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**U.S. Citizenship  
and Immigration  
Services**

**PUBLIC COPY**

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FILE:

MSC 02 127 63415

Office: LOS ANGELES

Date: **AUG 25 2008**

IN RE:

Applicant:

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. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

A handwritten signature in black ink, appearing to read "R. Wiemann", written over a circular stamp or seal.

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 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 as required by section 1104(c)(2)(B) of the LIFE Act.

On appeal, counsel reiterated the applicant's claim of residence in this country since 1981. Counsel asserted that the applicant had submitted sufficient evidence to demonstrate his residence in this country for the requisite period. Counsel provided additional evidence in support of the appeal.

An applicant for permanent resident status under section 1104 of the LIFE Act 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 and 8 C.F.R. § 245a.11(b).

The applicant 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 under the provisions of section 212(a) of the Immigration and Nationality Act (Act), 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).

Although the regulation at 8 C.F.R. § 245a.2(d)(3) provides an illustrative list of contemporaneous documents that an applicant may submit in support of his or her claim of continuous residence in the United States in an unlawful status since prior to January 1, 1982 to May 4, 1988, the submission of any other relevant document including affidavits is permitted pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L).

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.* at 80. 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. *Id.*

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, 431 (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.

At issue in this proceeding is whether the applicant has submitted sufficient credible evidence to meet his burden of establishing continuous unlawful residence in the United States during the requisite period. Here, the applicant has failed to meet this burden.

The applicant previously made a claim to class membership in a legalization class-action lawsuit and as such, was permitted to file a Form I-687, Application for Temporary Resident Status Pursuant to Section 245A of the Immigration and Nationality Act (Act) on March 22, 1990. At part #33 of the Form I-687 application where applicants were asked to list all residences in the United States since first entry, the applicant listed [REDACTED] in Pomona, California as his sole address of residence in this country from July 1981 through the end of the requisite period on May 4, 1988. Further, at part #35 of the Form I-687 application where applicants were asked to list all absences from the United States since first entry, the applicant indicated that he was absent for an unspecified number of days when he visited Tijuana, Mexico for a vacation in November 1987.

In support of his claim of continuous residence in this country since prior to January 1, 1982, the applicant submitted an affidavit that is signed by [REDACTED]. Mr. [REDACTED] stated that he had personal knowledge the applicant resided at [REDACTED] in Pomona, California from July 1981 through March 20, 1990, the date the affidavit was executed. Mr. [REDACTED] indicated that his acquaintance with the applicant began when they met at a party and they had been great friends since meeting.

The applicant included an affidavit signed by [REDACTED] who declared that he first became acquainted with the applicant at a grocery store and he and applicant had become great friends. [REDACTED] indicated that his acquaintance with the applicant provided him with personal knowledge that the applicant resided at [REDACTED] in Pomona, California from July 1981 to the date the affidavit was executed on March 20, 1990.

On June 12, 1991, the applicant submitted a Form I-512, Authorization for Parole or Conditional Entry of an Alien into the United States, to the Service. The applicant included a Form G-325A, Report of Biographic Information, with the Form I-512 application. On the Form G-325A biographic report, the applicant testified that he married “[REDACTED]” in Taiwan on June 19, 1984. This testimony directly contradicted the applicant’s prior testimony at part #35 of the Form I-687 application that his only absence from the United States during the requisite period occurred when he visited Tijuana, Mexico for a vacation in November 1987. In addition, the applicant also testified on the Form G-325A biographic report that he resided at [REDACTED] in Alta Loma, California from March 1982 to January 1990. This testimony is in direct conflict with the applicant’s previous testimony at part #33 of the Form I-687 application where

he listed [REDACTED] in Pomona, California as his sole address of residence in this country from July 1981 through the end of the requisite period on May 4, 1988.

