on his Form I-687 application that he had ever lived on [REDACTED]

3. A March 3, 2003 sworn affidavit from [REDACTED] which he stated that he has known the applicant since 1952, and attested that the applicant had resided in the United States since September 1981. [REDACTED] stated that he lived at [REDACTED] in San Bernardino, California and that the applicant lived at that address during part of the qualifying period.
4. A May 6, 2004 sworn affidavit [REDACTED] in which he stated that he was the chief executive chef at the Hilton Hotel in Illinois from October 1983 to December 1984 [REDACTED] stated that the applicant approached him several times for a position at the hotel but that he could not hire him because of his "undocumented stays."
5. An April 14, 2004 sworn affidavit [REDACTED] who stated that she is the applicant's younger sister. [REDACTED] stated that the applicant lived with her [REDACTED] in [REDACTED] Illinois from September 1981 to May 1987, after which he lived at various residences in California. This statement conflicts with that of the applicant, who stated on his Form I-687 that he lived at [REDACTED] from September 1981 until May 1987. *See Matter of Ho*, 19 I&N Dec. at 591-92.

6. A May 6, 2004 sworn affidavit from [REDACTED] which he stated that he can attest that the applicant lived in the United States since 1981, and that he lived at the affiant's residence as a "paying guest" for two months from July to August 1982. The affiant identifies his address as [REDACTED]. [REDACTED] did not identify the address at which he lived during the time that the applicant allegedly lived with him. The affiant's statement conflicts with that of the applicant's sister, who alleged that the applicant lived with her from the time of his initial entry into the United States until 1987. The applicant submitted no evidence to explain this inconsistency *Id.* Additionally, the applicant submitted no evidence that the affiant was present and living in the United States during the qualifying period.
7. A March 21, 2004 sworn affidavit [REDACTED] in which he stated that he lived at 1300 [REDACTED] from 1980 to 1989. The affiant stated that the applicant lived with him at that address from October 1981 to May 1987. This statement conflicts with the statements of the applicant's sister and [REDACTED] who both stated that that the applicant lived with them during the same time frame. This statement also conflicts with that of the applicant, who stated on his Form I-687 that he lived at [REDACTED] Illinois from September 1981 until May 1987. Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. at 591.
8. A copy of a June 16, 1981 receipt for a roll of film [REDACTED] Westmont, Illinois. The receipt reflects the applicant's name but does not indicate an address. While the receipt may show presence in the United States on the specified date, it is not evidence of the applicant's residency during the required period.
9. A copy of a July 15, 1987 rent receipt from [REDACTED] in Corona, California that shows the applicant's name. However, statements from the affiants did not indicate that the applicant lived at this address at any time during the qualifying period.

The applicant also submitted two envelopes; however, the canceled postmarks are illegible.

Given the minimum contemporaneous documentation and the unresolved inconsistencies in the record, it is concluded that the applicant has failed to establish continuous residence in the U.S. for the required period. Accordingly, the applicant is ineligible for adjustment to permanent resident status under section 1104 of the LIFE Act.

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