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FILE: [REDACTED]
MSC-05-015-10093

Office: NEW YORK

Date: **APR 24 2008**

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Status as a Temporary Resident pursuant to Section 245A of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1255a

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

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.

A handwritten signature in black ink, appearing to read "R. P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for Temporary Resident Status pursuant to the terms of the settlement agreements reached in *Catholic Social Services, Inc., et al., v. Ridge, et al.*, CIV. NO. S-86-1343-LKK (E.D. Cal) January 23, 2004, and *Felicity Mary Newman, et al., v. United States Immigration and Citizenship Services, et al.*, CIV. NO. 87-4757-WDK (C.D. Cal) February 17, 2004 (CSS/Newman Settlement Agreements), was denied by the District Director, New York. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant submitted a Form I-687, Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act (Act), and a Form I-687 Supplement, CSS/Newman Class Membership Worksheet. The director determined that the applicant had not established by a preponderance of the evidence that he had continuously resided in the United States in an unlawful status for the duration of the requisite period. Specifically, in her Notice of Intent to Deny (NOID), the director noted that at the time of the applicant's interview with a Citizenship and Immigration Services (CIS or the Service) officer on June 23, 2005, the applicant stated and then signed a sworn statement in which he asserted that he went to school until 1976 and that subsequently, he went to work on his parent's farm in Bangladesh for seven or eight years. The director noted that this indicated that the applicant could not have entered the United States for the first time on a date before January 1, 1982. The director went on to say that the affidavits submitted in support of the application were neither credible nor amenable to verification. The director granted the applicant thirty days within which to submit additional documents in support of his application. Though the director noted that her office received additional documents from the applicant in response to the NOID, she found that these documents did not prove, by a preponderance of the evidence that the applicant entered the United States before January 1, 1982 and then resided continuously in an unlawful status for the duration of the requisite period. The director denied the application, finding that the applicant had not met his burden of proof and was, therefore, not eligible to adjust to Temporary Resident Status pursuant to the terms of the CSS/Newman Settlement Agreements.

On appeal, the applicant submits a statement in which he attempts to account for the contradictions within the evidence in the record. He asserts that, contrary to what the director found, the affidavits that he submitted are of probative value and were submitted with documents identifying the affiants.

An applicant for Temporary 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 the date the application is filed. Section 245A(a)(2) of the Act, 8 U.S.C. § 1255a(a)(2). The applicant must also establish that he or she has been continuously physically present in the United States since November 6, 1986. Section 245A(a)(3) of the Act, 8 U.S.C. § 1255a(a)(3). The regulations clarify that the applicant must have been physically present in the United States from November 6, 1986 until the date of filing the application. 8 C.F.R. § 245a.2(b)(1).

For purposes of establishing residence and physical presence under the CSS/Newman Settlement Agreements, the term "until the date of filing" in 8 C.F.R. § 245a.2(b)(1) means until the date the applicant attempted to file a completed Form I-687 application and fee or to the Immigration and Naturalization Service (the Service, now Citizenship and Immigration Services or CIS) or was caused not to timely file during the original legalization application period of May 5, 1987 to May 4, 1988. CSS Settlement Agreement paragraph 11 at page 6; Newman Settlement Agreement paragraph 11 at page 10.

The applicant has the burden of proving by a preponderance of the evidence that he or she has resided in the United States for the requisite period, is admissible to the United States under the provisions of section 245A of the Act, and is otherwise eligible for adjustment of status. 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.2(d)(5).

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

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.* at 80. 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.

The issue in this proceeding is whether the applicant has furnished sufficient credible evidence to demonstrate that he resided in the United States for the duration of the requisite period. Here, the submitted evidence is not relevant, probative, and credible.