On September 3, 1991, the applicant submitted another separate Form I-512 application to the Service, which also included a new and separate Form G-325A biographic report. On this particular Form G-325A biographic report, the applicant testified that he married "[REDACTED]" in Taiwan in January 1984. Furthermore, the applicant also testified that he resided at [REDACTED] in Alta Loma, California from February 1986 to April 1989. The applicant's testimony in this particular Form G-325A biographic report relating to the date of his marriage in Taiwan and the dates that he claim to have resided in Alta Loma, California did not correspond to the date of marriage and dates of residence in Alta Loma, California that were listed in the Form G-325A biographic report submitted on June 12, 1991 and discussed on the preceding paragraph. Moreover, the testimony in this particular Form G-325A biographic report also conflicted with the applicant's testimony on his Form I-687 application relating to his address of residence and as well as his absences from the United States during the requisite period.

The applicant filed the Form I-485 LIFE Act application on February 4, 2002. The record contains a photocopied page from the applicant's Syrian passport. This page contains a B-1/B-2 visitor's visa that the applicant obtained at the United States Embassy in Damascus, Syria on March 10, 1986. This page of the applicant's Syrian passport also contains a stamp reflecting that he utilized this visa to enter this country on May 4, 1986. It must be noted that the applicant failed to disclose that he was also absent from the United States prior to his entry into this country on May 4, 1986 at part #35 of the Form I-687 application.

The applicant provided medical documentation that reflected his residence in this country after February of 1988 when he initially underwent treatment for a cardiovascular condition.

The applicant included an affidavit that was signed by [REDACTED]. Dr. [REDACTED] indicated that he resided in the Chicago, Illinois area from 1962 to 1989. Dr. [REDACTED] noted that the applicant and other friends visited him beginning in 1980 and that he remained friends with the applicant after moving to California in 1989. Nevertheless, [REDACTED] failed to provide any detailed, verifiable, and pertinent information to corroborate the applicant's claim of residence in this country for the period in question.

The applicant submitted an affidavit signed by [REDACTED] who asserted that the applicant was his relative and had lived in the United States since 1980. Mr. [REDACTED] declared that the applicant lived with him at his house at [REDACTED] in Bloomingdale, Illinois during an unspecified period. However, [REDACTED] testimony that the applicant lived with him in Bloomingdale, Illinois did not correspond to the applicant's prior testimony regarding his place of residence in this country as the applicant claimed that he had resided only in the state of California.

On October 11, 2002, the applicant submitted a Form I-131, Application for Travel Document, to CIS that included another separate Form G-325A biographic report. On this particular Form G-

325A biographic report, the applicant testified that he married "[REDACTED]" in Taiwan on July 17, 1985. Additionally, the applicant testified that he resided at "[REDACTED]" in Pomona, California from July 1988 through the date the document was submitted on October 11, 2002. The applicant provided testimony in this particular Form G-325A biographic report relating to the date of his marriage in Taiwan and corresponding absence from the United States as well as his address of residence in this country and the dates he resided at such address that directly contradicted his prior testimony regarding this information on the Form I-687 application submitted on March 22, 1990, the Form G-325A biographic report submitted on June 12, 1991, and the Form G-325A biographic report submitted on September 3, 1991.

The record shows that the applicant was subsequently interviewed regarding his Form I-485 LIFE Act application at the CIS District Office in Los Angeles, California on October 15, 2003. The notes of the interviewing officer reflect that the applicant testified he entered this country for the first time from Tijuana, Mexico by crossing the border into the United States in 1980 and that he went to his nephew's home in Chicago, Illinois. The interviewing officer's notes demonstrate that the applicant testified that he then worked at a swap meet selling clothing. The applicant further testified that he lived with his nephew until 1989 when he moved to Los Angeles, California. The interviewing officer issued a Form I-72, Request for Additional Evidence, to the applicant at the conclusion of the interview requesting that he provide evidence to support his claim that he lived in Chicago, Illinois subsequent to his entry into the United States in 1980.

