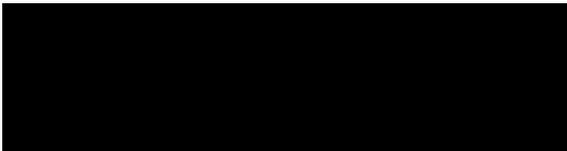




**U.S. Citizenship
and Immigration
Services**

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

L2



FILE: [Redacted]
MSC 02 206 61241

Office: SEATTLE

Date: **JUN 19 2008**

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. 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.

A handwritten signature in black ink, appearing to read "D. King" or similar, written over a circular stamp or mark.

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, Seattle, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal is dismissed with a finding of inadmissibility.

The district director denied the application because the applicant failed to demonstrate that he had continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988.

On appeal, the counsel asserts that the director's decision is an abuse of discretion and contrary to applicable law. Counsel contends that the director's decision did not give proper weight and consideration to the evidence submitted by the applicant.

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).

On April 24, 2002, the applicant filed a Form I-485, Application to Register Permanent Resident or Adjust Status, for permanent resident status under the LIFE Act. In connection with his Form I-485, the applicant submitted two postmarked envelopes, addressed to the applicant at his purported residence in Othello, Washington. These envelopes were purportedly mailed to him from Calcutta, India, bear Republic of India postage stamps, and contain postmarks dated February 18, 1982, and in 1985. Both envelopes contained letters with the same date as their respective postmarked envelopes. A review of the 2006 Scott Standard Postage Stamp Catalogue Volume 3 (Scott Publishing Company 2005), reveals the following regarding the Republic of India postage stamps affixed to the postmarked envelopes:

- The envelope postmarked February 16, 1982, bears a postage stamp with a value of five rupees that contains the picture of [REDACTED]. This stamp is listed at page 839 of Volume 3 of the 2006 Scott Standard Postage Stamp Catalogue and is listed as catalogue number 1825 A1239. The catalogue lists this stamp's date of issue as April 30, 2000.
- The envelope postmarked in 1985, bears a postage stamp with a value of three rupees that contains the picture of [REDACTED]. This stamp is listed at page 840 of Volume 3 of the 2006 Scott Standard Postage Stamp Catalogue and is listed as catalogue number 1872 A1263. The catalogue lists this stamp's date of issue as April 14, 2001.

The fact that the envelopes postmarked February 18, 1982, and in 1985 bear stamps first issued beginning in 2000 and 2001 tends to establish that the applicant utilized documents in a fraudulent manner and made material misrepresentations in an attempt to establish his residence within the

United States for the requisite period. By engaging in such an action, the applicant has seriously diminished his own credibility as well as the credibility of his claim of continuous residence in this country for the period from prior to January 1, 1982 through May 4, 1988.

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).

A Notice of Intent to Deny and Make a Finding of Fraud (NOID), dated May 6, 2008, was mailed to the applicant and counsel at their addresses of record. The AAO provided the applicant and counsel fifteen (15) days from the date of the NOID to respond. The record reflects that no response was received.

The above derogatory information indicates that the applicant has misrepresented the date that he first arrived and resided in the United States, and thus casts doubt on his eligibility for this visa classification. Consequently, it is concluded that the applicant 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. Therefore, the applicant is ineligible for permanent resident status under section 1104 of the LIFE Act on this basis.

Section 212(a)(6)(C) of the Immigration and Nationality Act (Act) provides:

Misrepresentation. – (i) In general. – Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

Under BIA precedent, a material misrepresentation is one which “tends to shut off a line of inquiry which is relevant to the alien's eligibility and which might well have resulted in a proper determination that he be excluded.” *Matter of S- and B-C-*, 9 I&N Dec. 436, 447 (BIA 1961).

By filing the instant application and submitting the fraudulent evidence described above, the applicant has sought to procure a benefit provided under the Act through fraud and willful misrepresentation of a material fact. Because the applicant has failed to provide independent and objective evidence to overcome, fully and persuasively, our finding that the postmarked envelopes were falsifications, we affirm our finding of fraud. In addition, an applicant for permanent resident status under the provisions of the LIFE Act must establish that he or she is admissible as an immigrant. Section 1104(c)(2)(D)(i) of the LIFE Act. Because of the applicant's attempt to procure a benefit under the Act through fraud, we find that the applicant is inadmissible under section 212(a)(6)(C) of the Act.

An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003); *see also Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989)(noting that the AAO reviews appeals on a *de novo* basis).

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