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FILE: [REDACTED]  
MSC 02 166 61291

Office: NATIONAL BENEFITS CENTER

Date: MAR 31 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: Self-represented

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.

Σ Robert P. Wiemann, Director  
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 (AAO) on appeal. The appeal will be dismissed.

The district director concluded that the applicant's testimony during his interview was at variance with the information provided on his application, thereby casting credibility issues on his claim to have continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988. As such, the director denied the application.

On appeal, the applicant asserts that he has submitted sufficient documentation establishing continuous residence in the United States from prior to January 1, 1982 through May 4, 1988. The applicant states that a misunderstanding occurred at the time of his interview as he has always resided in Moreno Valley, California. The applicant submits copies of documents that were previously provided.

It is noted that the director, in denying the application, did not address the evidence furnished in response to the Notice of Intent to Deny, and did not set forth the specific reasons for the denial pursuant to 8 C.F.R. § 103.3(a)(1)(i). As such, the documentation submitted throughout the application process will be considered on 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. 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 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 (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.

Although the 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. *See* 8 C.F.R. § 245a.2(d)(3)(vi)(L).

Here, the submitted evidence is not relevant, probative, and credible. In an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, the applicant provided two earnings statements issued in 1983 from [REDACTED] and an affidavit notarized January 26, 2002 from [REDACTED] of Riverside, California who attested to the applicant's residences in Moreno, Valley, California from 1981 to the present. The applicant also provided copies of money order receipts, a utility bill receipt, and a hardware store receipt dated during the requisite period. These receipts have no evidentiary weight or probative value, as they did not include the applicant's name.

On August 13, 2003, the director issued a Form I-72 requesting that the applicant submit evidence of his continuous presence in the United States since before January 1, 1982 through May 4, 1988. The applicant, however, failed to submit the requested evidence.

On August 6, 2004, the director issued a Notice of Intent to Deny advising the applicant of inconsistencies between his oral testimony, his application and his documentation. Specifically, at the time of his interview, the applicant asserted that he resided in Riverside, California until 1985 or 1986. However, on his Form I-687 application, the applicant listed various addresses in Moreno Valley since 1981 and [REDACTED] affidavit attested to the applicant's residences in Moreno Valley. The applicant, in response, asserted:

I would like to clarify that I have only lived in Moreno Valley, County of Riverside. I think we have had a misunderstanding in this matter. I reaffirm that what I stated on my applications is true, I have lived at various addresses in the city of Moreno Valley. I have been living and working only in the County of Riverside since I came to the United States.

The applicant submitted two earnings statements issued in 1981 from [REDACTED] Industries doing business as (dba) [REDACTED]

While the statement of the applicant regarding his residence is considered to be plausible, the earnings statements from [REDACTED] however, raise questions of credibility. The earnings statements contradict the applicant's Form I-687 application, as the alleged employers were not claimed on the application and the applicant claimed on his application that he was self-employed as a gardener from May 1981 to June 1986.

Doubt cast on any aspect of an applicant's proof 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. *Matter of Ho*, 19 I. & N. Dec. 582 (BIA 1988).

In addition, the AAO does not view Ms. [REDACTED] affidavit discussed above as substantive enough to support a finding that the applicant entered and began residing in the United States before January 1, 1982 through May 4, 1988. Ms. [REDACTED] who has known the applicant's spouse since 1980, based her knowledge of the applicant's residence in the United States from the time the applicant and his spouse "established their relationship." It is not clear when she believes they "established their relationship;" however, the applicant married his spouse in 1988.

The applicant in this case asserts that he has resided continuously in the United States since 1981. Nevertheless, he has only been able to provide Citizenship and Immigration Services with *one* affidavit in support of his claim of residence. Given the absence of credible contemporaneous documentation, along with the applicant's reliance on minimal as well as contradictory documentation, it is concluded that he has failed to establish, by a

preponderance of evidence, continuous residence in the United States for the required period. Therefore, 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.