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U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20529

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: LOS ANGELES, CA Date: JUL 07 2004

IN RE: [redacted]

PETITION: Application for Waiver of Grounds of Inadmissibility under Sections 212(h), 212(i) and 212(a)(9)(B)(v) of the Immigration and Nationality Act, 8 U.S.C. § 1182(i)

ON BEHALF OF PETITIONER:

[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. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Interim District Director, Los Angeles, California, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of England who was found to be inadmissible to the United States under three separate grounds of inadmissibility corresponding to five separate violations. First, the applicant is inadmissible under section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(2)(A)(i)(I), relating to his convictions for Grand Theft, Property and False/Fraud Insurance Claim, which are crimes involving moral turpitude. Second, the applicant is inadmissible pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for falsely claiming to be a United States citizen in connection with his attempt to enter the United States at the San Ysidro Port of Entry on November 24, 1994. The third and fourth grounds of the applicant's inadmissibility arise under the same ground of inadmissibility and stem from his admissions to the United States on August 13, 2001 and on November 13, 2001, pursuant to the Visa Waiver Program under Section 217 of the Act, after making false statements in support of those applications for admission. Finally, the applicant is inadmissible under section 212(a)(9)(B)(i)(II) of the Act, 8 U.S.C. § 1182(a)(9)(B)(i)(II) based upon his unlawful presence in the United States for more than one year after April 1, 1997 and before his filing of an I-485 application for adjustment of status on December 12, 2001. The applicant married a citizen of the United States in the United States on November 24, 2001 and is the beneficiary of a Petition for Alien Relative approved by the Los Angeles District Office on December 12, 2003. The applicant seeks waivers of inadmissibility pursuant to sections 212(h), 212(i) and 212(a)(9)(B)(v) of the Act, 8 U.S.C. § 1182(h), 1182(i), and 1182(a)(9)(B)(v) in order to remain in the United States with his spouse and U.S. citizen children.

The district director concluded that the applicant had established that that extreme hardship would be imposed upon a qualifying relative but then determined that because the waivers were discretionary applications, she would exercise discretion to deny the waivers in light of her conclusion that the applicant had shown a reckless disregard for federal and state laws, had not demonstrated rehabilitation, and based upon her conclusion that it would not be in the best interest of the U.S. government to approve the waivers. The director then denied the Application for Waiver of Grounds of Excludability (Form I-601). *Decision of the District Director*, dated March 24, 2004.

On appeal, counsel contends in the Notice of Appeal (Form I290B) that the Immigration and Naturalization Service [now Citizenship and Immigration Services (CIS)] abused its discretion in "misapplying the law" and it its failure to balance the equities and adverse matters. Counsel further asserts that the favorable factors warrant a grant of the waiver, and that the applicant has been denied due process because he has not been provided with the information or opportunity to refute unknown and undisclosed adverse factors against him. *Form I-290B*, dated March 31, 2004. Counsel has also submitted a brief in support of the appeal.

Evidence in Support of the Applicant's Waiver Application

The waiver requests are contained in two Forms I-601 seeking to waive the ground of inadmissibility relating to the conviction for a CIMT and the ground of inadmissibility for misrepresenting his status as a U.S. citizen in connection with his attempted entry at San Ysidro in 1994.[1] The record contains numerous supporting

[1] The AAO notes that the applications only mention these bases of inadmissibility and do not explicitly seek waivers on the basis of the additional grounds of inadmissibility identified in this decision. The district director's decision should have noted this omission,

documents submitted by the applicant. The principal documents include a copy of the marriage certificate for the applicant and his spouse; copies of birth certificates for the applicant's U.S. citizen spouse, her U.S. citizen child, and the U.S. citizen children of applicant; the spouse's marital dissolution documents awarding her joint custody of her minor child; the applicant's child support agreement pertaining to his two U.S. citizen children from a different relationship; affidavits of the applicant and the U.S. citizen spouse; a minute order relating to the applicant's 1991 convictions for Filing a False or Fraudulent Claim and Grand Theft reflecting post conviction reduction of the charges from felonies to misdemeanors; a psychological evaluation of the U.S. citizen spouse conducted November 23, 2003; numerous letters of recommendation submitted on behalf of the applicant from current and former politicians, and business associates; business correspondence in support of the applicant's foreign and domestic business interests including the applicant's family trust, and his participation with the Harmonie Park Holding Co. The entire record was reviewed and considered in rendering a decision on the appeal.

