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U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: LOS ANGELES Date: MAY 30 2008

MSC-06-101-20376

IN RE: Applicant: [redacted]

APPLICATION: Application for Status as a Temporary Resident pursuant to Section 245A of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1255a

ON BEHALF OF APPLICANT:

[redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for temporary resident status pursuant to the terms of the settlement agreements reached in *Catholic Social Services, Inc., et al., v. Ridge, et al.,* CIV. NO. S-86-1343-LKK (E.D. Cal) January 23, 2004, and *Felicity Mary Newman, et al., v. United States Immigration and Citizenship Services, et al.,* CIV. NO. 87-4757-WDK (C.D. Cal) February 17, 2004 (CSS/Newman Settlement Agreements), was denied by the District Director, Los Angeles. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant submitted a Form I-687, Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act (Act), and a Form I-687 Supplement, CSS/Newman Class Membership Worksheet, on January 9, 2006 (together, the I-687 Application). The director determined that the applicant had not established by a preponderance of the evidence that he had continuously resided in the United States in an unlawful status for the duration of the requisite period, specifically noting that information in the record of proceeding conflicted with the applicant's claim that he entered the United States in 1981. The director denied the application as the applicant had not met his burden of proof and was, therefore, not eligible to adjust to temporary resident status pursuant to the terms of the CSS/Newman Settlement Agreements.

On appeal, the applicant submitted a Form I-694 Notice of Appeal of Decision Under Section 210 or 245A and a statement. On appeal, the applicant stated that he was not aware that the application and forms were not completed in accordance to his statements. The applicant states that he has included a letter that "may not point out [prior counsel's] incompetence but does show that she completed [his] application and forms without regard" to the statements that he made to her. In addition, the applicant submitted a letter from current counsel regarding prior counsel's inability to represent clients and an affidavit from Ada A. Compos. As of this date, the AAO has not received any additional evidence from the applicant. Therefore, the record is complete.

An applicant for temporary 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 the date the application is filed. Section 245A(a)(2) of the Act, 8 U.S.C. § 1255a(a)(2). The applicant must also establish that he or she has been continuously physically present in the United States since November 6, 1986. Section 245A(a)(3) of the Act, 8 U.S.C. § 1255a(a)(3). The regulations clarify that the applicant must have been physically present in the United States from November 6, 1986 until the date of filing the application. 8 C.F.R. § 245a.2(b)(1).

For purposes of establishing residence and physical presence under the CSS/Newman Settlement Agreements, the term "until the date of filing" in 8 C.F.R. § 245a.2(b)(1) means until the date the applicant attempted to file a completed Form I-687 application and fee or was caused not to timely file during the original legalization application period of May 5, 1987 to May 4, 1988. CSS Settlement Agreement paragraph 11 at page 6; Newman Settlement Agreement paragraph 11 at page 10.

The applicant has the burden of proving 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 under the provisions of section 245A of the Act, and is otherwise eligible for adjustment of status. 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.2(d)(5).

Although the regulation at 8 C.F.R. § 245a.2(d)(3) provides an illustrative list of contemporaneous documents that an applicant may submit in support of his or her claim of continuous residence in the United States in an unlawful status since prior to January 1, 1982, the submission of any other relevant document is permitted pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L). *To meet his or her burden of proof, an applicant must provide evidence of* eligibility apart from the applicant's own testimony. 8 C.F.R. § 245a.2(d)(6).

The "preponderance of the evidence" standard requires that the evidence demonstrate that the applicant's claim is "probably true," where the determination of "truth" is made based on the factual circumstances of each individual case. *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm. 1989). In evaluating the evidence, *Matter of E-M-* also stated that "[t]ruth is to be determined not by the quantity of evidence alone but by its quality." *Id.* Thus, in adjudicating the application pursuant to the preponderance of the evidence standard, the director must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true. *See* 8 C.F.R. § 245a.2(d)(6). The weight to be given any affidavit depends on the totality of the circumstances, and a number of factors must be considered. More weight will be given to an affidavit in which the affiant indicates personal knowledge of the applicant's whereabouts during the time period in question rather than a fill-in-the-blank affidavit that provides generic information. Although not required, the credibility of an affidavit may be assessed by taking into account such factors as whether the affiant provided some proof that he or she was present in the United States during the requisite period. The regulations provide specific guidance on the sufficiency of documentation when proving residence through evidence of past employment or attestations by churches or other organizations. 8 C.F.R. §§ 245a.2(d)(3)(i) and (v).