The record shows that the applicant submitted a Form I-687 application and a Form I-687 Supplement, CSS/Newman Class Membership Worksheet, to CIS on October 15, 2004. At part #30 of the Form I-687 application where applicants were asked to list all residences in the United States since first entry, the applicant showed his addresses in the United States during the requisite period to be [REDACTED] in Belle Glades, Florida from June 1981 until December 1981 and then [REDACTED] in Brooklyn, New York from December 1981 until December 1994. At part #31, where the applicant was asked to list all organizations and churches that he was a member of, he indicated that he was a member of the Bangladesh Society in Elmhurst, New York from May 1986 until the date he signed his Form I-687. At part #32, where the applicant was asked to list all of his absences since he first entered the United States, he indicated that he has never been absent from the United States. At part #33, where the applicant was asked to list all of his employment in the United States since he first entered, he showed his employment in the United States for the duration of the requisite period to be for [REDACTED] Construction in Brooklyn, New York from March 1981 until December 1994. It is noted here that though the applicant indicated he worked in Brooklyn at this time, on this same form he has indicated that he resided in Florida from June until December 1981. The applicant also indicated on his Form I-687 that in 1981, he was also working doing housekeeping in lieu of paying for room and board at [REDACTED] in Florida from June 1981 until November 1981.

The record also contains a photocopy of a Form I-687 that was signed by the applicant and dated October 12, 1987. The applicant listed his addresses of residence and absences on this Form I-687 consistently with what he showed on his subsequently filed Form I-687. However, his employment was not listed consistently with his subsequently filed Form I-687. Here, he indicated that he first worked as a housekeeper in Belle Glades, Florida from June until November 1981, then performed odd jobs from December 1981 until February 1982 at an unspecified location, and began doing construction work for from March 1982 until the date he signed this Form I-687. It is noted that the applicant indicated that he was not a member of any churches or organizations on this Form I-687.

The record also contains a sworn statement signed by the applicant on June 23, 2005. In this statement, the applicant states that he attended school in Bangladesh until 1976. He goes on to say that he worked on his family farm for seven to eight years after attending school and before entering the United States. It is noted that this indicates that the applicant has stated he entered the United States in 1983 or 1984.

The applicant has the burden of proving by a preponderance of the evidence that he has resided in the United States for the requisite period. 8 C.F.R. § 245a.2(d)(5). To meet his burden of proof, an applicant must provide evidence of eligibility apart from his own testimony. 8 C.F.R. § 245a.2(d)(6). The regulation at 8 C.F.R. § 245a.2(d)(3) provides an illustrative list of documentation that an applicant may submit to establish proof of continuous residence in the United States during the requisite period. This list includes: past employment records; utility bills; school records; hospital or medical records; attestations by churches, unions or other organizations; money order receipts; passport entries; birth certificates of children; bank books; letters or correspondence involving the applicant; social security card; selective service card; automobile receipts and registration; deeds, mortgages or contracts; tax receipts; and insurance policies, receipts or letters. An applicant may also submit any other relevant document pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L).

In an attempt to establish continuous unlawful residence in this country since prior to January 1, 1982, the applicant the following documents that are relevant to the requisite period:

Affidavits:

- Two affidavits from [REDACTED]. The first affidavit from [REDACTED] is dated September 23, 2003. In this affidavit, the affiant states that he first met the applicant when he was working at a store in New York in November 1981. It is noted that the applicant has indicated that he resided in Florida until December 1981. The second affidavit from [REDACTED] is dated September 26, 2005. In this affidavit the affiant states that he was present with the applicant when he attempted to submit his original Form I-687 to Immigration and Naturalization Services, now Citizenship and Immigration Services (CIS) or the Service in June 1987. The affiant goes on to say that the Immigration Officer refused the application, offering no reason for doing so. The affiant asserts that the applicant entered the United States in June 1981. Here, the affiant fails to indicate how he became aware of this, as he has previously stated he did not meet the applicant until November 1981. He further fails to submit proof that he himself resided in the United States during the requisite period. The affiant goes on to state that he is friends with the applicant and that he sees the applicant very occasionally at parties and other gatherings. He does not list an address at which it is personally known to him that the applicant resided at during the requisite period. The affiant further fails to provide a telephone number at which he can be reached to verify information in his affidavit. Because this affidavit is

significantly lacking in detail, it can be afforded very minimal weight in establishing that the applicant resided in the United States during the requisite period.