Waivers Available to the Applicant

Section 212(a)(2) of the Act states in pertinent part, that:

> (A)(i) [A]ny alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of-
>
> (I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime . . . is inadmissible.

Section 212(h) of the Act provides, in pertinent part, that:

> (h) The Attorney General [now the Secretary of Homeland Security, "Secretary"] may, in his discretion, waive the application of subparagraphs (A)(i)(I) . . . of subsection (a)(2) . . . if -
>
> . . . .
>
> (1) (B) in the case of an immigrant who is the spouse, parent, son, or daughter of a citizen of the United States or an alien lawfully admitted for permanent residence if it is established to the satisfaction of the Attorney General [Secretary] that the alien's denial of admission would result in extreme hardship to the United States citizen or lawfully resident spouse, parent, son, or daughter of such alien . . . .

The record reflects that on October 23, 1991, the applicant was convicted of the offenses of "Insurance Fraud", in violation of CA INS § 1871.1(a)(1) (California Insurance Code), and "Grand Theft of Personal Property" (in excess of $25,000), in violation of CA PENAL § 487(1) (California Penal Code).

Section 212(a)(6)(C) of the Act provides, in pertinent part:

> (i) 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,

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but we note that the director's decision nonetheless addressed these additional grounds of inadmissibility. Therefore, we will consider those additional grounds to be included in the applicant's waiver applications.

or admission into the United States or other benefit provided under this Act is inadmissible.

(ii) Falsely claiming citizenship. –

(I) In General –

Any alien who falsely represents, or has falsely represented, himself or herself to be a citizen of the United States for any purpose or benefit under this Act . . . is inadmissible.

. . . .

(iii) Waiver authorized. – For provision authorizing waiver of clause (i), see subsection (i).

Section 212(i) of the Act provides:

(1) The Attorney General [now the Secretary of Homeland Security (Secretary)] may, in the discretion of the Attorney General [Secretary], waive the application of clause (i) of subsection (a)(6)(C) in the case of an alien who is the spouse, son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General [Secretary] that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien.

The record reflects that on November 24, 1994, the applicant falsely claimed to be a United States citizen in connection with his attempt to enter the United States at the San Ysidro Port of Entry. Additionally, the applicant applied for admission to the United States on August 13, 2001 and November 13, 2001, pursuant to the Visa Waiver Program under Section 217 of the Act, after making false statements in support of those applications.

Section 212(a)(9)(B) of the Act provides, in pertinent part, that:

(B) Aliens Unlawfully Present.-

(i) In general.-Any alien (other than an alien lawfully admitted for permanent residence) who-

. . . .

> (II) has been unlawfully present in the United States for one year or more, and who again seeks admission within 10 years of the date of such alien's departure or removal from the United States, is inadmissible.
>
> . . . .
>
> (v) Waiver. – The Attorney General [now the Secretary of Homeland Security, "Secretary"] has sole discretion to waive clause (i) in the case of an immigrant who is the spouse or son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General [Secretary] that the refusal of admission to such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such alien.

In the present case, the record indicates that the applicant initially entered the United States as a visitor on February 7, 1991, authorized to remain until August 6, 1991. In conjunction with his adjustment of status application, the applicant stated that he had been residing in the United States since at least June of 1995. The director's decision found that although it was unclear how the applicant had entered the United States after being apprehended at [redacted] while trying to gain admission as a U.S. citizen, it appeared that he had departed the United States sometime shortly before his subsequent entry on August 13, 2001, and consequently had accrued more than one year of unlawful presence after April 1, 1997 and before his application for adjustment of status on December 12, 2001.

The proper filing of an affirmative application for adjustment of status has been designated by the Attorney General [now Secretary of Homeland Security (Secretary)] as a period of stay for purposes of determining bars to admission under section 212 (a)(9)(B)(i)(I) and (II) of the Act. *See Memorandum by Johnny N. Williams, Executive Associate Commissioner, Office of Field Operations dated June 12, 2002.* The applicant accrued unlawful presence from April 1, 1997, the date of enactment of unlawful presence provisions under the Act, until December 12, 2001, the date of his proper filing of the Form I-485. The applicant is, therefore, inadmissible to the United States under section 212(a)(9)(B)(II) of the Act for being unlawfully present in the United States for a period of more than one year.

