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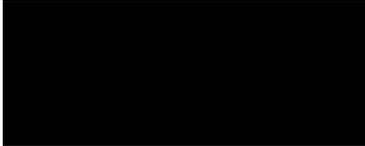
U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
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Services

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FILE: [Redacted]  
MSC 02 240 60880

Office: DALLAS

Date: FEB 22 2007

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:



**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 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, Dallas, Texas, and is now before the Administrative Appeals Office 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 asserts that that the director failed to "properly define a 'preponderance of the evidence,' has failed to 'conduct an examination of each piece of relevant, and has failed to 'challenge the credibility of the applicant or the authenticity of the documents' with specific reasoning." Counsel submits additional 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).

On his form to determine class membership, which he signed under penalty of perjury on May 31, 1990, the applicant stated that he came to the United States in May 1976 with a valid visa and passport. On his Form I-687, Application for Status as a Temporary Resident, the applicant stated that he was authorized to remain in the United States until June 2, 1976. The applicant stated that he violated his visa status by overstaying the authorized period for his visit.

The applicant stated on his Form I-687 application that he lived in three different apartments at [REDACTED] in Dallas, Texas from November 1981 to June 1989. The applicant also stated that he used two different social security numbers during his stay in the United States and worked for the following companies in Dallas during the qualifying period:

November 1981 – June 1982	Marriot Park Central
June 1982 – September 1983	Marriot Quadron
December 1983- June 1985	Jackson Restaurant
July 1985 to October 1989	Alford Landscape

In an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, the applicant submitted the following evidence:

1. A copy of a United States visa, approved for the applicant for multiple entries between May 2, 1976 and May 12, 1977, and includes an entry indicating that he entered the United States on June 2, 1976.
2. A May 2, 2002 affidavit from [REDACTED], in which she verified that she has known the applicant since August 1981 when they met as neighbors and she became friends with the applicant's wife. Ms. [REDACTED] did not state where this relationship began or that the applicant had lived continuously in the United States during the qualifying period.
3. Documentation from the Marriot Corporation indicating that the applicant was hired on November 19, 1981 and was officially separated on July 16, 1982. An undated letter from the director of human resources at the Dallas Marriot Park Central indicated that the applicant was employed by the hotel from November 1981 to June 1982. We note also that documentation from the Marriot Corporation indicates that the applicant lived at [REDACTED] in Dallas, Texas during the time that he worked for the company. The applicant did not claim to live at this address on his Form I-687 application. 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). The documentation from the Marriot Corporation provided no verification that the applicant worked through September 1983, as he stated on his Form I-687 application.
4. A May 5, 2002 affidavit from [REDACTED] in which he stated that he has known the applicant since November 1981 when they were neighbors at the Carlton Heights Apartments. This statement conflicts with the letter from the Carlton Heights Apartments, discussed below, which indicates that the applicant began living at the apartments in 1983. It also conflicts with the information contained in the Marriot Corporation records reflecting that the applicant lived at [REDACTED] when he worked for the company, and with the information provided by the applicant on his Form G-325, which he signed under penalty of perjury on May 7, 2002, indicating that he lived at the [REDACTED] Apartment 25 from October 1983 until March 1987, and at [REDACTED], from March 1987 until January 1990. *Id.*
5. An April 22, 2002 sworn statement from M [REDACTED], in which she certified that she has known the applicant since November 1981, and that he has been her neighbor for "about 20 years."