- An affidavit from [REDACTED] dated September 26, 2004. In this affidavit, [REDACTED] states that he was roommates with the applicant from December 28, 1981 until December 30, 1994. He states that the applicant entered the United States in June, 1981. However, the affiant fails to indicate how he knows this was the applicant's date of entry into the United States. Though the affiant states that the applicant resided with him for the duration of the requisite period, he has failed to submit proof that he himself resided in the United States during that time or to submit proof of his identity with this affidavit. He has further failed to provide a telephone number at which he can be reached to verify information in this affidavit. Because this affidavit is significantly lacking in detail, it can be afforded very minimal weight in establishing that the applicant resided in the United States during the requisite period.
- An affidavit from [REDACTED] dated September 20, 2004. In this affidavit, the affiant states that he first met the applicant in 1986. He states that the applicant told him that he first entered the United States before 1982. He goes on to say that the applicant came into the affiant's store three times between 1986 to 1992 looking for a job. However, here the affiant does not state that he had regular, ongoing contact with the applicant. He does not state that it is personally known to him that the applicant resided in the United States during the requisite period. Because of this affidavit's significant lack of detail, it can be accorded only minimal weight in establishing that the applicant resided in the United States from 1986 until the end of the requisite period.
- An affidavit from [REDACTED] that is not dated. In this affidavit, the affiant states that he met the applicant in July 1985 on the subway while he was on the way to work. He states that he knows that the applicant entered the United States before January 1, 1982 because the applicant told him that he did so. He goes on to say that he saw the applicant in a mosque and saw him in the Bengali community. Here, the affiant does not submit proof that he himself resided in the United States during the requisite period. He fails to indicate the frequency with which he saw the applicant during the requisite period. Because of this and because this affiant states he did not meet the applicant until 1985, this affidavit carries no weight in establishing that the applicant resided continuously in the United States for the duration of the requisite period.
- An affidavit from [REDACTED] that is not dated. In this affidavit, the affiant states he first met the applicant in 1986 on the subway. He states that he knows that the applicant entered the United States before January 1, 1982 because the applicant told him that he did so. He states that the applicant used to call him to learn about job opportunities. He indicates that he first entered the United States in 1985. Here, the affiant does not submit proof that he himself resided in the United States during the requisite period. He fails to indicate the frequency with which he saw the applicant during the requisite period. Because of this and because this affiant states he did not meet the applicant until 1986, this affidavit carries no weight in establishing that the applicant resided continuously in the United States for the duration of the requisite period.
- An undated affidavit from [REDACTED] who states that he first met the applicant in 1979 in Bangladesh. He states that he lived in Bangladesh when the applicant first entered the United States but that he knows that the applicant came to the United States before January 1, 1982 because the applicant told him that he did so. He indicates that he first entered the United States

in 1991. Because this affiant did not enter the United States until after the requisite period ended, he could not be personally aware of the events and circumstances of the applicant's residency in the United States during the requisite period. Therefore, this affidavit carries no weight in establishing that the applicant resided continuously in the United States for the duration of that time.

- An undated affidavit from [REDACTED] who indicates that he first met the applicant in 1975 and that he was in Bangladesh when the applicant moved to the United States. He states that he first entered the United States in June 1990. Because this affiant did not enter the United States until after the requisite period ended, he could not be personally aware of the events and circumstances of the applicant's residency in the United States during the requisite period. Therefore, this affidavit carries no weight in establishing that the applicant resided continuously in the United States for the duration of that time.
- An affidavit from [REDACTED], who states he first met the applicant in 1980 in Bangladesh. Here, the affiant does not state that he knows the applicant entered the United States before 1982 or that he or the applicant resided in the United States at any point in time during the requisite period. Therefore, this affidavit carries no weight in establishing that the applicant resided in the United States at that time.
- An undated affidavit from [REDACTED] who is the applicant's mother. The affiant states that she continues to live in Bangladesh but that the applicant called her to tell her that he had reached the United States in June 1981. Because this affiant did not reside in the United States during the requisite period, she is not personally aware of the events and circumstances of the applicant's residency in the United States during the requisite period. Therefore, this affidavit carries no weight in establishing that the applicant resided continuously in the United States for the duration of that time.
- An affidavit from [REDACTED] the applicant's father, that is undated. The affiant states that he knows that the applicant entered the United States in June 1981 because the applicant called him to tell him that he did so. Because this affiant did not reside in the United States during the requisite period, he is not personally aware of the events and circumstances of the applicant's residency in the United States during the requisite period. Therefore, this affidavit carries no weight in establishing that the applicant resided continuously in the United States for the duration of that time.
- An undated affidavit from [REDACTED] who states that he is the applicant's brother. The affiant states that he knows that the applicant entered the United States before 1982 because the applicant informed the family when he entered the United States. Because this affiant did not reside in the United States during the requisite period
- , he is not personally aware of the events and circumstances of the applicant's residency in the United States during the requisite period. Therefore, this affidavit carries no weight in establishing that the applicant resided continuously in the United States for the duration of that time.