<u>The District Director's Decision and Counsel's Arguments on Appeal</u>

The district director's decision recited the facts and cited the applicable provisions of law under which the applicant was found inadmissible, and noted the applicable waiver provisions. The district director's decision consisted of a brief discussion noting that the applicant had submitted affidavits in support of the waiver, and noting that the applicant had two children, ages six and four, and the applicant's wife had a child, five years of age, The district director then found, without any analysis, that the evidence established that the applicant had demonstrated extreme hardship. The director's decision simply states, "The Service [now CIS] has determined that you have met "extreme hardship" from the documentation submitted and the laws affecting your case. " The district director's decision then noted that although the applicant was eligible for the waivers sought, the Service nonetheless had the discretion to deny the waivers and was exercising that discretion accordingly. The district director found that the applicant's history demonstrated a reckless disregard for state

and federal laws, and did not demonstrate any rehabilitation. She further determined that it would not be in the best interest of the United States to grant the waivers.

Counsel argues that the district director's decision, while finding that the applicant had established extreme hardship, nonetheless erroneously applied requirements not applicable to the waiver category at issue. Counsel additionally asserts that even if the district director's decision was based upon an exercise of discretion and not based upon a faulty application of the requirements, the district director failed to appropriately balance the equities against any adverse factors and ignored substantial evidence demonstrating extreme hardship to the applicant's wife and children, the applicant's rehabilitation and his work in international, domestic, humanitarian and philanthropic endeavors. The AAO will address counsel's two major contentions of error.

Based upon our review of the district director's decision and counsel's contentions of error, the AAO finds that although the district director's decision was not as precise or clear in its analysis as it could have been, and did, in setting forth the statutory language of the applicable waivers, highlight the subsection of the section 212(h) waiver that was not applicable to the petitioner, it seems clear that the district director denied the waivers based upon her conclusion that the applicant did not merit them as a matter of discretion, and not due to any improper application of the statutory requirements. Because the AAO believes that the district director should have set forth more clearly her reasons for denying the waivers and made an error in concluding that the applicant had satisfied the statutory requirement of demonstrating extreme hardship, the AAO will conduct its own analysis of the applicant's statutory eligibility for the waivers sought.

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 of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States,* 299 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).

The District Director's Extreme Hardship Analysis

The decision whether to grant a section 212(h), 212(i), or 212(a)(9)(B)(v) consists of a two-step process. First, the district director must find that the applicant has satisfied the statutory requirements for the waiver meaning, in the applicant's case, that the required family relationship exists, and that denial of the applicant's admission to the United States would result in extreme hardship to the qualifying relative. In the applicant's case, he must demonstrate for purposes of the 212(h) waiver that his U.S. citizen spouse or children would experience extreme hardship, and for purposes of the 212(i) and 212(a)(9)(B)(v) it requires a showing that his U.S. citizen spouse would experience extreme hardship.[2]

The district director's decision contained no analysis of the evidence and the factors that led her to conclude that the applicant had met his burden on this issue. The decision simply provided "[t]he Service has

[2] The AAO notes that hardship suffered by the children of the applicant is irrelevant to waiver proceedings under sections 212(i) or 212(a)(9)(B)(v) of the Act. Hardship experienced by the applicant's children is therefore only considered to the extent that it impacts the hardship suffered by the applicant's spouse, the qualifying relative in the application.

determined that you have met 'extreme hardship' from the documentation submitted and the laws affecting your case." *Decision of the District Director*, dated March 24, 2004 at p.4. This is an inadequate discussion of the reasons supporting a finding extreme hardship.

Matter of Cervantes-Gonzalez, 22 I&N Dec. 560, 565-566 (BIA 1999) provides a list of factors the Board of Immigration Appeals (BIA) deems relevant in determining whether an alien has established extreme hardship pursuant to section 212(i) of the Act. These factors include the presence of a lawful permanent resident or United States citizen spouse or parent in this country; the qualifying relative's family ties outside the United States; the conditions in the country or countries to which the qualifying relative would relocate and the extent of the qualifying relative's ties in such countries; the financial impact of departure from this country; and significant conditions of health, particularly when tied to an unavailability of suitable medical care in the country to which the qualifying relative would relocate.