Even if the director has some doubt as to the truth, if the applicant submits relevant, probative, and credible evidence that leads the director to believe that the claim is "probably true" or "more likely than not," the applicant or petitioner has satisfied the standard of proof. See *U.S. v. Cardozo-Fonseca*, 480 U.S. 421 (1987) (defining "more likely than not" as a greater than 50 percent probability of something occurring). If the director can articulate a material doubt, it is appropriate for the director to either request additional evidence or, if that doubt leads the director to believe that the claim is probably not true, deny the application or petition.

The issue in this proceeding is whether the applicant has furnished sufficient credible evidence to demonstrate that he entered before 1982 and resided in the United States for the requisite period.

The record shows that the applicant submitted a Form I-687 application and Supplement to Citizenship and Immigration Services (CIS) on January 9, 2006. At part #30 of the Form I-687 application where applicants are asked to list all residences in the United States since first entry, the applicant listed his first address in the United States as [redacted] Santa Ana, California, from 1982 to 1984. At part #33, he listed his first employment in the United States as a maintenance worker for [redacted]'s Building from 1982 to 1985. At part #32, the applicant did not listed one absence from the United States as "residence" in Mexico from June 1965 to 1982.

The applicant has provided four affidavits; employment letters from [redacted]s Building Maintenance, Inc. and from SE-GI Products, Inc.; a copy of the applicant's birth certificate; copies of the applicant's California driver's licenses issued on various dates;[1] a copy of the applicant's California identification card issued on October 1985; copies of the applicant's employment authorization documents issued on various dates; copies of the applicant's pay stubs; copies of the applicant's Internal Revenue Service (IRS) Form W-2 and Form 1040 for various years; copies of bank statements addressed to the applicant; copies of post-stamped envelopes addressed to the applicant and from the applicant to an individual in Mexico; letter and receipts from dentists; an adult education card for the applicant; a copy of a money order; copies of receipts; copies of documents from the California Department of Motor Vehicles; copies of utilities bills; the applicant's children's birth certificate; the applicant's marriage certificate; a certificate of attendance from the Garden Grove Unified School District; and his own testimony in the form of statements and prior applications. The applicant's birth certificate, California identification card, California driver's license, and employment authorization card are evidence of the applicant's identity, but do not demonstrate that he entered before January 1, 1982 and resided in the United States for the requisite period. The record includes the pending I-687 Application as well as a prior Form I-687, dated October 27, 1993, which was submitted in support of the applicant's class member application in a legalization class-action lawsuit.

Some of the evidence submitted is illegible or indicates that the applicant resided in the United States after the relevant time period. The following evidence relates to the requisite period:

> A notarized affidavit from [redacted] dated September 28, 2004. The declarant states that she lives in Riverside, California and that she personally knows the applicant. She states that she has personal knowledge that the applicant lived in Santa Ana, California from December 1981 to September 2004. The declarant also states that she knows the applicant because she was a "cashier at [redacted]'s Rexall Durgstore in Santa Ana, California and [the applicant] was a regular customer there." Although the declarant states that she has known the applicant since 1981, the statement does not supply enough details to lend credibility to a 23-year relationship with the applicant. The declarant does not indicate under what circumstances she met the applicant in 1981, how she dates her initial acquaintance with the applicant, or how frequently she had contact with the

[1] The AAO notes the applicant's California Driver's License issued on August 12, 2004 includes an address for the applicant that is not listed on the applicant's Form I-687.

applicant. In addition, the AAO notes that declarant's statement regarding the applicant's residence in Santa Ana, California is contrary to what the applicant listed on the Form I-687. The Form I-687 provides an address for the applicant in Santa Ana, California from 1982 to 1984 and from 1993 to 1994. Doubt cast on any aspect of the petitioner's proof may, of course, 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 petitioner 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). Given these deficiencies, this affidavit has minimal probative value in supporting the applicant's claims that he entered the United States in 1981 and resided in the United States for the entire requisite period.

