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

U.S. Citizenship and Immigration Services

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FILE: [redacted] Office: LOS ANGELES Date: AUG 2 8 2007

MSC 01 307 60162

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. 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, 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 (AAO) on appeal. The appeal will be dismissed.

The 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 the applicant has established by a preponderance of the evidence that he has resided continuously in the United States during the requisite period. Counsel submits a brief 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 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 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).

On a form to determine class membership, which he signed under penalty of perjury on July 11, 1990, the applicant stated that he first arrived in the United States on September 15, 1981, when he crossed the border without inspection. On his Form I-687, Application for Status as a Temporary Resident, which he signed under penalty of perjury on July 10, 1990, the applicant stated that he lived at [redacted] Los Angeles, California throughout the requisite period, and that his only absence from the United States was from June to July 1987. The applicant further stated that from September 1981 to December 30,

1984, he worked at New England Tomato Company at However, he did not specify the city and state in which he worked. The applicant further stated that he worked at KI & YI Avalon Food Center in Compton, California from January 1, 1985 to August 1985. The applicant further stated that he was a self-employed entertainer during 1982 through 1984, and from 1986 to 1987.

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 August 16, 1991 affidavit from in which he stated that he knew the applicant as , that he was a life-long acquaintance of the applicant, and that the applicant had lived in the United States since 1981.

2. An August 16, 1991 affidavit from in which he stated that he knew the applicant as and that the applicant had been in the United States since 1981. The affiant stated that he became acquainted with the applicant in 1981 and that they have been very good friends and frequently got together for parties. The affiant did not state the circumstances surrounding his initial acquaintance with the applicant.

3. An undated letter from who identified himself as the owner of Inc., in Compton, California. stated that he had known the applicant as Trinidad Garcia when he shopped at his store in 1981. We note that the record contains an identification card from with a date of May 6, 1979.

4. A copy of a 1981 W-2, Wage and Tax Statement, issued to from the New England Tomato Company.

5. A November 3, 2004 notarized declaration from in which she stated that she met the applicant, when she was 11-years old, around November 1981. stated that her mother was an Avon sales representative, and that they visited the applicant and his wife "at their home on Makee Street every weekend to drop off products, or to collect payment." However, the applicant stated that he lived at during the entire qualifying period. The applicant submitted no documentary evidence to explain this inconsistency. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the applicant submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

6. A copy of a March 22, 2001 affidavit from in which he stated that, to his personal knowledge, the applicant lived in Los Angeles from March 1982 to November 1984 and in Compton, California from November 1984 until the date of the affidavit. While the affiant stated that he knew the applicant, he did not state the basis of his knowledge of the applicant's arrival in the United States or the circumstances surrounding his initial acquaintance with the applicant. As discussed above, the applicant stated that he lived at a single address in Los Angeles throughout the qualifying period.

7. A copy of a March 22, 2001 affidavit from in which he stated that, to his personal knowledge, the applicant lived in Los Angeles from August 1983 to November 1984, and in Compton, California subsequent to that. did not state the basis of his

knowledge of the applicant's residences during the qualifying period. In a November 3, 2004 notarized declaration, stated that he met the applicant in 1981 in Compton, California when they were neighbors. This information is inconsistent with that provided by the applicant on his Form I-687 application, where he stated that he lived in Los Angeles for the entire qualifying period.

8. A November 3, 2004 notarized declaration from in which she stated that she met the applicant in 1982 through This information is consistent with that provided by in an August 23, 2004 notarized statement.

9. A November 3, 2004 notarized declaration from in which he stated that he is the applicant's nephew, and that the applicant had been living in the United States since the beginning of 1982. This declaration is consistent with an August 14, 2004 notarized statement by

10. An August 19, 2004 notarized statement from in which he stated that he is a friend of the applicant, that he had known the applicant since January 1982 and that the applicant had lived in California since that time. did not state the circumstances under which he met the applicant.