Counsel offers the affidavits of the applicant and his spouse, as well as a psychological evaluation of the spouse as evidence of extreme hardship imposed by the applicant's inadmissibility to the United States. The applicant's spouse sets forth various reasons she believes demonstrate extreme hardship to herself and the U.S. citizen children. *Affidavit of U.S. Citizen Spouse*, dated December 12, 2003. First, the spouse asserts that she and the applicant maintain joint custody arrangements with her former spouse and the mother of his U.S. citizen children and that a denial of the waiver would result in a break up of the family unit.[3] Second, the spouse indicates that she will suffer extreme hardship due to her inability to fulfill plans she and the applicant have made to assume guardianship over her mentally retarded sister who currently lives in an assisted living facility in the State of Washington. The spouse contends that her inability to assume responsibility for her sister's welfare should she depart the United States with her husband, makes her very depressed. Third, the spouse asserts that she will suffer extreme hardship due to her need to receive regular MRI examinations as follow-up for the removal of a pituitary tumor in 1990 and her concern over the fact that while her current medical insurance carrier covers her medical exams, she is unaware of the type and availability of treatment in the United Kingdom. Fourth, the spouse expresses concern over her ability to adjust to life in another country and culture, including the fact she has no friends or family, with the exception of the applicant's family. Finally, the spouse indicates that she will not be able to continue her career as an interior designer in the United Kingdom due to her understanding that an interior designer must fulfill different educational and training requirements.

The record does not establish that the hardships anticipated by the applicant's spouse to herself or the U.S. citizen children in terms of the separation and inability to have regular contact with her children or her sister, as well as her concerns about her ability to pursue her work as an interior designer rise to the level of extreme hardship and are any different from those hardships normally associated with the severing of family and community ties. U.S. court decisions have repeatedly held that the common results of deportation or exclusion are insufficient to prove extreme hardship. *See Hassan v. INS,* 927 F.2d 465, 468 (9th Cir. 1991). For example, *Matter of Pilch*, 21 I&N Dec. 627 (BIA 1996), held that emotional hardship caused by severing

[3] The AAO notes that although the evidence submitted to the district director and on appeal includes a copy of the family court judgment setting forth the joint custody arrangement for the child of the U.S. citizen spouse, the record does not contain documentation establishing that the applicant has joint custody of his U.S. citizen children. While the record does contain a child support order relating to the applicant's children, it makes no reference to any award of joint custody to the applicant, and no other court order evidencing such joint custody has been submitted.

family and community ties is a common result of deportation and does not constitute extreme hardship. In addition, *Perez v. INS,* 96 F.3d 390 (9th Cir. 1996), held that the common results of deportation are insufficient to prove extreme hardship and defined extreme hardship as hardship that was unusual or beyond that which would normally be expected upon deportation. *Hassan v. INS, supra,* held further that the uprooting of family and separation from friends does not necessarily amount to extreme hardship but rather represents the type of inconvenience and hardship experienced by the families of most aliens being deported. The AAO recognizes that the applicant's spouse will endure hardship as a result of separation from the applicant. However, her situation, based on the record, is typical to individuals separated as a result of deportation or exclusion and does not rise to the level of extreme hardship.

The AAO further notes that many of the applicant's concerns are speculative at best and are unsupported by objective evidence. For example, with respect to the spouse's claims regarding her need for regular diagnostic examinations, while she expresses concern about her inability to obtain follow-up care, no evidence has been submitted demonstrating that the follow-up MRI examinations could not be performed in the United Kingdom, a country which is generally regarded as advanced in terms of medical and scientific capabilities. Furthermore, there is no evidence indicating that the spouse could not travel to the United States for her annual diagnostic testing, which could coincide with what would likely be regular visits to her children in the United States should they not ultimately reside with her in the United Kingdom.

The AAO is likewise unpersuaded by the applicant's reference to her sister in Washington. No objective evidence has been submitted with respect to the sister's situation, and in any event, it is only the hardship to the spouse which is examined for purposes of the analyzing whether the extreme hardship standard has been met. The spouse's affidavit states simply "I am worried that [the applicant's] departure from the United States will make my guardianship impossible. The uncertain fate of my sister, [redacted] makes me very sad and depressed." The spouse's concern over the issue, though understandable, does not rise to the level of extreme hardship. Moreover, at this point in time, the spouse's assertions regarding the future plans for her sister are speculative as no action has been taken to initiate the guardianship proceedings and no evidence has been offered as to the effect of the spouse's departure upon an effort to become her sister's guardian.