- A notarized affidavit from dated May 28, 1992. The declarant states that he lives in Corona, California and that he personally knows the applicant. He states that he has personal knowledge that the applicant lived in Garden Grove, California from January 1982 to May 1992. The declarant also states that he "first met [the applicant's] brother through [the declarant's] work." The declarant adds that he and the applicant "have remained good friends" and that they are now working "at the same place in Norco, California. Although the declarant states that she has known the applicant since 1982, the statement does not supply enough details to lend credibility to a 10-year relationship with the applicant. The declarant does not indicate under what circumstances he met the applicant in 1982, how he dates his initial acquaintance with the applicant, or how frequently he had contact with the applicant. In addition, the AAO notes that declarant's statement regarding the applicant's residence in Garden Grove, California is contrary to what the applicant listed on the Form I-687. The Form I-687 provides an address for the applicant in Garden Grove, California from 1984 to 1993 and from 1994 to 1996. Doubt cast on any aspect of the petitioner's proof may, of course, 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 petitioner 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). Given these deficiencies, this affidavit has minimal probative value in supporting the applicant's claims that he entered the United States in 1981 and resided in the United States for the entire requisite period.

- A notarized affidavit from [redacted] dated May 28, 1992. The declarant states that he lives in Fullerton, California and that he personally knows the applicant. He states that he has personal knowledge that the applicant lived in Garden Grove, California from January 1983 to the present. The declarant also states that he met the applicant because they were neighbors. Although the declarant states that she has known the applicant since 1983, the statement does not supply enough details to lend credibility

to a 9-year relationship with the applicant. The declarant does not indicate under what circumstances he met the applicant in 1983, how he dates his initial acquaintance with the applicant, or how frequently he had contact with the applicant. In addition, the AAO notes that declarant's statement regarding the applicant's residence in Garden Grove, California is contrary to what the applicant listed on the Form I-687. The Form I-687 provides an address for the applicant in Garden Grove, California from 1984 to 1993 and from 1994 to 1996. Doubt cast on any aspect of the petitioner's proof may, of course, 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 petitioner 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). Given these deficiencies, this affidavit has minimal probative value in supporting the applicant's claims that he entered the United States in 1981 and resided in the United States for the entire requisite period.

- A notarized affidavit from [redacted] dated May 29, 1992. The declarant states that he lives in Garden Grove, California and that he personally knows the applicant. He states that the applicant left the United States of American on June 5, 1987" and returned on June 27, 1987. The declarant states that he can verify this trip because he and the applicant "are neighbors." The declarant also adds that the applicant brought him cheese and nuts from Chihuahua, Mexico. Although the declarant states that he and the applicant are neighbors, he does not clarify whether he and the applicant were neighbors in 1987 and the declarant does not explain how he dates the applicant's trip to Mexico. In addition, the AAO notes that declarant's statement regarding the applicant's residence in [redacted], Garden Grove, California is contrary to what the applicant listed on the Form I-687. The Form I-687 provides an address for the applicant at [redacted] Garden Grove, California from 1990 to 1991. Doubt cast on any aspect of the petitioner's proof may, of course, 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 petitioner 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). Given these deficiencies, this affidavit has no probative value in supporting the applicant's claims that he entered the United States in 1981 and resided in the United States for the entire requisite period.

- A letter dated April 27, 1992 from [redacted], which is printed on the company letterhead and signed by [redacted] Mr. [redacted] states that the applicant was employed by [redacted]. from November 1981 to December 1983. The applicant was rehired in July 1988 and worked until May 1991. The applicant also provided other letters from A letter on [redacted]s Building Maintenance, Inc. letterhead dated April 24, 1992 and signed by [redacted] in which

[redacted] states essentially the same information as in his letter dated April 27, 1992. A letter on Academy Building Maintenance dated January 5, 1999 and signed by [redacted] owner, states that the applicant worked for [redacted] from June 1984 to August 1985 and from July 1988 to September 1991. A letter on Academy Building Maintenance dated October 1, 2004 and signed by [redacted], owner, states that the applicant worked full-time for [redacted] from November 1981 to February 1984, from June 1984 to August 1985, and from July 1988 to September 1991. Finally, a letter on Academy Building Maintenance dated November 11, 2004 and signed by [redacted] owner, states that the applicant worked for [redacted] from November 1981 to February 1984 at [redacted]s Building Maintenance. [redacted] explains that this company "was dissolved in 1984 and all company records were destroyed. It was then [that [redacted] started Academy Building Maintenance." [redacted] states that the applicant worked for him from June 1984 to August 1985, and from July 1988 to September 1991. Although the statements are on company letterhead, they are not notarized. They also fails to meet certain regulatory standards set forth at 8 C.F.R. § 245a.2(d)(3)(i), which provide that letters from employers must include the applicant's address at the time of employment; exact period of employment; whether the information was taken from official company records and where records are located and whether CIS may have access to the records; if records are unavailable, an affidavit form-letter stating that the employment records are unavailable may be accepted which shall be signed, attested to by the employer under penalty of perjury and shall state the employer's willingness to come forward and give testimony if requested. Furthermore, the information in letter dated January 5, 1999 is not consistent with the other letters signed by [redacted] and the letters are inconsistent with information that the applicant included in the Form I-687. The Form I-687 states that the applicant worked for [redacted]s Building Maintenance, Inc. from 1982 to 1985 and from 1988 to 1991. The AAO notes that the applicant did not list Academy Building Maintenance as an employer on the Form I-687. Doubt cast on any aspect of the petitioner's proof may, of course, 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 petitioner 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). The statements from [redacted] do not include much of the required information and can only be accorded minimal weight as evidence of the applicant's residence in the United States for the duration of the requisite period.