11. A copy of a March 20, 2001 affidavit from in which he stated that, to his personal knowledge, the applicant lived in Los Angeles from January 1984 to October 1984, and in Compton from November 1984 to the date of the affidavit. This information is inconsistent with the applicant's statement that he lived in Los Angeles from prior to 1982 through May 1988.

12. A copy of a March 14, 2001 affidavit from in which he stated that to his personal knowledge, the applicant had lived in Compton, California since April 1985. The affiant stated that he became acquainted with the applicant when he visited the affiant's brother. The applicant, however, stated that he lived in Los Angeles during this time.

13. A copy of a March 19, 2001 affidavit from in which she stated that she met the applicant in 1986, when he came to work in her department. did not identify the company for which she worked. Further, while the applicant stated that he was a self-employed musician during 1986, he did not state that he worked for any other employer during that year.

14. A copy of an incomplete 1986 Form 1040A, U.S. Individual Income Tax Return, in the name of . The address listed on the form is However, entries in the address block have been marked over or scratched out, and there is no indication that the tax return was filed with the Internal Revenue Service. Further, the applicant stated on his Form I-687 application that he lived at in Los Angeles.

15. A July 9, 1990 statement from in which she stated that the applicant left the United States in June of 1987 and returned in July of the same year did not state her relationship to the applicant or the source of her knowledge regarding his departure and re-arrival in the United States in 1987.

16. An October 24, 1993 letter from Our Lady of Victory Church in Compton, California, which stated that, according to church records, the applicant had been a member of the church since 1987. The letter did not identify the applicant's address during his period of membership with the church. *See* 8 C.F.R. § 245a.2(d)(3)(v). A May 21, 1997 statement from the church indicated that the applicant (identified as a female) had been a registered member of the parish since 1995.

17. A copy of a May 23, 2001 notarized statement from in which he stated that he had known the applicant since 1987. did not indicate the nature of his relationship with the applicant or the circumstances surrounding their initial acquaintance.

18. A November 15, 1991 sworn statement from who identified himself as the owner of Angeles. certified that the applicant had worked for him as a mechanic from January 15, 1988 to December 31, 1988, and that he was paid in cash. The applicant did not indicate on his Form I-687 application that he had ever worked for The applicant submitted no documentary evidence to corroborate his employment at

The applicant also submitted an "affidavit" from However, although the statement is sworn and notarized, did not sign it.

During his LIFE Act adjustment interview, the applicant stated that he first arrived in the United States in 1979, and that he worked for a furniture store in Compton from 1979 to 1982 using the name The applicant further stated that in 1983 he worked for another company where they built furniture, and where he also used the name The applicant stated that he worked as a musician from 1984 to 1987 and was paid cash, and from 1988 he worked at a "carburetor place" for cash. The applicant did not identify on his Form I-687 application as an alias that he used during the qualifying period, and submitted no documentation to corroborate any employment subsequent to 1981 using such an alias.

As discussed, the applicant stated on his Form I-687 application that he lived at a single location in Los Angeles during the requisite period. However, none of those submitting supporting affidavits and statements on his behalf identified a specific address at which he lived, merely indicating that he had lived in Los Angeles from 1981 to 1984 and in Compton, California thereafter.

The applicant submitted letters from his children's schools indicating that they were enrolled from September 12, 1979 to February 20, 1981. While these documents appear to verify his entry into the United States in 1979 and presence until February 1981, the applicant provided no objective and verifiable evidence that he maintained a residence in the United States continuously throughout the requisite period. The affidavits and statements submitted on the applicant's behalf are inconsistent with his own statements regarding his residence and his employment. The applicant failed to respond to the AAO's April 20, 2007 Notice of Intent to Deny.

Given these unresolved inconsistencies and the absence of any corroborating documentation, it is concluded that the applicant has failed to establish continuous residence in the U.S. for the required period.

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