U.S. Department of Homeland Security
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Washington, DC 20529

U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: Los Angeles Date: JUN 07 2007

MSC 01 364 60269

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:

[redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the office that originally decided your case. If your appeal was sustained, or if your case 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, 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 (AAO) on appeal. The appeal will be dismissed.

The district director denied the application because the applicant had failed to establish residence in the United States in an unlawful status from January 1, 1982 through May 4, 1988.

On appeal, counsel contends that the applicant had submitted sufficient evidence to support her claim of continuous residence in the United States from prior to January 1, 1982 through May 4, 1988. Counsel asserts that Citizenship and Immigration Services or CIS (formerly the Immigration and Naturalization Service or the Service) issued the notice of denial without considering the applicant's response to the notice of intent to deny. Counsel includes copies of previously submitted documentation 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. *See* § 1104(c)(2)(B) of the LIFE Act 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 under the provisions of section 212(a) of the Immigration and Nationality Act (Act), 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).

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 to May 4, 1988, the submission of any other relevant document including affidavits is permitted pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L).

8 C.F.R. § 245a.2(d)(3)(i) states that letters from employers attesting to an applicant's employment must: provide the applicant's address at the time of employment; identify the exact period of employment; show periods of layoff; state the applicant's duties; declare whether the information was taken from company records; and, identify the location of such company records and state whether such records are accessible or in the alternative state the reason why such records are unavailable.

8 C.F.R. § 245a.2(d)(3)(v) states that attestations by churches, unions, or other organizations to the applicant's residence by letter must: identify applicant by name; be signed by an official (whose title is shown); show inclusive dates of membership; state the address where applicant resided during membership period; include the seal of the organization impressed on the letter or

the letterhead of the organization, if the organization has letterhead stationery; establish how the author knows the applicant; and, establish the origin of the information being attested to.

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 petitioner 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.

At issue in this proceeding is whether the applicant has submitted sufficient credible evidence to 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. Here, the submitted evidence is not relevant, probative, and credible.

The applicant made a claim to class membership in a legalization class-action lawsuit and as such, was permitted to file a Form I-687, Application for Temporary Resident Status Pursuant to Section 245A of the Immigration and Nationality Act (Act), on April 3, 1990. At part #33 of the Form I-687 application dated June 28, 1990, where applicants were asked to list all residences in the United States since the date of their first entry, the applicant listed '[redacted]' in Riverside, California from September 11, 1981 to April 1, 1988 and "[redacted]" from April 1, 1988 to April 3, 1990, the date the Form I-687 application was filed. At part #34 of the Form I-687 application where applicants were asked to list all affiliations or associations with clubs, organizations, churches, unions, businesses, etc., the applicant listed "none."

In support of her claim of continuous residence in the United States from prior to January 1, 1982, the applicant submitted her own affidavit in which she claimed that she began residing in this country on September 11, 1981. The applicant indicated that she was self-employed doing various odd jobs for which she was paid cash from November 21, 1981 to April 2, 1990 the date the affidavit was executed. However, the applicant failed to submit any independent evidence to support her claim of residence in the United States for the requisite period.

Subsequently, on September 29, 2001, the applicant filed her Form I-485 LIFE Act application. In support of her claim of continuous residence since prior to January 1, 1982, the applicant submitted a letter that is signed by [redacted]. [redacted] listed her address as [redacted] in Moreno, California and declared that she had known the applicant since September of 1981 when she first arrived in this country. [redacted] stated that he had provided the applicant with room and board and helped in finding her odd jobs such as tutoring and babysitting. However, it must be noted that the applicant indicated that she began residing at [redacted], in Moreno, California on April 1, 1988 at part #33 of the Form I-687 application. While [redacted] claimed that he had known the applicant since she first arrived in the United States in September 1981, she failed to provide any specific and verifiable testimony relating to her residence in this country from prior to January 1, 1982 to April 1, 1988.

The applicant included an employment letter signed by [redacted] who stated that the applicant had been known to her family since September 1981. [redacted] noted that she had been introduced to the applicant by a close friend [redacted] testified that she paid the applicant in cash for tutoring and babysitting services provided to her children. Although [redacted] testimony corresponds to the testimony in the record relating to the applicant's employment history in this country for the period in question, [redacted] failed to provide the applicant's address of residence during that period she employed the applicant as required by 8 C.F.R. § 245a.2(d)(3)(i).