In response, the applicant provided two original receipts from the [REDACTED] at [REDACTED] [REDACTED] in Chicago, Illinois that are dated March 13, 1981 and June 1, 1983, respectively. The receipt dated March 13, 1981 reflects the applicant's payment of fifty dollars in rent for space # [REDACTED] at this enterprise for March 13, 1981 and March 14, 1981. The receipt dated June 1, 1983 reflects the applicant's payment of eighty dollars in rent for space [REDACTED] at this enterprise for June 4, 1983 and June 5, 1983. However, it must be noted that prior to the applicant's interview on October 15, 2003, he failed to claim that he lived in Chicago, Illinois but instead claimed that he had lived solely in California since he purportedly began residing in the United States. The applicant's testimony at his interview on such date and the two receipts submitted in support of this claim contradicted his prior testimony that his sole place of residence in this country was California from prior to January 1, 1982 to May 4, 1988.

On April 5, 2004, the applicant submitted another separate Form I-131, Application for Travel Document, to CIS. The applicant included a new and separate Form G-325A biographic report in which he testified that he married "[REDACTED]" in Taiwan in 1994. Further, the applicant testified that he resided at "[REDACTED]" in Pomona, California from May 1989 through the date the document was submitted on April 5, 2004. The applicant's testimony in this particular Form G-325A biographic report relating to the date of his marriage in Taiwan as well as his address of residence in this country and the date he resided at such address that contradicted his prior testimony regarding this information on the Form I-687 application submitted on March 22, 1990, the Form G-325A biographic report submitted on June 12, 1991, the Form G-325A

biographic report submitted on September 3, 1991, and the Form G-325A biographic report submitted on October 11, 2002.

On May 15, 2004, the applicant submitted another separate Form I-131, Application for Travel Document, to CIS. The applicant included a new and separate Form G-325A biographic report in which he testified that he married '██████████' in Taiwan in 1986. In addition, the applicant testified that he resided at ██████████ in Pomona, California from 1981 through the date the document was submitted on May 15, 2004. The applicant's testimony in this particular Form G-325A biographic report relating to the date of his marriage in Taiwan and resultant absence from the United States as well as his address of residence in this country and the dates he resided at such address that contradicted his prior testimony regarding this information on the Form I-687 application submitted on March 22, 1990, the Form G-325A biographic report submitted on June 12, 1991, the Form G-325A biographic report submitted on September 3, 1991, the Form G-325A biographic report submitted on October 11, 2002, and the Form G-325A biographic report submitted on April 5, 2004.

On July 1, 2004, the district director issued a notice of intent to deny to the applicant informing him of CIS's intent to deny his application because he failed to submit sufficient evidence of continuous unlawful residence in the United States from prior to January 1, 1982 through May 4, 1988. The applicant was granted thirty days to respond to the notice.

In response, the applicant submitted a receipt dated March 15, 1982 from Harlem Furniture in Chicago, Illinois that reflected the applicant's purchase of \$310.00 worth of furniture and listed his address as ██████████ in Bloomingdale, Illinois. The applicant included a Form 1040, U.S. Individual Tax Return, for the 1985 tax year that is signed by the applicant and dated April 10, 1986, which also listed his address as ██████████ in Bloomingdale, Illinois. However, as noted above, the only previous instance in which the applicant himself testified that he lived in a location outside of California occurred at his interview on October 15, 2003 when he testified that he lived in his nephew's home in Chicago, Illinois from 1980 to 1989. Both before and after this interview, the applicant testified that he lived in California during the requisite period. The applicant failed to provide any explanation for his contradictory testimony relating to his address of residence in this country during the period in question. In addition, the applicant failed to advance any explanation as to why the receipt dated March 15, 1982 and the Form 1040 tax return dated April 10, 1986 had not been previously submitted in these proceedings if he had been in possession of these documents since each of these respective dates.

The district director determined that the applicant failed to submit sufficient credible evidence demonstrating his residence in the United States in an unlawful status from January 1, 1982 through May 4, 1988, and, therefore, denied the Form I-485 LIFE Act application on July 28, 2004.