- A letter on SE-GI Products, Inc. letterhead dated November 17, 1998 and signed by [redacted], operations manager. Mr. [redacted] states that the applicant was employed by SE-GI Products, Inc. from January 1986 to August 1988. Mr. [redacted] also adds that the applicant returned to work for the company on June 18, 1991. The applicant also provided a letter dated April 10, 2006 from SE-GI Products, Inc., which is printed on the company letterhead and signed by [redacted], president. Mr. [redacted] states that the applicant worked for SE-GI Products, Inc. from 1984 to 1988. The applicant returned

to work for the company on June 18, 1991 and has "worked continuously [for SE-GE Products, Inc.] since that time." Although the statements are on company letterhead, they are not notarized. They also fails to meet certain regulatory standards set forth at 8 C.F.R. § 245a.2(d)(3)(i), which provide that letters from employers must include the applicant's address at the time of employment; exact period of employment; whether the information was taken from official company records and where records are located and whether CIS may have access to the records; if records are unavailable, an affidavit form-letter stating that the employment records are unavailable may be accepted which shall be signed, attested to by the employer under penalty of perjury and shall state the employer's willingness to come forward and give testimony if requested. Furthermore, the information in letters provided by SE-GI Products, Inc. present conflicting information and are inconsistent with information that the applicant included in the Form I-687. The Form I-687 states that the applicant worked for SE-GI Products, Inc. from 1985 to 1988. Doubt cast on any aspect of the petitioner's proof may, of course, 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 petitioner 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). The statements from SE-GI Products, Inc. do not include much of the required information and can only be accorded minimal weight as evidence of the applicant's residence in the United States for the duration of the requisite period.

- A copy of a money order dated December 17, 1983. The name listed for the purchaser is not legible but the applicant's first name is somewhat legible. The address listed for the purchaser is not legible. The AAO is not able to determine that this document applies to the applicant. Therefore, this document has minimal weight as evidence of residence.

- A copy of a receipt from Auto Repair dated February 15, 1982 which includes the applicant's name and an address listed in the Form I-687; a copy of a receipt from [redacted] Auto Parts dated November 15, 1986; a copy of a receipt from [redacted] dated August 29, 1987; and an invoice from Motor Parts Depot stamped "paid" with the date September 12, 1988 and signed by the applicant. Although receipts and invoices for services and purchases may indicate presence in the United States on the date issued, they can only be accorded minimal weight as evidence of residence.

- A copy and an original "Adult Education Registration and Fees Card" dated March 20, 1986 and September 8, 1986. The first card includes a completion date of June 10, 1986. The second card has some writing that is not legible and therefore, the AAO is not able to determine if the applicant completed the second course.

  A copy of a car registration document addressed to the applicant and dated December 14, 1987. This document has minimal weight as evidence of residence.

- A "Certificate of Attendance" from the Garden Grove Adult School presented to the applicant on February 4, 1988. Although the certificate is for attendance, it does not state when the applicant attended courses and therefore, can only be accorded minimal weight as evidence of residence.

- A copy of a "Doctor's First Report of Occupational Injury or Illness" dated May 17, 1988 and signed by [redacted]. The applicant's name and employer are listed on the form. Although this report indicates presence in the United States on the date listed, it can only be accorded minimal weight as evidence of residence.

- Copies of postmarked envelopes dated 1986 and 1988. The first envelope is addressed to [redacted] at an address is Mexico and lists the applicant's name and address in the top left-hand corner. The second envelope is addressed to the applicant at an address in Garden Grove, California. Although both envelopes include addresses for the applicant that are listed in the Form I-687, the envelopes have minimal weight as evidence of residence.