The applicant provided an employment letter that is signed by [redacted] stated that he had known the applicant since October of 1981 and that he had employed the applicant as a housekeeper for cash in January 1982. While [redacted] statements tend to corroborate the applicant's claim that she was self-employed doing various odd jobs for which she was paid cash during the requisite period [redacted] failed to provide the applicant's address of residence during that period he employed the applicant as required by 8 C.F.R. § 245a.2(d)(3)(i).

The applicant submitted an employment letter signed by [redacted] who declared she had known the applicant since September 1981. [redacted] stated that she owned a beauty salon in Los Angeles, California and had employed the applicant on occasion to perform odd jobs for which the applicant was paid in cash. Although [redacted] testimony corresponds to the testimony in the record relating to the applicant's employment history in this country for the period in question, [redacted] failed to provide the applicant's address of residence during that period she employed the applicant as required by 8 C.F.R. § 245a.2(d)(3)(i).

The applicant included a letter containing the letterhead of the Sikh Missionary Society of U.S.A. at [redacted], in Fremont, California that is signed by [redacted]. In his letter, [redacted] indicated that he had known the applicant since she first arrived in this country in September 1981 and that she stayed in the "Sikh Temple" for two weeks before she moved to an unspecified address in Riverside, California. However, the applicant failed to list an address of residence in Fremont, California from the date she claimed to have commenced residing in the United States on September 11, 1981 through the remainder of the requisite

period at part #33 of the Form I-687 application. Further, the applicant failed to list any association or affiliation with the Sikh Missionary Society of U.S.A. at part #34 of the Form I-687 application where applicants were asked to list all affiliations or associations with clubs, organizations, churches, unions, businesses, etc., but instead listed "none." The applicant failed to provide any explanation as to why she did not list her affiliation with this religious organization at part #34 of the Form I-687 application.

The record shows that the applicant appeared for an interview relating to her LIFE Act application at CIS's Los Angeles, California District Office on December 10, 2002. At the conclusion of this interview, the applicant was issued a Form I-72, Request for Additional Information, in which she was asked to provide additional evidence to support her claim of continuous residence in the United States from prior to January 1, 1982 to May 4, 1988. The applicant was granted ninety days to respond to this request.

In response to the Form I-72, the applicant submitted two pages of photocopied test results from Riverside City College that are dated July 13, 1984 and August 3, 1984 respectively, and bear a variation of the applicant's name.

The applicant submitted photocopies of the following:

- a letter dated February 15, 1982 on the letterhead of the University of Wisconsin-Whitewater and corresponding envelope postmarked February 19, 1982 that is addressed to the applicant at that address she claimed to have resided from September 11, 1981 to April 1, 1988;

- another letter dated February 15, 1982 on the letterhead of the University of Wisconsin-Whitewater that bears no reference or mention of the applicant and was not accompanied by a postmarked envelope;

- a letter dated August 16, 1982 from the principal of the [redacted] Memorial College for Women in India and corresponding envelope without a legible postmark that is addressed to the applicant at [redacted] in Riverside, California;

- a letter dated October 4, 1982 from the principal of the [redacted] Memorial College for Women in India and corresponding envelope postmarked October 4, 1982 that is addressed to the applicant at [redacted] in Riverside, California; and,

- a letter dated October 5, 1982 from MCI World Message Service in Houston, Texas that is addressed to the applicant at [redacted] in Riverside, California and corresponding envelope postmarked October 7, 1982.

However, it must be noted that the applicant failed to list any address on [redacted] in Riverside, California as an address of residence from the date she claimed to have commenced residing in the United States on September 11, 1981 through the remainder of the requisite period at part #33 of the Form I-687 application. The applicant failed to provide an explanation as to how she was receiving mail at an address that she did not claim as a residence in this country for the period in question.

On October 18, 2004, the district director issued a notice of intent to deny to the applicant informing her of CIS's intent to deny her application because she failed to submit sufficient evidence of continuous unlawful residence in the United States from January 1, 1982 through May 4, 1988. The applicant was granted thirty days to respond to the notice.

In response, the applicant submitted a statement in which she reiterated her claim of continuous residence in the United States since prior to January 1, 1982 and asserted that she had submitted sufficient evidence to establish her eligibility. The envelope in which the applicant's response had been mailed is postmarked November 5, 2004 and the applicant's statement contains a receipt stamp demonstrating that her response to the notice of intent to deny was received by CIS on November 10, 2004. The applicant provided copies of previously submitted documentation with her response as well as new evidence in support of her claim of residence.