In addition to the spouse's affidavit, the record contains a psychological evaluation conducted on November 21, 2003, by [redacted] Ph.D., QME, a licensed psychologist. The evaluation, conducted on the basis of an interview with the U.S. citizen spouse, concludes that she suffers from Acute Stress Disorder caused by her concerns over her husband's possible deportation. *Evaluation of Gunilla Karlsson*, dated November 21, 2003 at p.10. Although the evaluation recommends that the family be kept intact, it also indicates that the spouse's condition could be improved through "short time counseling or psychotherapy" and also advises monthly psychiatric consultations are advisable as medications are "likely to improve her current psychological profile." *Evaluation of Gunilla Karlsson*, at p.11. While the evaluation concludes that the spouse is experiencing anxiety from the potential breakup of the family, it also appears clear that an effective treatment program has been recommended and will enable the spouse to cope with her anxiety. As noted, while the spouse is experiencing hardship normally associated with the separation from family and friends, it does not rise to a level that is out of the ordinary or to an extent that would be considered extreme.

The AAO concludes, therefore, that the evidence submitted in support of the application, while detailing ordinary hardships anticipated, and relating the anxiety being experienced by the U.S. citizen spouse, do not

indicate that the spouse or citizen children will suffer extreme hardship. As we have determined that the applicant has not demonstrated extreme hardship to a qualifying relative, it is not required that we move on to the next step of analyzing whether the applicant warrants a favorable exercise of discretion. Nevertheless, we will proceed to conduct such an evaluation in order to examine whether, in the alternative, the applicant would have merited such an exercise of discretion and because counsel has asserted on appeal that the district director's analysis was flawed.

The District Director's Exercise of Discretion

In *Matter of Mendez-Moralez*, 21 I&N Dec. 296 (BIA 1996), the Board held that establishing extreme hardship and eligibility for section 212(h)(1)(B) relief does not create an entitlement to that relief, and that extreme hardship, once established, is but one favorable discretionary factor to be considered. The Attorney General has the authority to consider all negative factors in deciding whether or not to grant a favorable exercise of discretion. *See Matter of Cervantes-Gonzalez, supra,* at 12. While we have determined that the applicant has not established that his qualifying relatives would experience extreme hardship, we proceed to evaluate the positive and negative factors in the case in the same manner as if the applicant had established extreme hardship to a qualifying relative.[4]

The negative factors in this case consist of the following:

The Applicant's Immigration History

The applicant entered the United States in 1991 as a nonimmigrant visitor and has remained nearly twelve years beyond his initial period of authorized stay[5];
The applicant engaged in unauthorized employment beginning with his initial entries to the United States; the record reflects that he was employed in the United States since February 1987 as a construction worker and subsequently as an auto mechanic;
The applicant made a false claim to U.S. citizenship in connection with his attempt to enter the United States at the San Ysidro Port of Entry on November 24, 1994;
The applicant subsequently entered the United States. No record of his admission appears in CIS records, leading to the presumption that he entered surreptitiously or through another claim to U.S. citizenship;
The applicant subsequently entered the United States on August 13, 2001 and on November 13, 2001, pursuant to the Visa Waiver Program under Section 217 of the Act, after making false statements in support of those applications for admission;
The applicant has been married to two different U.S. citizen spouses. His first marriage took place on May 9, 1991, and was followed by the filing of an I-130 petition and I-485 adjustment of status application. The applicant failed to appear for two interviews in connection with the applications, and the application was ultimately terminated on April 13, 2004, when it was learned that the applicant had departed the United States

[4] We note that counsel asserts in his brief that the applicant has been denied due process because, based on counsel's belief that the applicant has been the subject of an ongoing investigation, and that such investigation has turned up "unknown and undisclosed adverse factors" which have resulted in the district director's denial. However, there is no evidence supporting this contention and, from our review of the record, no indication that the district director considered any undisclosed adverse factors. Likewise, the AAO has limited its review to the evidence in the record and this decision was based solely on the issues discussed.

[5] According to other documents contained in the file relating to the applicant, this does not appear to have been the petitioner's first admission to the United States, but it does appear to have been the applicant's last lawful admission.

without authorization. The applicant's marriage to his present spouse took place in November 2001, and resulted in the instant applications.

The Applicant's Criminal History

The applicant was arrested and charged with drunk driving in 1988 in California. He was ultimately charged with and pled guilty to reckless driving;
The applicant committed and was convicted in 1991 of crimes involving moral turpitude, specifically, he was convicted of the felonies of grand theft of property in excess of $25,000, and the submission of a fraudulent insurance claims for which he received a suspended sentence of 240 days in jail and 60 months of probation;
The applicant was arrested and charged, and convicted of drunk driving in September 1994 in California;

The positive factors in this case include:

The applicant has strong family ties to the United States;
Since 1994 the applicant has had no further arrests or convictions;
The applicant has expressed remorse for his previous acts and asserts that he has made full restitution;
The applicant has submitted several declarations from politicians and business associates asserting that the petitioner has a primary role in real estate redevelopment efforts in the Detroit area as well as humanitarian endeavors.

