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**U.S. Citizenship
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FILE: [REDACTED]
MSC 02 022 64383

Office: LOS ANGELES

Date: JUN 22 2006

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, appearing to read "R. Wiemann".

Robert P. Wiemann, Chief
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 dismissed.

The district director concluded that the applicant's documentation submitted was at variance with the information initially provided on his Form I-687 application, thereby casting credibility issues on his claim to have continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988. As such, the director denied the application..

On appeal, the applicant asserts that a misunderstanding had occurred at the time of his interview between he and the interviewing officer. The applicant requests "another opportunity to re-translated [sic] my case." The applicant claims that he has resided in the United States for many years and has a family to support.

It is noted that the director, in denying the application, did not address the evidence furnished in response to the Notice of Intent to Deny, and did not set forth the specific reasons for the denial pursuant to 8 C.F.R. § 103.3(a)(1)(i). As such, the documentation submitted throughout the application process will be considered on 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. See section 1104(c)(2)(B) and 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).

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.

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 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.

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).

Here, the submitted evidence is not relevant, probative, and credible. In an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, the applicant provided the following evidence:

- Several envelopes addressed to the applicant at [REDACTED] Compton, California with indecipherable postmarks.
- Rent receipts dated December 1, 1981 and April 1, 1982 in the applicant's name for property at [REDACTED] Los Angeles, California.
- Rent receipts dated January 1, 1983 and November 1, 1984 in the applicant's name for property at [REDACTED] Maywood, California.
- A rent receipt dated September 1, 1985 in the applicant's name for property at [REDACTED] Los Angeles, California.
- A letter dated April 10, 1991 from [REDACTED] president of Collars n' Cuffs Inc., in Los Angeles, California, who indicated that the applicant has been employed since 1981 "part-time throughout the year, during the months of June through October he will be employed full time."
- An affidavit notarized May 18, 1991 from [REDACTED] of Valinda, California, who attested to the applicant's residence in Los Angeles, California since 1981.
- Affidavits notarized September 29, 2001 from [REDACTED] of Fontana, California, and [REDACTED] of Long Beach, California who attested to the applicant's residences in Los Angeles from February 1982 to October 1984 and in Maywood from October 1984 to July 1997. [REDACTED] asserted that the applicant resided with him and his mother for a while in Los Angeles. [REDACTED] asserted, "when he came to the USA, he came and stayed with us (my sons and I).

An affidavit notarized October 5, 2001 from [REDACTED] of Los Angeles, California, who indicated that she has known the applicant since 1982 and attested to the applicant's residence and presence in the United States since February 1982.

On his Form I-687 application, the applicant listed his employment as a janitor from December 1981 to January 1991 at [REDACTED], Los Angeles and his absence from the United States from May 9, 1987 to May 25, 1987. He also listed his residences in the United States during the requisite period as follows:

November 1981 to July 1984 resided at [REDACTED]
July 1984 to September 1987 resided at [REDACTED]
September 1987 to November 1990 resided at [REDACTED]

According to the interviewing officer's notes, at the time of the applicant's LIFE interview, the applicant indicated that his upon his 1981 entry, he resided in South Gate for three years with [REDACTED]; in 1984 he resided with [REDACTED]'s brother for two years in Huntington Park; in 1986 he resided at a friend's home in Los Angeles; and in 1987 he resided in South Gate until 1990. The applicant could not recall the names of the streets where he claimed to have resided during the requisite period. The applicant indicated that he worked as a

mechanic for individual named [REDACTED] in Long Beach, and for [REDACTED] for three or 4 years installing carpet. The applicant also indicated that in 1987 he departed the United States for two months and two weeks.

In a Notice of Intent to Deny dated September 13, 2004, the director advised the applicant of these inconsistencies between his Form I-687 application and his oral testimony.

The director, in her Notice of Intent to Deny, noted, "with your single exit and your wife's one entrance/exit in 1984 (as established in the interview), it is impossible for you to have had a child together in 1986. However, a review of the interviewing officer's notes, specifically "she came in 1984 and left, then she came back 1990" does not indicate the *actual* date in which the wife departed the United States. As such, it cannot be concluded that a discrepancy lies in this matter.

The applicant, in response, did not address the discrepancies mentioned in the director's Notice of Intent to Deny. He submitted documents that pertain to his residence subsequent to the period in question along with copies of documents that were previously provided and an additional letter dated September 29, 2004 from [REDACTED] who reaffirmed the applicant's employment at Collars n' Cuffs. [REDACTED] indicated that the applicant "was employed part-time throughout the year, during the months of June through October from 1981 to 1991...."

On appeal, the applicant provides a letter from [REDACTED] who indicates that he has known the applicant since she was a child. [REDACTED] asserts that the applicant used to help her parents in housework repairs and has been around her family for many years.

To date, the applicant has not addressed the discrepancies mentioned in the director's Notice of Intent to Deny and, upon further review, the record reveals additional contradictory statements for which no explanation has been provided. Specifically:

1. The applicant claims to have resided in the United States since November 1981 with [REDACTED] in South Gate for the first three years. However, [REDACTED] attested to the applicant's residence with her and her son from "February 1982."
2. [REDACTED] attested to the applicant's employment since "June 1981." The applicant, however, claimed on his Form I-687 application that he did not enter the United States until "November 1981."
3. Although the rent receipts submitted are aged and are for three different addresses, they all appear to have been signed by the same individual and the handwritings are seemingly much more recent.
4. The applicant submitted envelopes, which he claimed were postmarked in 1984, 1985, 1986 and 1987 and listed his address as [REDACTED]. The applicant, however, did not claim to have resided at this address until November 1990.

The fact that the applicant has not addressed the inconsistencies previously noted by the director in her notice, coupled with the above-mentioned contradictions raises questions of credibility regarding his purported 1981 entry into United States, and his continuous residence since that date through May 4, 1988 in the United States.

Doubt cast on any aspect of an applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. It is incumbent upon an 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 credibility issues arising from the documentation provided by the applicant, it is determined that the applicant has not met his burden of proof. The applicant has not established, by a preponderance of the evidence, that he entered the United States before January 1, 1982 and resided in this country in an unlawful status continuously from before January 1, 1982 through May 4, 1988, as required under 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b). Given this, 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.