The applicant included a photocopy of a stolen property report from the Riverside, California Police Department that bears the applicant's name and is dated November 12, 1986.

The applicant submitted photocopies of a six page residential lease including addendums for apartment # [redacted] at [redacted], in the [redacted] Apartments in Riverside, California for a six-month term from October 1, 1981 to March 31, 1981 that listed the applicant as lessee. While the applicant listed a misspelled variation of this address, "[redacted]," as an address of residence at part #33 of the Form I-687 application, she did not include any apartment number with such listing. The applicant failed to provide any explanation as to why she had omitted the apartment number in the listing of her address of residence on the Form I-687 application.

The district director determined that the applicant failed to submit sufficient credible evidence demonstrating her residence in the United States in an unlawful status from January 1, 1982 through May 4, 1988, and, therefore, denied the Form I-485 LIFE Act application on November 15, 2004.

On appeal, counsel contended that the district director issued the notice of denial prior to the expiration of the thirty day period granted to respond to the notice of intent to deny and thereby failed to consider the applicant's response to the notice of intent to deny. However, as previously discussed the envelope in which the applicant's response to the notice of intent to deny had been mailed is postmarked November 5, 2004. Further, the statement from the applicant that was included in her response contains a receipt stamp demonstrating that her response to the notice of

intent to deny was received by CIS on November 10, 2004. Moreover, a review of the notice of denial reveals that the district director acknowledged receipt of the applicant's response and noted, "[t]he information you submitted, however, failed to overcome the grounds for denial as stated in the NOID [notice of intent to deny]." Therefore, counsel's contention that the district director failed to consider the applicant's response to the notice of intent to deny must be considered to be without merit.

Counsel's statements on appeal regarding the sufficiency of the evidence submitted by the applicant in support her claim of continuous residence in this country for the requisite period have been considered. However, the evidence submitted by the applicant relating to her residence in the United States from prior to January 1, 1982 lacks sufficient detail, contains little verifiable information, and in some cases conflicts with the substance of the applicant's own testimony regarding her residence in this country for the requisite period.

Counsel provided copies of previously submitted documentation and a new affidavit in support of the applicant's claim of residence. This affidavit contains the letterhead of the Sikh Temple Riverside at [redacted], in Riverside, California that is signed by [redacted] who listed his positions as treasurer of the managing committee and member of the board of directors. [redacted] stated that he had known the applicant since 1981 when she resided at [redacted] in Riverside, California and that she continued to reside at this address until 1988. [redacted] declared that the applicant had approached him in January 1982 with the idea of starting Punjabi language classes at the temple. [redacted] continued, "Ever since [the applicant's name] has taken on the awesome task of helping young children to learn about their language, religion and culture. However, as noted above, the applicant listed a misspelled variation of this address, [redacted]" as an address of residence at part #33 of the Form I-687 application and did not include any apartment number with such listing. Further, the applicant failed to list any association or affiliation with the Sikh Temple Riverside at part #34 of the Form I-687 application where applicants were asked to list all affiliations or associations with clubs, organizations, churches, unions, businesses, etc., but instead listed "none." The applicant failed to provide any explanation as to why she did not list her affiliation with this religious organization at part #34 of the Form I-687 application.

As previously discussed, the applicant submitted photocopied letters and corresponding envelopes as evidence of her residence within the United States prior to January 1, 1982. The envelope postmarked February 19, 1982 was purportedly mailed on this date to the applicant at the address she claimed to have resided in Riverside, California from September 11, 1981 to April 1, 1988. A review of the *2007 Scott Specialized Catalogue of United States Stamps and Covers* (Scott Publishing Company 2006) reveals the following regarding the United States stamp affixed to this postmarked envelope:

- The envelope postmarked February 19, 1982 bears a United States postage stamp with a value of twenty-five cents that pictures a grosbeak (type of bird) perched in flowering dogwood tree. This stamp is listed at page 191 of the "Postage" section

> of the *2007 Scott Specialized Catalogue of United States Stamps and Covers* as catalogue number [redacted]. The catalogue lists this stamp's date of issue as May 28, 1988.

In addition, a review of "Publication 100-The United States Postal Service: An American History" at http://www.usps.com/cpim/ftp/pubs/pub100/ reveals that the United States Postal Service did not raise the uniform rate for domestic letters mailed in the United States from twenty-two cents to twenty-five cents until April 3, 1988. Furthermore, the uniform rate for domestic letters mailed in the United States on the date this envelope was purportedly mailed, February 19, 1982, was only twenty cents.

