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

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: Milwaukee Date: OCT 2 0 2004

IN RE: Applicant: [redacted]

PETITION: 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, Director
Administrative Appeals Office

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DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the District Director, Milwaukee, Wisconsin, 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.

On appeal, the counsel asserts that the applicant has submitted sufficient documentation establishing continuous residence in the U.S. from prior to January 1, 1982 through May 4, 1988.

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. 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).

When something is to be established by a preponderance of the evidence it is sufficient that the proof establish that it is probably true. *See Matter of E-- M--*, 20 I. & N. Dec. 77 (Comm. 1989).

Although the 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. *See* 8 C.F.R. § 245a.2(d)(3)(vi)(L).

The applicant is a class member in a legalization class-action lawsuit and as such, was permitted to previously file a Form I-687, Application for Temporary Resident Status Pursuant to Section 245A of the Immigration and Nationality Act (INA) on February 23, 1989. At part #33 of the Form I-687 application where applicants were asked to list all residences on the United States from the date of their first entry, the applicant listed the following addresses:

- [redacted] from 1981 to 1986;
- [redacted] from October 1986 to August 1988.
- [redacted] from August 1988 to December 1988;
- [redacted] in December 1988; and,
- [redacted] from December 1988 to February 29, 1989, the date the application was submitted.

In addition, at part #35 of the Form I-687 application where applicants were asked to list all absences from the United States since the date of their first entry, the applicant listed only two absences from this country. Specifically, the applicant indicated that the first absence occurred when he traveled to Japan for a family visit from December 1984 to January 1984, and the second when he traveled to Japan for an emergency from July 1987 to August 1987. At part #36 of the application, where applicants were asked to list all employment in the United States since the date of their first entry, the applicant indicated missionary for the Unification Church from 1981 to February 29, 1989, the date the Form I-687 application was submitted.

With the Form I-687 application, the applicant included the following documents in support of his claim of continuous residence in the United States since prior to January 1, 1982:

- An affidavit of residence that is signed by and contains the telephone number and letterhead of One Way Productions Inc., in Los Angeles, California. stated that he had known the applicant since the middle of 1981 when they met at church services and that he had subsequent conversations with him at various church functions;

- An affidavit of residence that is signed by and contains the telephone numbers, addresses, and letterhead of listed his position with this enterprise as president and stated he had known the applicant since fall of 1981 when he became a full-time missionary for the Unification Church and that they often met at the offices of the church;

- An affidavit of residence that is signed by and contains the telephone number and letterhead of Uni World Tensuke Inc., in Los Angeles, California. stated that he had known the applicant since 1981 as a missionary for the Unification Church and that he often saw and talked to him when visiting the church for services or other reasons;

- A photocopy of a State of Nebraska Operators License that was issued to the applicant on May 4, 1987 and listed his address as

- An affidavit of residence dated October 15, 1988, that is signed by and contains the telephone and letterhead of the United States Headquarters of the Unification Church in New York, New York. listed her position with this institution as California State Leader and provided her telephone number and address as indicated that the applicant is currently residing at this address; and,

- An affidavit of residence dated January 10, 1989, that is signed by and contains the telephone and letterhead of the United States Headquarters of the Unification Church in New York, New York. stated that he lived in the United States since 1976 when he arrived to work as an itinerant worker for the Unification Church and that he had resided at since December 1986. declared that he first became acquainted with the applicant on January 10, 1981, and that he subsequently visited the Unification Church of California every year thereafter and continued see the applicant frequently and regularly. stated that the applicant became a full-time missionary of the Unification Church of California on August 3, 1981, and at all relevant times lived at

since such date through the date the document was executed.

As noted above, the applicant listed five different addresses in four different states as residences in the United States since he claimed to have entered the country in 1981 through to February of 1989, at part #33 of the Form I-687 application. Furthermore, the applicant specified that he did not begin residing at until December 1988. However, in his affidavit, Reverend testified that the applicant had lived at one single address, since the applicant became a full-time missionary for the Church on August 3, 1981. In addition, stified in her affidavit that the applicant was residing at this address as of October 15, 1988. The testimony of both and is directly contradicted by the applicant's listing of his residences on the Form I-687 application.

Subsequently, on July 26, 2001, the applicant filed his LIFE Act application. With his LIFE Act application, the applicant provided photocopies of the supporting documentation listed above, as well as photocopies of pages from his Japanese passport. These pages contain entry stamps from the Immigration and Naturalization Service, or the Service (now Inspection and Customs Enforcement, or ICE) reflecting that the applicant entered the United States at New York, New York on March 16, 1984 and then again on August 28, 1986. The applicant also included a photocopy of a Form I-94, Arrival/Departure Record. The Form I-94 contains the Arrival/Departure Number and lists the applicant's name, date of birth, and country of citizenship in handwritten block printing. The Form I-94 also contains a stamp and corresponding handwritten notation reflecting that the applicant entered the United States at New York City on August 28, 1986 as a B-2 visitor with a period of authorized stay until February 27, 1987.