Letters from churches and organizations:

- A letter from the Bangladesh Society dated September 30, 2004. In this letter, [REDACTED] who identifies himself as the General Secretary of the Society states that the applicant has volunteered at many cultural and ceremonial events since 1982. It is noted that on the applicant's Form I-687 submitted pursuant to the CSS/Newman Settlement Agreements, he indicated that his membership in this organization began in May 1986. The regulation at 8 C.F.R. § 245a.2(d)(3)(v) states in pertinent part that attestations from organizations can be considered credible proof of residence if such documents: identify the applicant by name; are signed by an official whose title is shown; show inclusive dates of membership; state the address where the applicant resided during his or her membership period; include the seal of the organization impressed on the letter or the letterhead of the organization, if the organization has letterhead stationary; establish how the author knows the applicant; and establish the origin of the information being attested to. Because the inclusive dates of the applicant's membership in this organization are not included in this letter, because [REDACTED] does not state how he knows that the applicant became an active member of the society in 1982 and because the applicant's dates of membership in the Bangladesh Society in this letter are not listed consistently with those in other documents in the record, doubt is cast on whether this letter accurately represents the applicant's dates of membership. Therefore, very minimal weight can be accorded to this document as proof that the applicant resided continuously in the United States for the duration of the requisite period.
- A letter from J [REDACTED] from the Islamic Council of America dated February 10, 2005. In this letter, [REDACTED] states that he sometimes saw the applicant during Friday prayers and other Islamic holidays while he was Imam of the Madina Masjid from 1982 to 1986. Here, Mr. [REDACTED] does not state the frequency with which he saw the applicant at prayer services or to indicate when during the 1982 to 1986 period he saw the applicant. He fails to indicate whether there were periods of time during which he did not see the applicant. It is further noted that the applicant did not indicate that he was a member of any churches or mosques on his Form I-687. Because this letter only pertains to part of the requisite period and because it does not establish that [REDACTED] had ongoing contact with the applicant during that time, very minimal weight can be accorded to this letter in establishing that the applicant resided in the United States from 1982 until 1986.

Letters from medical institutions:

- A letter from [REDACTED] in which the doctor states that the applicant was first examined by him on May 24, 1982. The regulation at 8 C.F.R. § 245a.2(d)(3)(iv) provides that credible proof of residence may be in the form of "medical records showing treatment of hospitalization of the applicant." The regulation further provides that these records "must show the name of the medical facility or physician and the date(s) of the treatment." This letter fails to provide medical records showing the medical treatment of the applicant. The letter, dated June 10, 1987, also fails to indicate the source of information [REDACTED] referred to in order to obtain the applicant's May 24, 1982 start date as his patient. This letter can only be afforded minimal value as probative evidence because it lacks considerable detail.