On appeal, counsel reiterated the applicant's claim of residence in this country since 1981. Counsel asserted that the applicant had submitted sufficient evidence to demonstrate his residence in this country for the requisite period.

Counsel provided a new affidavit signed by [REDACTED], the same individual who had previously submitted an affidavit in support of the applicant's claim of residence. In his new affidavit, [REDACTED] declared that he first met the applicant in Chicago, Illinois in April of 1981 and that he continued to regularly meet the applicant on a weekly basis until he moved to California in 1989. Regardless, [REDACTED] failed to provide any further specific testimony to substantiate the applicant's claimed residence in the United States for the requisite period.

Counsel included an affidavit signed by [REDACTED] who stated that he first came to the United States on December 1, 1977 and that he resided in California since such date. Mr. [REDACTED] noted that he first met the applicant in August of 1981 at a concert while visiting Chicago, Illinois and they had remained good friends since staying in contact by phone, through correspondence, and yearly visits. Mr. [REDACTED] indicated that the applicant moved to California in February 1988 after which he saw the applicant at least twice a week through the date the affidavit was executed on September 16, 2004. However, [REDACTED]'s assertion that the applicant resided in Chicago, Illinois from at least August 1981 through February 1988 did not correspond to the applicant's previous testimony that his sole place of residence in this country was California from prior to January 1, 1982 to May 4, 1988.

The fact that the applicant failed to fully disclose the number and length of his multiple absences from the United States during the requisite period at part #35 of the Form I-687 application brings into question his claim of continuous residence in this country since prior to January 1, 1982. The applicant further impaired his overall credibility by providing contradictory testimony regarding the date of his marriage in Taiwan as well as his addresses of residence in this country and the dates he resided at such addresses during the requisite period. The applicant submitted supporting documents that offer conflicting testimony relating to his alleged places of residence in this country during that period from prior to January 1, 1982 through May 4, 1988. Consequently, the applicant's claim of residence in the United States for the requisite period cannot be considered as credible and the evidence submitted in support of such claim is without probative value.

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. It is incumbent upon the 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, 591-92 (BIA 1988). The above derogatory information indicates that the applicant made material misrepresentations in asserting his claim of residence in the United States for the period in question and thus casts doubt on his eligibility for adjustment to permanent residence under the provisions for the LIFE Act.

The AAO issued a notice to the applicant on June 18, 2008 informing him that it was the AAO's intent to dismiss his appeal based upon his own contradictory testimony and the conflicting nature of the evidence contained in the record. The applicant was granted fifteen days to provide evidence to overcome, fully and persuasively, this derogatory information. However, as of the date of this decision, neither the applicant nor counsel has submitted a statement, brief, or evidence addressing the adverse information cited above relating to the applicant's claim of residence in the United States since prior to January 1, 1982.

The absence of sufficiently detailed supporting documentation, the conflicting nature of testimony contained in such supporting documents, and the contradictory testimony offered by the applicant himself all seriously undermine the credibility of his claim of residence in this country for the requisite period, as well as the credibility of the documents submitted in support of such claim. Pursuant to 8 C.F.R. § 245a.12(e), the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. The applicant has failed to submit sufficient credible documentation to meet his burden of proof in establishing that he has resided in the United States since prior to January 1, 1982 by a preponderance of the evidence as required under both 8 C.F.R. § 245a.12(e) and *Matter of E- M-*, 20 I&N Dec. 77 (Comm. 1989).

Given the applicant's reliance upon documents with minimal or no probative value and his own contradictory testimony, it is concluded that he has failed to establish continuous residence in an unlawful status in the United States from prior to January 1, 1982 through May 4, 1988 as required under section 1104(c)(2)(B) of the LIFE Act. The applicant is, therefore, ineligible for permanent resident status under section 1104 of the LIFE Act on this basis.

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