- A copy of the applicant's California identification card dated October 22, 1985; a copy of the applicant's California driver's license dated November 18, 1985; the applicant's temporary California driver's license issued for 60 days on August 29, 1986. These documents are evidence of the applicant's residence in the United States beginning in October 1985. However, these documents are not probative of residence before that date.

- Copies of the applicant's IRS Form W-2 and federal and California state income tax documents for 1986; copies of the applicant's IRS Form W-2, Form 1099G and federal and income tax documents for 1987; and a copy of the applicant's IRS Form W-2 for 1988. These documents are evidence of the applicant's residence in the United States in 1986, 1987, and 1988.

- Copies of the applicant's the applicant's pay stubs during 1987 and 1988 from SE-GI Products, Inc. These documents support the applicant's claim that he resided in California in 1987 and 1988.

The remaining evidence in the record is comprised of the applicant's statements and application forms, in which he claims to have entered the United States without inspection, through Tijuana, Mexico in 1981. The record of proceeding contains no evidence of the applicant's entry into the United States other than on March 10, 2001 and June 13, 2004 with a visitor's visa. The applicant has not submitted any additional evidence in support of his claim that he was physically present or had continuous residence in the United States during the entire requisite period or that he entered the United States in 1981. Simply going on record without supporting documentary evidence is not sufficient for the purpose of meeting the burden of proof in these proceedings. *Matter of Soffici,* 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure*

Craft of California, 14 I&N Dec. 190 (Reg. Comm. 1972)). As noted above, to meet his burden of proof, the applicant must provide evidence of eligibility apart from his own testimony. In this case, his assertions regarding his entry are not supported by any credible evidence in the record.

The director issued a notice of intent to deny (NOID) on March 29, 2006. The director denied the application for temporary residence on July 19, 2006. In denying the application, the director found that the applicant failed to establish that he entered the United States prior to January 1, 1982 or that he met the necessary residency or continuous physical presence requirements. In addition, the director noted that information in the record of proceeding conflicted with the applicant's claim that he entered the United States in 1981. Specifically, the director indicated that the information provided by the applicant in two different Forms G-325 Biographic Information conflicted with each other and with his claim to have entered the United States in 1981.[2] The first Form G-325 stated that the applicant lived in Mexico until 1982 and the second Form G-325 stated that he lived in Mexico until December 1984. Finally, the director stated that in Form EOIR 42B Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents the applicant stated that he entered the United States in December 1984. Thus, the director determined that the applicant failed to meet his burden of proof by a preponderance of the evidence.

On appeal, the applicant stated that he was not aware that the application and forms were not completed in accordance to his statements. The applicant states that he has included a letter that "may not point out [prior counsel's] incompetence but does show that she completed [his] application and forms without regard" to the statements that he made to her. In addition, the applicant submitted a letter from current counsel regarding prior counsel's inability to represent clients. The AAO notes that [redacted] submitted a Form G-28, Notice of Entry of Appearance as Attorney or Representative on behalf of the applicant on March 18, 2002. Although in his letter, counsel states that [redacted] is not able to represent clients as an attorney, counsel does not provide evidence in support of his statements regarding Ms. Friend. The assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). Simply going on record without supporting documentary evidence is not sufficient for the purpose of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). Furthermore, there is no remedy available for an applicant who assumes the risk of authorizing an unlicensed attorney or unaccredited representative to undertake representations on his behalf. *See* 8 C.F.R. § 292.1. The AAO only considers complaints based upon ineffective assistance against accredited representatives. *Cf. Matter of Lozada*, 19 I&N Dec. 637 (BIA 1988), *aff'd*, 857 F.2d 10 (1st Cir. 1988)(requiring an appellant to meet certain criteria when filing an appeal based on ineffective assistance of counsel).

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[2] In addition, the AAO notes that some of the dates provided for employment and addresses on the Forms G-325 are inconsistent with the information that the applicant provided in the Form I-687.

In this case, the absence of sufficient credible and probative documentation to corroborate the applicant's claim of continuous residence for the requisite period seriously detracts from the credibility of his claim. Pursuant to 8 C.F.R. § 245a.2(d)(5), the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. Given the lack of credible supporting documentation, it is concluded that the applicant has failed to establish by a preponderance of the evidence that he has continuously resided in an unlawful status in the United States for the requisite period, as required under both 8 C.F.R. § 245a.2(d)(5) and *Matter of E- M--, supra.* The applicant is, therefore, ineligible for temporary resident status under section 245A of the Act on this basis.

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