Although we have previously determined that the record does not demonstrate that the applicant's U.S. citizen wife or children would suffer extreme hardship, we also find that the positive factors in the record do not outweigh the negative factors, and accordingly, we conclude that we would not exercise our discretion in favor of the applicant.

First, aside from his family ties, the record reflects that the applicant has business interests associated with redevelopment efforts in the Detroit area. It is not clear, however, that the applicant could not continue to be involved in those business interests from abroad, particularly since it appears that he has been involved in other international endeavors including his work on behalf of the Republic of Liberia.

With respect to the applicant's endorsements stemming from his business endeavors, there appears to be some confusion on the part of the applicant's various supporters as to his status with regard to the countries of England and Liberia. In his letter, Representative [redacted] to the applicant as "British Consul General to the Republic of Liberia." Similarly, [redacted] who describes the applicant as a longtime business partner and family friend, also refers to the applicant as "British Consul General to the Republic of Liberia", as does [redacted] Council Member, City of Detroit, Jewel Ware, Chair, Wayne County Commission, and attorney [redacted] However, in other letters, the applicant is referred to by different titles, some of them honorary in nature.[6]

[6] The letter from Dennis C. Gillette, former city councilman and mayor or Thousand Oaks, refers to the applicant as "Republic of Liberia British Consul General, Leeds England," whereas the letter from George M. Lange, of the Commons Coalition for West Africa, refers to the applicant as having been appointed as the "Honorary Consul General, Leeds England for the Republic of Liberia."

According to the Merriam-Webster Online Dictionary, the term "consul general" is defined as "a consul of the first rank stationed in an important place or having jurisdiction in several places or over several consuls." At foreign embassies, the foreign official having the highest rank would be the ambassador; at less prominent locations, or foreign consulates, the representative would generally be known as a consul. It does not appear that the applicant is attached to a British foreign office, as Consul General or in any another position. Rather, it appears that the applicant may have been designated the honorary position of *Consul for Liberia in Leeds, England,* possibly in connection with his humanitarian and/or business dealings with, or on behalf of, Liberia. *See Letter from Ronald T. Matten, Esq.*, dated September 26, 2003. In any event, it is not clear that the majority of the authors writing letters of support, are aware of the distinction, nor, does it appear are officials of the Swiss financial institution whose letter the applicant submitted as evidence that his presence abroad was required with respect to financial transactions. (*See Letter from Bond Exam & Deposit Corporation Limited,* dated November 24, 2003.)[7] The applicant has not referenced in his own affidavit what position, official, or otherwise, he holds with respect to the governments of England and/or Liberia. Furthermore, the record does not reflect what awareness, if any, those conferring the title on the applicant, or those writing letters on his behalf may have had of his legal or immigration difficulties.[8] However, it appears that there may be some confusion as to his diplomatic status, or lack thereof, among his most enthusiastic supporters.

The applicant's criminal past and unfavorable immigration history are significant and reflect repeated instances of deception or attempts at deception. While the applicant's statement expresses remorse, and the record reflects that he has strong family and business ties, the AAO concludes that he has not demonstrated sufficient equities, nor circumstances of extreme hardship to qualifying relatives to cause us to conclude that the balance of equities should result in a grant of the requested waivers to enable the applicant to remain permanently in the United States.

In proceedings for an application for waiver of grounds of inadmissibility under sections 212(h), 212(i) and 212(a)(9)(B)(v) of the Act, the burden of establishing that the application merits approval remains entirely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. In this case, the applicant has not met his burden that he merits approval of his application.

ORDER: The appeal is dismissed.

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[7] The letter, which curiously is addressed to the applicant in Leeds, England, despite his longstanding presence in the United States, asks that he forward copies of his "appointment along with [his] Diplomatic Passport" in order for the institution to file for the tax exempt status on his capitol gains as a non-resident depositor.

[8] We note that the vast majority of the recommendation letters refer generally to the applicant's interview and/or application for permanent resident status and their support on that issue. None specifically notes that they support his effort to obtain a waiver of his grounds of inadmissibility. While the letters are not required to note this, specifically, and they unquestionably support his effort to become a lawful permanent resident, they differ from a letter that expresses an awareness of the applicant's history and nonetheless enthusiastically supports his application for permanent resident status.