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

U.S. Citizenship and Immigration Services

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PUBLIC COPY

[redacted]

FILE: [redacted] Office: SAN FRANCISCO (SACRAMENTO) Date: APR 25 200

MSC 02 240 60412

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. If your appeal was dismissed or rejected, all documents have been returned to the National Records 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 permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the District Director, San Francisco, California, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director denied the application because the applicant had not demonstrated that he entered the United States before January 1, 1982, and resided in a continuous unlawful status through May 4, 1988.

On appeal, counsel asserts that the director "failed to articulate valid reasons based on physical presence grounds for denying" the applicant's LIFE Act application. Counsel submits a brief and 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. Section 1104(c)(2)(B) of the LIFE Act; 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 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.

Although Citizenship and Immigration Services (CIS) 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. 8 C.F.R. § 245a.2(d)(3)(vi)(L).

The record reveals that the applicant was born on February 19, 1981. In a July 5, 2003, statement the applicant's father stated that the family arrived in the United States in March 1981, and stayed overnight at the Vermont Sikh Temple in Los Angeles. They then went to the home of a friend, [redacted], and stayed there for two days before moving into an apartment "upstairs" at [redacted] in Altadena. The father stated that he worked at one of Mr[redacted]'s 7-Eleven Stores on East Garvey in Monterrey Park, California from April 1981 to 1984, and that he worked at [redacted]'s liquor store

from 1984 to 1988. Although the applicant's mother did not identify an employer on her Form I-687, Application for Status as a Temporary Resident, which she signed under penalty of perjury on January 5, 1990, she stated in a July 5, 2003, statement, that she worked for [redacted] at "[redacted]'s Liquor" store during the time her husband worked for Mr. [redacted] 7-Eleven Store.

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

1. A September 20, 2001, notarized statement from [redacted], in which he certified that the applicant's parents worked at his different stores, and that they lived with their children at [redacted] in Altadena from 1981 to November 1989. He stated that the applicant's family paid rent of $150 and was responsible for its own utility bills and other expenses. In a July 4, 2003, letter, [redacted] stated that the applicant's father worked for him at his 7-Eleven store at 384 East Garvey in Monterey Park, California from 1981 to June 1984, and at [redacted] Liquor from July 1984 to December 1988. Mr. [redacted] also stated that the applicant's mother worked on a part-time basis at [redacted]'s Liquor," one of his businesses in Altadena. The applicant did not submit copies of paychecks, pay vouchers, utility receipts or similar documentation to corroborate his parents' employment or the family's residence during the required period.

2. A July 3, 2003, letter from [redacted], in which he stated that he was the president of the Sikh Temples Organization of Los Angeles. [redacted] certified that the applicant's parents attended services at the Sikh Temple in Alhambra and the Vermont Sikh Temple from 1981 to 1993. He further stated that he had personal knowledge of the applicant's parents' attendance because he managed these temples at the time and saw them regularly at services. Although [redacted] stated that he has personal knowledge of the parents' attendance at services, he did not provide information as to how he dated their attendance at temple.

3. A copy of a California School Immunization Record, showing that the applicant received vaccinations in May, June and July 1981; in June of 1982 through 1986; September 1982; and in October 1983 and 1984. The document indicates that it is a January 8, 1990, summarized and transcribed record of the applicant's immunizations; however, the document does not indicate the records that the transcriber relied upon in providing the summarized record of the applicant's immunization. The summarized record does not show where or by whom the immunizations were administered to the applicant.

4. A copy of a January 14, 1990, affidavit from [redacted], in which she stated that the applicant's mother had lived in Altadena since 1981. The affiant ascribed her knowledge of the mother's residence to being the wife of a friend. However, the affiant did not state the circumstances of her initial acquaintance with the applicant's mother or how she dated her residence in the United States.

5. A copy of a January 14, 1990, affidavit from [redacted], in which she stated that the applicant's mother had lived in Altadena since 1981. The affiant ascribed her knowledge of the mother's residence to being the wife of a friend. However, the affiant did not state the circumstances of her initial acquaintance with the applicant's mother or how she dated her residence in the United States.

6. An undated statement that purported to verify that the applicant's mother worked at "[redacted]'s Liquor" store from April 1981 to August 1984. The signature on the statement is illegible, and the

signer provided no contact information by which CIS could verify this information. The letter did not indicate the basis of the information provided about the mother's employment.

7. A March 2, 2003, statement from [redacted] in which he stated that the met the applicant's father in 1983, and that the father told him of the family's arrival in the United States in 1981. Mr. [redacted] did not profess to have independent knowledge of the family's initial arrival in the United States.

On his Form G-325A, which he signed under penalty of perjury on December 15, 1999, the applicant stated that his last address outside the United States was in Punjab, India from February 1981 to August 1987. According to the applicant and his then attorney, this address and dates are the result of a misunderstanding. The applicant stated in a January 24, 2002, deposition, that he had put an Indian address because the attorney told him that he needed an address outside of the United States but that it did not mean that he actually resided there. The applicant stated that he didn't know where the attorney got the dates included on the Form G-325A, and, according to information from his parents, he arrived in the United States in 1981 when he was only a few months old. He provided no explanation as to why he signed the document attesting to his residence in India until 1987. The applicant's then counsel stated in an April 11, 2002, statement that the Form G-325A was completed by the applicant and that he "assume[d] that during the dates specified, about 1981 to 1987, the family treated the address in India, as their foreign address even if they were residing unlawfully in the United States."

The statements provided by counsel and the applicant are insufficient to meet his burden of proof. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the applicant submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). The applicant submitted no competent objective evidence resolving the inconsistencies in the record and showing that he was present and living in the United States from 1981 to 1987.

Additionally, in an August 25, 2003, the applicant's father stated that he and his family first entered the United States "after 1983," and that he initially stated that they arrived in the United States in 1981 because he was told to do so by the immigration consultant who "filled out" his paperwork. Additionally, the passport of the applicant's mother shows a June 14, 1983, correction by the Regional Passport Offices, Chandigarh, India. The applicant's parents did not initially admit to being in India in 1983; however, this annotation would be consistent with the father's August 2003 statement.

Accordingly, given the 2003 statement of the applicant's father, the 2003 entry on the passport of the applicant's mother, and the unresolved inconsistencies in the record, it is concluded that the applicant has failed to establish continuous residence in the U.S. for the required period.

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