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: Portland Date: OCT 27 2004

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: Self-represented

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

identifying data deleted to prevent unwarranted invasion of personal privacy

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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, Portland, Oregon, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The district director determined that the applicant had submitted two fraudulent employment letters with his 1990 submission of his Form I-687 Application for Status as a Temporary Resident under section 245A of the Immigration and Nationality Act (INA). The district director also determined that the applicant had not demonstrated that he had entered the United States prior to January 1, 1982.

On appeal, the applicant addressed the two letters cited by the district director in his order and stated:

> The conclusion of the investigative officer was based on prediction and not facts as stated in their report. The conclusion was based on guess and assumptions made on the information received and not concrete facts.
>
> The work Fraudulent means: fake, deceitful or faithless. The documents submitted have not been altered or reproduced by me but were given to me as job references. I do not have nor have had any criminal conviction. The statement falsely accuses me of transgression and disposition, which is not TRUE. The facts stated by me are true and not an excuse for action after the fact. I was not given any chance to explain my situation before nor was questioned to give any clarification prior to your letter dated May 3rd 2003.
>
> The finding on Oriental Rugs was based on one phone call made to a third person; the Mall Manager who did not have full information or facts. But did verify the owner's name as [redacted] the same name as signed on my job reference letter. The owner was not contact [sic] for true verification. This does not prove that I mislead or falsified any documentation or information. The conclusion is based purely on third party information. I have provided full information on this in the above facts.
>
> The finding on Saif Enterprises was based on information provided by the Controller's office for the State of Texas. Stating the company went out of business on December 31, 1984. This information was based on the company's dissolution and not verification of my employment from the employers. I have provided full information on this in the above facts.

The applicant addressed the district director's finding concerning the issue of failing to establish that he entered the United States prior to January 1, 1982 as follows:

> ... I did provide supporting evidence of three post marked envelopes addressed to me [redacted] in 1984, 1987, & 1989 ... and a receipt of [redacted] donation I made in August 1988. ... as well as affidavits as evidence/proof of my residency in US [sic] since May of 1981 to June of 1987 and have been residing continuously in US [sic] in an unlawful status since July 1987 to-date. All of which [sic] are not being accounted for or considered as evidences [sic] by the service.

The applicant also explained that:

> I, have been at a disadvantage, as I did not store all the records from the last twenty-two years. I was young and careless; I did not realize then that it is very important and pertinent to keep track of all my documentation. During moving from job to job and living with friends, I have misplaced or lost most of my documentation, but have a few post marked letters addressed to me that show that I resided here in US and affidavits – support of residency from various people who are respectable community members and citizens of USA. These affidavits are true and credible as the information provided affirms that I have been residing in USA since 1981 and this should be considered as evidence of my residency in United States as per INS's memorandum.

The applicant also states he has established that he had been and is an honest and law abiding person and that he has no violations or criminal record. The applicant asserts that he has the ability to take care of his family and live in the community as a respectable person. The applicant asserted that he entered the United States in May 1981 and remained in this country until June 1987 and that he has been residing continuously in the United States from July 1987 to date.

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. *See* 8 C.F.R. § 245a.12(e).

The first employment letter that the applicant submitted with his 1990 submission of his Form I-687 Application for Status as a Temporary Resident under section 245A of the INA was from a company named the Oriental Rugs Gallery. In his letter dated July 27, 1990 addressed to "TO WHOM IT MAY CONCERN," certified that: " was employed with us from January 10, 1989 thru July 20, 1990 and has received compensation in the amount of $9,000.00, a percentage of the revenue received from his sales referrals." On his temporary resident application signed by the applicant on October 3, 1990, the address for this employer was listed as Houston, Texas. The district director found this letter to be fraudulent because the Oriental Rugs Gallery was not in business at in Houston, Texas from January 10, 1989 thru July 20, 1990. The applicant faults the investigator's methods of obtaining information but does not provide evidence to substantiate the contents of the employment letter. It is determined the applicant has not adequately addressed and overcome the district director's finding concerning this letter.

The second employment letter that the applicant submitted with his 1990 submission of his Form I-687 Application for Status as a Temporary Resident was from a company named Saif Enterprises Inc. with its address given as Houston, Texas 77036. In his letter dated June 15, 1990, the "Manager-Automotive Division" stated: "It is confirmed that was employed with us in our Auto Parts shop as a salesman from July 1985 till December 1988." The district director found this letter to be fraudulent because the corporation went out of business on December 31, 1984 and that they lost their charter with the State of Texas on December 2, 1985. To overcome this finding the applicant stated: "This

information was based on the company's dissolution and not verification of my employment from the employers. I have provided full information on this in the above facts." It is determined the applicant has not adequately addressed and overcome the district director's finding concerning this second letter.

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).

An applicant for permanent resident status must establish entry into the United States before January 1, 1982. *See* 8 C.F.R. § 245a.11(b).

The record contains an affidavit by the applicant dated October 12, 1990 in which he stated:

> The first time I entered the United States was on May 1, 1981 through Buffalo, New York. I had arrived in Canada in late April, 1981. I had stayed at the Ramada Inn in Toronto, Canada for about a week and was asking an Asian man there if he knew anyone who could bring me to the United States. I had a tourist visa to enter Canada but I had no visa or other document to enter the United States. The man found a friend of his who found a man, a Canadian whose name I do not know [sic] brought me in for $300.00 (Canadian money). Three of us crossed together. The Canadian drove the car. He got out of the car and spoke to an American officer at the Port of entry there at Buffalo. Then he got back in the car and drove us through. The Inspector did not ask me any questions. After that I did not leave the United States until June, 1987.

As stated above, the inference to be drawn from the documentation provided shall depend on the *extent* of the documentation. The extremely minimal evidence furnished cannot be considered extensive, and in such cases a negative inference regarding the claim may be made as stated in the regulations at 8 C.F.R. § 245a.2(12)(e).

In *Matter of E-- M--, supra*, the applicant had established eligibility by submitting (1) the original copy of his Arrival-Departure Record (Form I-94), dated August 27, 1981; (2) his passport; (3) affidavits from third party individuals; and (4) an affidavit explaining why additional original documentation is unavailable. Unlike the Matter of E-M-, the present applicant has only been able to submit affidavits from third party individuals. Furthermore, the officer who interviewed that applicant recommended approval of the application, albeit, with reservations and suspicion of fraud. In the present case, however, the officers interviewing the applicant's eligibility recommended denial of the application.

Given the absence of any convincing documentation establishing his entry into the United States before January 1, 1982, along with the applicant's presentation of specious employment documentation, it is concluded that he has failed to establish timely entry and continuous residence in the U.S. for the required period.

Accordingly, the applicant is ineligible for permanent resident status under section 1104 of the LIFE Act.

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