As noted previously, the applicant listed only two absences from this country at part #35 of the Form I-687 application. Specifically, the applicant indicated that the first absence occurred when he traveled to Japan for a family visit from December 1984 to January 1984, and the second when he traveled to Japan for an emergency from July 1987 to August 1987. Clearly, the photocopied pages of the applicant's Japanese passport and the Form I-94 demonstrate that the applicant was also absent from the United States for unknown periods of time prior to the date of his entries into the country on March 16, 1984 and August 28, 1986. Furthermore, a review of the electronic record confirms that the Arrival/Departure Number listed on the Form I-94 relates to the entries made by the applicant into this country on March 16, 1984 and August 28, 1986. In addition, the electronic record shows that after the applicant entered the United States on March 16, 1984, he subsequently departed the country on April 6, 1984 for an unknown destination and indeterminable length of time. It must be noted that the applicant also failed to include his absence from the country beginning April 6, 1984 among his absences on the Form I-687 application. The applicant has not provided any explanation as to why these additional absences from the United States were omitted from the listing of absences at part #35 of the Form I-687 application.

In response to the subsequent notice of intent to deny issued on May 1, 2003, the applicant submitted a statement in which he declared that he did not possess additional evidence to support his claim of residence in the United States because he had been provided with room, board, and work as a member of the Unification Church. The applicant also submitted the following new affidavits:

- An affidavit that is signed by and contains the telephone number and letterhead of Sushi Ichiban in Omaha, Nebraska. stated that he met the applicant when he was a

trainee at the in New York, New York in approximately September 1986. declared that the applicant worked for only a few days at this establishment before being assigned to a different location. indicated that he has subsequently continued to maintain contact with the applicant; and,

- An affidavit signed by who provided his address and indicated that he had personal knowledge that the applicant resided in the United States since August 1986 because he and the applicant worked together at in New York, New York for two weeks in August 1986 and they continued to maintain contact since.

The testimony provided by both dicates that the applicant worked two different jobs in New York, New York, in August and September of 1986. While the applicant indicated that his only employer was the Unification Church in the period from 1981 through at least May 4, 1988 at part #36 of the Form I-687 application, it is conceivable that the work referred to by is not listed on the application because it could have been provided to the applicant by the Unification Church. However, if the testimony contained in these individual's respective affidavits is considered to be accurate, then it can be inferred that the applicant was living in New York, New York while he worked the two jobs noted above in August and September of 1986. However, as discussed previously, the applicant listed his residences as from 1981 to 1986 and 415 S. from October 1986 to August 1988. The testimony provided by and seemingly conflicts with the applicant's listing of his residences on the Form I-687 application.

The statements on appeal by counsel regarding the specificity and sufficiency of the district director's denial have been considered. However, pursuant to 8 C.F.R. § 245a.12(e), the burden remains with the applicant 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. In this current matter, the applicant has submitted documents in support of his claim of residence that contain testimony that directly contradicts and conflicts with information the applicant provided on the Form I-687 application relating to his residences in the United States. Furthermore, the applicant failed to include at least three separate and additional absences from this country when he provided a listing of his absences at part #35 of the Form I-687. No information has been provided by the applicant regarding the duration and purpose of these unreported absences. No explanation has been provided as to why these absences were omitted from the Form I-687 application. These factors raise serious questions regarding the authenticity and credibility of the applicant's claim of residence in this country, as well as any documents submitted to support this claim. Given these circumstances, it is concluded that documents provided by the applicant are of questionable probative value.

The applicant has submitted minimal contemporaneous documentation to establish presence in the U.S. from the time he claimed to have commenced residing in the United States. In light of the fact that the applicant claims to have continuously resided in the United States since at least 1981, this inability to produce more than an absolute minimum of contemporaneous documentation to support his claim of residence raises serious questions regarding the credibility of the claim. The credibility of the applicant's claim of residence is further diminished by the discrepancies, contradictions, and omissions cited above.

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 application. 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 (BIA 1988).

Given the minimal amount of contemporaneous documentation pertaining to this applicant, the failure of the applicant to provide required information relating to his absences from this country, direct contradictions and conflicts in testimony, and reliance upon supporting documentation with minimal probative value, 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.

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