U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090

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FILE: [redacted] Office: GARDEN CITY Date: **MAY 1 5 2009**

MSC 02 173 61488

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 National Benefits Center. If your appeal was sustained, or if the matter 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.

John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director, Garden City, New York, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director determined that the applicant had not established that he resided in the United States in a continuous unlawful status from before January 1, 1982 through May 4, 1988, as required by section 1104(c)(2)(B) of the LIFE Act.

On appeal, counsel for the applicant asserts that the applicant has submitted sufficient credible evidence to establish the requisite continuous residence. Counsel submits additional evidence on appeal.

Section 1104(c)(2)(B) of the LIFE Act states:

> (i) In General – The alien must establish that the alien entered the United States before January 1, 1982, and that he or she has resided continuously in the United States in an unlawful status since such date and through May 4, 1988. In determining whether an alien maintained continuous unlawful residence in the United States for purposes of this subparagraph, the regulations prescribed by the Attorney General under section 245A(g) of the Immigration and Nationality Act (INA) that were most recently in effect before the date of the enactment of this Act shall apply.

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).

The regulation at 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.

In the Notice of Intent to Deny (NOID), dated July 24, 2007, the director stated that the applicant failed to submit sufficient evidence demonstrating his continuous unlawful residence in the United States during the requisite period. The director noted that the applicant submitted affidavits that were neither credible nor amenable to verifiable. The director granted the applicant thirty (30) days to submit additional evidence.

In the Notice of Decision, dated August 27, 2007, the director denied the instant application. The director noted that the applicant failed to submit additional evidence in response to the NOID, and denied the application for the reasons stated in the NOID.

The issue in this proceeding is whether the applicant has furnished sufficient credible evidence to demonstrate that he continuously resided in the United States in an unlawful status during the requisite period. The applicant submitted evidence, including letters and affidavits, as evidence to support his Form I-485 application. The AAO has reviewed the entire record. Here, the submitted evidence is neither probative, nor credible.

The applicant submitted the following:

1. An affidavit from attesting to having known the applicant to have resided in the United States since January 1985. _____ also attests that he first met the applicant at [redacted] Brooklyn, with a friend; and, that in January 1986, the applicant moved with him to an apartment located at [redacted] The affiant, however, does not provide details, such as, how he dates his acquaintance with the applicant; whether and how frequently he had contact with the applicant during 1985; and, what were the terms of their shared rental arrangement.

2. **Two affidavits from** [redacted] dated June 10, 2004, and September 7, 2007, attesting to having known the applicant to have resided in the United States since 1981. [redacted] also attests that he first met the applicant at [redacted] when the applicant helped him locate a friend, and that the applicant visited Pakistan in 1983 when his father died, and retuned to the United States in 1983. The affiant, however, does not provide details, such as, how he dates his acquaintance with the applicant; whether and how frequently he had contact with the applicant since that time; and, when in 1983 the applicant departed the United States, and when in 1983 the applicant returned to the United States.

3. A notarized letter from [redacted], of Terrace Dance Studio, located at 273 Prospect Park West, Brooklyn, NY 11215, attesting to having known the applicant to have **resided in the United States since 1981. Ms. [redacted] also states that she first met the applicant** when the applicant helped her with some renovations at her studio, and that they have remained friends since that time. The affiant, however, does not provide details, such as, when in 1981 she first met the applicant; and, whether and how she maintained contact with the applicant since 1981.

4. An affidavit from [redacted], attesting to having known the applicant to have resided in the United States since 1983. [redacted] also attests that the applicant is a family friend, and he first met the applicant when the applicant came to visit him Norwalk, California, and they have kept in touch ever since. The affiant, however, does not provide details, such as, how he dates his acquaintance with the applicant; under what circumstances the applicant came to visit him in California; when in 1983 he first met the applicant; and, how frequently he had contact with the applicant since they met in 1983.

5. An affidavit from [redacted], attesting to having known the applicant to have resided in the United States since January 1981. [redacted] also attests that the applicant stayed a few weeks with him in California before the applicant moved to New York, and that he has seen the applicant whenever he travels to New York. The affiant, however, does not provide details, such as, how he dates his acquaintance with the applicant; how frequently he visited New York; and how frequently he had contact with the applicant since that time.

6. An affidavit from [redacted], attesting to having known the applicant to have resided in the United States since February 1981. [redacted] also attests that the applicant shares a house with him, and they are in the same car business; and that the applicant departed the United States, in June 1983, when the applicant's father died. The affiant, however, does not provide details, such as, how he dates his acquaintance with the applicant; where and during what period he shared the house with the applicant and operated the same business with the applicant.

The record of proceedings also contains a letter from [redacted] of the Islamic Council of Brighton Beach, Inc., located at 230 Neptune Avenue, Brooklyn, NY 11235, stating that since 1981 the applicant has been visiting the Masjid every Friday for prayer. The regulation at 8 C.F.R. § 245a.2(d)(3)(v) provides requirements for attestations made on behalf of an applicant by churches, unions, or other organizations. Attestations must: (1) Identify applicant by name; (2) be signed by an official (whose title is shown); (3) show inclusive dates of membership; (4) state the address where applicant resided during membership period; (5) include the seal of the organization impressed on the letter or the letterhead of the organization, if the organization has letterhead stationery; (6) establish how the author knows the applicant; and (7) establish the origin of the information being attested to.

The letter from the Islamic Council of Brighton Beach, Inc., does not comply with the above cited regulations because it does not: state the address where the applicant resided during attendance …(membership) … period; establish in detail that the author knows the applicant and has personal knowledge of the applicant's whereabouts during the requisite period; establish the origin of the

information being attested to; and, that attendance (membership) records were referenced or otherwise specifically state the origin of the information being attested to. For this reason, the letters are not deemed probative and are of little evidentiary value.

Contrary to counsel's assertion the affidavits and evidence submitted by the applicant are lacking in detail. As noted above, the affidavits and letters provided are devoid of detail. It is reasonable to expect that the affiants would be able to provide relevant details given that they claim to have known the applicant for several years, some dating since 1981. The affidavits provided, therefore, lack probative value.

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 applicant's reliance upon documents with minimal probative value, it is concluded that he has failed to establish continuous residence in an unlawful status in the United States from prior to January 1, 1982, through May 4, 1988.

Therefore, based on the above, the applicant has failed to establish entry into the United States prior to January 1, 1982, and continuous unlawful residence through May 4, 1988, as required under Section 1104(c)(2)(B) of the LIFE Act. Given this, he 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.