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[REDACTED]

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



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

L2

FILE:

Office: LOS ANGELES

Date: **DEC 28 2005**

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. Any further inquiry must be made to that office.

A handwritten signature in black ink that appears to read "Robert P. Wiemann".

Robert P. Wiemann, Director
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 on appeal. The appeal will be sustained.

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 from before January 1, 1982 through May 4, 1988.

On appeal, the applicant asserts that he has submitted sufficient documentation establishing continuous residence in the United States from prior to January 1, 1982 through May 4, 1988. The applicant provides copies of previously submitted documents in support of the appeal.

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).*

It is noted that contrary to the director's decision, the applicant did submit a timely response to the Notice of Intent to Deny issued on June 28, 2004. As such, the documentation along with the evidence initially submitted with his LIFE application will be considered on appeal.

In an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, the applicant provided the following evidence:

- A letter dated March 22, 1991 from [REDACTED] owner of Finish-Touch in Santa Ana, California who indicated that the applicant has been in his employ since December 17, 1981 as a wood stainer, finisher and painter.
- An affidavit notarized December 12, 1990 from [REDACTED] who indicated that she has known the applicant since May 1980.
- A California identification card issued on February 2, 1987.

- A letter dated December 12, 1990 from [REDACTED] personnel of Sundor Brands, Inc. in Anaheim, California who indicated that the applicant was employed, in a temporary capacity, from November 1981 to March 1982.
- An additional letter dated April 12, 1991 from [REDACTED] of Sundor Brands, Inc. who indicated that the applicant has been in its employ since March 16, 1987.
- A letter from Reverend [REDACTED] pastor of Saint Boniface Catholic Church in Anaheim, California who indicated that the applicant has been a member of his church since November 1981.
- An affidavit from [REDACTED] who indicated she met the applicant in 1982 and attested to the applicant's residence subsequent to the requisite period.
- A letter dated May 22, 2003 from [REDACTED] legal assistant who indicated that according to the social security number provided by the applicant, [REDACTED] Manufacturing Company in Anaheim, California employed the applicant for six months in 1984.

The affidavit from [REDACTED] has no evidentiary weight or probative value as it contradicts the applicant's claim to have first entered the United States in November 1981.

In response to the Notice of Intent to Deny, the applicant copies of documents initially submitted along with the following:

- Affidavits from [REDACTED] and [REDACTED] who attested to the applicant's residence in Anaheim since December 1981. The affiants asserted that they first met the applicant at the local church and have remained in contact with him since that time.
- A letter dated May 28, 2003 from [REDACTED] controller of Moeller Mfg. & Supply Inc. in Anaheim, California who indicated that the applicant was employed from July 1984 to August 1985.

The director, in her Notice of Intent to Deny indicated that the affidavits submitted by the applicant "are vague and lack corroborating evidence," and the employment letters did not meet the requirements set forth in 8 C.F.R. § 245a.2(d)(3).

The applicant provided affidavits from individuals, all whom provide their addresses and telephone numbers and indicate a willingness to testify in this matter. The district director has not established that the information in these affidavits was inconsistent with the claims made on the application, or that such information was false. In addition, the fact that the employment letters do not provide any specific information regarding the applicant's residence during the requisite period does not mean such documents are to be disregarded, rather such documents must be considered in conjunction with the other supporting evidence, as well as the testimony of the applicant himself.

The applicant submitted evidence, including contemporaneous documents, which tends to corroborate his claim of residence in the United States during the requisite period. As stated on *Matter of E--M--*, *supra*, when something is to be established by a preponderance of evidence, the applicant only has to establish that the proof is probably true. That decision also points out that, under the preponderance of evidence standard, an application may be granted even though some doubt remains regarding the evidence. The documents that have been furnished may be accorded substantial evidentiary weight and are sufficient to meet the applicant's burden of proof of residence in the United States for the requisite period.

The documentation provided by the applicant supports by a preponderance of the evidence that the applicant satisfies the statutory and regulatory criteria of entry into the United States before January 1, 1982, as well as continuous unlawful residence in the country during the ensuing time frame of January 1, 1982 through May 4, 1988, as required for eligibility for legalization under section 1104(c)(2)(B)(i) of the LIFE Act.

Accordingly, the applicant's appeal will be sustained. The district director shall continue the adjudication of the application for permanent resident status.

ORDER: The appeal is sustained.