The applicant also submitted an envelope postmarked October 4, 1982 that was purportedly mailed to her at an address in the United States from India and bears Indian postage stamps. A review of the *2007 Scott Standard Postage Stamp Catalogue* Volume 3 (Scott Publishing Company 2006) reveals the following regarding the Indian postage stamps affixed to the postmarked envelope:

- The envelope postmarked October 4, 1982 bears an Indian postage stamp with a value of five rupees that commemorates solar energy. The stamp bears stylized illustrations of the sun, a solar panel, a streetlight, and buildings. This stamp is listed at page 836 of Volume 3 of the *2007 Scott Standard Postage Stamp Catalogue* as catalogue number [redacted]. The catalogue lists this stamp's date of issue as January 1, 1988.

The fact that envelopes postmarked February 19, 1982 and October 4, 1982 respectively, bear stamps that were not issued until well after the date of these postmarks establishes that the applicant utilized documents in a fraudulent manner and made material misrepresentations in an attempt to establish her residence within the United States for the requisite period.

Section 212(a)(6)(C) of the Immigration and Nationality Act (Act) provides:

> Misrepresentation. – (i) In general. – Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

By engaging in such action, the applicant seriously diminished her own credibility as well as the credibility of her claim of continuous residence in this country for the period from prior to January 1, 1982 to May 4, 1988. In addition, the applicant rendered herself inadmissible to the United States under any visa classification, immigrant or nonimmigrant pursuant to section 212(a)(6)(C) of the Act by committing acts constituting fraud and willful misrepresentation.

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).

The AAO issued a notice to both the applicant and counsel on May 10, 2007 informing the parties that it was the AAO's intent to dismiss the applicant's appeal based upon the fact that the applicant utilized the postmarked envelopes cited above in a fraudulent manner and made material misrepresentations in an attempt to establish her residence within the United States for the requisite period. The AAO further informed the applicant that she was inadmissible to the United States under section 212(a)(6)(C) of the Act as a result having made material misrepresentations. Counsel and the applicant were granted fifteen days to provide substantial evidence to overcome, fully and persuasively, these findings. However, as of the date of this decision neither the applicant nor counsel has submitted a statement, brief, or evidence addressing the adverse information relating to the applicant's claim of residence in the United States since prior to January 1, 1982.

The absence of sufficiently detailed supporting documentation, the conflicting nature of testimony relating to critical elements of the applicant's residence, and the existence of derogatory information that establishes she used postmarked envelopes in a fraudulent manner all seriously undermine the credibility of the applicant's claim of residence in this country for the requisite period, as well as the credibility of the documents submitted in support of such claim. Pursuant to 8 C.F.R. § 245a.12(e), the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. The applicant has failed to submit sufficient credible documentation to meet her burden of proof in establishing that she has resided in the United States since prior to January 1, 1982 to May 4, 1988 by a preponderance of the evidence as required under both 8 C.F.R. § 245a.12(e) and *Matter of E-- M--*, 20 I&N Dec. 77.

Given the applicant's reliance upon documents with minimal or no probative value, it is concluded that she 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 under section 1104(c)(2)(B) of the LIFE Act. The applicant is, therefore, ineligible for permanent resident status under section 1104 of the LIFE Act on this basis.

In addition, the fact that the applicant utilized documents in a fraudulent manner and made material misrepresentations in an attempt to establish her residence within the United States for the requisite period rendered her inadmissible to this country pursuant to section 212(a)(6)(C) of the Act. By filing the instant application and submitting falsified documents, the applicant has sought to procure a benefit provided under the Act through fraud and willful misrepresentation of a material fact. Because the applicant has failed to provide independent and objective evidence to

overcome, fully and persuasively, our finding that she submitted falsified documents, we affirm our finding of fraud. This finding of fraud shall be considered in the current proceeding as well as any future proceeding where admissibility is an issue. The applicant failed to establish that she is admissible to the United States as required by 8 C.F.R. § 245a.12(e). Consequently, the applicant is ineligible to adjust to permanent residence under section 1104 of the LIFE Act on this basis as well.

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

FURTHER ORDER: The AAO finds that the applicant knowingly submitted fraudulent documents in an effort to mislead Citizenship and Immigration Services and the AAO on elements material to her eligibility for a benefit sought under the immigration laws of the United States. Accordingly, she is inadmissible under section 212(a)(6)(C) of the Act.