U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529

U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: LOS ANGELES Date: JAN 11 2008

MSC 03 245 66049

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. 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, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The district director denied the application because the applicant had not demonstrated that she had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988. Specifically, the director determined that the applicant had not entered the United States until 1984, thereby rendering her ineligible for the benefit sought.

On appeal, the applicant submits a handwritten statement on Form I-290B, Notice of Appeal to the Administrative Appeals Unit (AAU), claiming that her attorney had died and she was unable to contact his family. She further reaffirms that she entered the United States in September 1984 and requests reconsideration of her application.

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 regulation at 8 C.F.R. § 245a.10(b) provides that an eligible alien may adjust status to legal permanent resident under LIFE Legalization if he or she entered the United States *before January 1, 1982* and resided continuously in the United States since that date through May 4, 1988. In this matter, the applicant stated in a Record of Sworn Statement in Affidavit Form, dated July 6, 2005, that the first time she came to the United States was in September 1984. A further review of the record indicates that the applicant was issued a B-2 visitor visa on August 29, 1984 and that she entered the United States legally on September 8, 1984. Her lawful period of stay expired on March 7, 1985.

It is further noted that Form I-687, which she signed under penalty of perjury on January 12, 1989, indicates that she resided in the United States at [redacted], Franklin Park, Illinois, from November 1981 to September 1984, and that she worked at Gottlieb Health Center as a coordinator from December 1981 to June 1984. The applicant also submitted the following evidence:

1. A letter dated June 10, 1984 from [redacted] of Gottlieb Health Center which claims that she worked there from December 5, 1981 through June 2, 1984.

2. Affidavit dated November 15, 1988 from applicant, claiming that she initially entered the United States on or about May 25, 1981 and that she entered an illegal status prior to December 31, 1981. She further claims that she left the United States on August 11, 1984 and re-entered with a valid visa on September 8, 1984.

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).

On July 6, 2005, CIS issued a Notice of Intent to Deny the application. The district director noted that the applicant's statement under oath, which affirmed that her first entry into the United States was in September 1984, rendered her ineligible since it suggested that she did not reside in an unlawful status in

the United States since before January 1, 1982 through May 4, 1988. The applicant was afforded the opportunity to rebut this finding and submit additional evidence in support of the application. The applicant failed to submit evidence to rebut this finding. Consequently, the director denied the application on July 25, 2005. On appeal, the applicant provides no new evidence and merely requests reconsideration of the application. Upon review, the AAO concurs with the director's decision.

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 quality 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.

Here, the submitted evidence is not relevant, probative, and credible.

A few errors or minor discrepancies are not reason to question the credibility of an alien seeking immigration benefits. *See, e.g., Spencer Enterprises Inc. v. U.S.*, 345 F.3d 683, 694 (9th Cir., 2003). However, anytime a petition includes numerous errors and discrepancies, and the petitioner fails to resolve those errors and discrepancies after CIS provides an opportunity to do so, those inconsistencies will raise serious concerns about the veracity of the petitioner's assertions. Doubt cast on any aspect of the petitioner's proof may undermine the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).

In this case, the applicant claims under oath on June 6, 2005 that she first entered the United States in September 1984. However, she also swears in an affidavit dated November 15, 1998 that she first entered the United States on May 25, 1981, departed the United States on August 11, 1984, and returned once again on September 8, 1984. However, a photocopy of the applicant's passport, issued by the Philippines, indicates that her passport was issued in Manila on June 28, 1984. Since the applicant claims that she was in the United States in June 1984, it is unclear how this could be true. Furthermore, the fact that the applicant provides two conflicting statements regarding her first entry to the United States casts further doubt on the legitimacy of the claims.

It is further noted that the record of proceedings contains Form G-325A, Biographic Information, which was completed by the applicant on May 28, 2003. The applicant indicates under the section noted as "last employment abroad" that she was self-employed with a "small convenient store" from 1964 until August

1984. This clearly contradicts her claim that she was present in the United States and working for Gottlieb Health Center from December 1981 to June 1984.

In this case, the discrepancies and errors catalogued above lead the AAO to conclude that the evidence of the beneficiary's eligibility is not credible. The applicant provided no independent evidence to clarify these inconsistencies. As previously stated, it is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. at 591-92. 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. *Id.* at 591.

Given the absence of contemporaneous documentation and the numerous conflicting statements in the record, it is concluded that the applicant has failed to establish, by a preponderance of evidence, that she continuously resided in the United States in an unlawful status since before January 1, 1982 through 1984. Therefore, 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.