6. An undated letter from [REDACTED] manager of the Lyndon Manor Apartments, in which she stated that the applicant had resided in the apartments, located at [REDACTED] Road in Dallas, since 1981. We note that the letter from Carlton Heights Apartments, discussed further below and which is also undated, places it at the same address as Lyndon Manor Apartments, but indicates that the applicant had lived in the apartment complex since 1983. The applicant did not indicate that the apartment complex was the same or that it was under new management.
7. A February 17, 2003 letter from [REDACTED] in which she stated that she met the applicant in 1982 when they were introduced by the applicant's wife, whom Ms. [REDACTED] had hired to clean house.
8. A copy of a Form I-94, indicating that the applicant was admitted to the United States on July 3, 1983 pursuant to a B-2 nonimmigrant visa that was valid until January 2, 1984.
9. An undated letter from the Carlton Heights Apartments, verifying that the applicant had lived at the apartment complex from October 1983 until March 1987. The record also contains a rental receipt from the Carlton Heights Apartments; however, while the receipt includes a day and month, it does not show a year. Therefore, it is not probative evidence of the applicant's residency in the United States during the qualifying period.
10. An insurance card issued to the applicant from Auto Assurance Specialists in Dallas, effective from January 13 to April 13, 1984.
11. A January 19, 1984 temporary permit issued to the applicant from the Texas Department of Public Safety.
12. Copies of certificates from the Dallas-Rockwall Cooperative of the Dallas Independent School District, certifying that the applicant had attended classes in May and August 1984.
13. A September 27, 1988 letter from [REDACTED], manager of [REDACTED] located at [REDACTED] Texas, indicating that the applicant had worked for the company since 1985. The record also contains an undated letter from Mr. [REDACTED] in which he identified himself as the owner of the company and identified the company address as [REDACTED] in Garland, Texas. The letter indicated that the applicant was scheduled for a raise and promotion on October 1, 1989. The applicant submitted a copy of a Form W-2, Wage and Tax Statement, from [REDACTED], but the date of the form is not shown. We note however, that the applicant's address indicated on the Form W-2 is the address that the applicant stated was his current address on the Form I-687 application, and where he stated that he lived beginning in June 1989. Therefore, the Form W-2 from Alford Landscape Management is not probative evidence of the applicant's employment during the requisite period.

On appeal, the applicant submits June 10, 2004 sworn statements from [REDACTED] and [REDACTED] who state that they worked with the applicant at the Marriot Hotel from 1981 to 1985, he in room service and she in housekeeping. We note that the applicant stated on his Form I-687 application that he worked at two different Marriot Hotels from September 1983, and at the Jackson Restaurant from December 1983 to June 1985. The applicant submitted no documentation to explain this inconsistency. *Matter of Ho*, 19 I&N Dec. at 591.

In denying the applicant's application, the director noted that the applicant had failed to provide proof of employment from 1983 to 1985 and noted that Texas state records did not show a corporation with the name of [REDACTED]. On appeal, counsel states that the failure to find a corporation named [REDACTED] is insignificant, as the State of Texas does not require registration of sole proprietorships. This argument is without merit, however, as the letters from [REDACTED] clearly identifies the company as "incorporated." Nothing in the record supports counsel's assertion that the company was a sole proprietorship. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the applicant's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

Counsel also asserts that the Form W-2 from [REDACTED] confirms its existence. However, there is no indication that this form was ever filed with the Internal Revenue Service (IRS), or any other verification that the federal tax identification number listed on the Form W-2 is valid. In his May 9, 2003 letter accompanying the applicant's response to the director's Notice of Intent to Deny (NOID), counsel stated that the applicant had attempted to obtain a Social Security earnings statement but was unsuccessful because the "number was made up." Counsel did not submit a copy of the request or the letter from the Social Security Administration denying the request. *Id.*

We note that an undated letter in the record from Metroplex Screen [REDACTED] in Garland, Texas, indicates that [REDACTED] once occupied the address where Metroplex Screen Printing was currently located, but they were "now out of business." The letter indicated that Metroplex Screen Printing had been at the location for 14 years. While this letter verifies the existence at one time of a business called [REDACTED] it is not probative of the applicant's work with the company during the time stated. The applicant submitted no other documentation such as copies of earlier Forms W-2, copies of paycheck stubs or similar documentary evidence of his work with the company.

The record contains a February 12, 2003 letter from [REDACTED] director of human resources of The Harvey Hotel, in which she stated that the hotel had been sold and that she could not verify the applicant's employment from "information in [the] leftover paper trail."

The applicant submitted sufficient evidence to establish his presence and residency in the United States from 1981 until June 1982 and subsequent to January 1984. However, the applicant has failed to establish by a preponderance of the evidence that he was present and living in the United States from July 1982 through July 1983, when he reentered the United States pursuant to his B-2 visa. The applicant provided no evidence to confirm his employment during this time frame, and the unresolved inconsistencies in statements and affidavits submitted by witnesses are less than credible evidence of his continued residency in the United States during the required period.

According, it is concluded that the applicant has failed to establish by a preponderance of the evidence that he resided continuously in the United States for the required period.

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