Employment verification letters:

- Two employment letters dated June 10, 1987 and September 26, 2004 from [REDACTED] Construction Company. These letters state that the applicant worked with this company since March 1982 as a part time construction handyman. The letter dated in 2004 indicates that this employment ended in December 1994. The regulation at 8 C.F.R. § 245a.2(d)(3)(i) states, in pertinent part: that letters from employers should be on the employer letterhead stationary, if the employer has such stationary and must include the following: an applicant's address at the time of employment; the exact period of employment; periods of layoff; duties with the company; whether or not the information was taken from the official company records; and where records are located and whether the Service may have access to the records. The regulation further provides that if such records are unavailable, an affidavit form-letter stating that the alien's employment records are unavailable and noting why such records are unavailable may be accepted in lieu of statements regarding whether the information was taken from the official company records and an explanation of where the records are located and whether USCIS may have access to those records. This affidavit form-letter shall be signed, attested to by the employer under penalty of perjury, and shall state the employer's willingness to come forward and give testimony if requested. Here, the employment letters do not state whether the applicant's start date with the company was obtained after consulting official records. As the applicant's sworn statement indicates that he was not in the United States until 1983 and as this letter is significantly lacking in detail, very minimal weight can be accorded to these letters as proof that the applicant resided continuously in the United States from March 1982 until the end of the requisite period.

Receipts:

- A photocopy of a receipt for a kitchen set from Churchill Furniture Rentals showing the applicant's name and the date March 15, 1982. Though this photocopy of a receipt shows an item was sold to the applicant in New York in March 1982, it is not sufficient to establish that the applicant resided continuously in the United States for the duration of the requisite period. Further, as the date on this receipt is after January 1, 1982, it does not carry any weight in establishing that the applicant entered the United States before that date.
- A photocopy of a receipt showing the applicant paid four hundred dollars (\$400) to someone in November 1981. It is not clear what the item associated with this receipt is. Though this photocopy of a receipt shows an item was sold to the applicant in New York in 1981, it is not sufficient to establish that the applicant resided continuously in the United States for the duration of the requisite period.

Photocopies of envelopes as follows:

- A photocopy of an envelope showing a date of "10.2.83" that is addressed to the applicant at [REDACTED] in the Bronx, New York. It is noted here that the applicant did not indicate that this is an address at which he has resided on his Form I-687. While this photocopy of an envelope is addressed to the applicant, it bears an address that that applicant has not shown as one that he lived at. As such, it carries very minimal weight in establishing that the applicant was present in the United States in 1983. This document does not offer proof that the applicant was present or resided in the United States for the duration of the requisite period.

- A photocopy of an envelope showing a date of “16.2.83” that is addressed to the applicant at [REDACTED] Avenue in the Bronx, New York. It is noted here that the applicant did not indicate that this is an address at which he has resided on his Form I-687. While this photocopy of an envelope is addressed to the applicant, it bears an address that that applicant has not shown as one that he lived at. Therefore, it carries very minimal weight in establishing that the applicant was present in the United States in 1983. This document does not offer proof that the applicant was present or resided in the United States for the duration of the requisite period.
- An envelope that shows a date of “4.1.1982” that is addressed to the applicant in Florida. It is noted that the applicant indicated that he ceased residing in Florida in December 1981. While this photocopy of an envelope is addressed to the applicant, it bears an address that is not consistent with where the applicant was residing on the date the letter was postmarked. Therefore, it carries very minimal weight in establishing that the applicant was present in the United States in 1982. However, this document does not offer proof that the applicant was present or resided in the United States for the duration of the requisite period.
- An envelope that shows a date of “9.1.1982” that is addressed to the applicant in Florida. It is noted that the applicant indicated that he ceased residing in Florida in December 1981. While this photocopy of an envelope is addressed to the applicant, it bears an address that is not consistent with where the applicant was residing on the date the letter was postmarked. Therefore, it carries very minimal weight in establishing that the applicant was present in the United States in 1982. However, this document does not offer proof that the applicant was present or resided in the United States for the duration of the requisite period.
- An envelope bearing an illegible date that may be in 1983. The envelope is addressed to the applicant at [REDACTED] in the Bronx, New York. It is noted that this is not an address the applicant indicated he resided at in 1983 or at any point during the requisite period on his Form I-687. While this photocopy of an envelope is addressed to the applicant, as it bears an address that that applicant has not shown as one that he lived at, it carries very minimal weight in establishing that the applicant was present in the United States in 1983. This document does not offer proof that the applicant was present or resided in the United States for the duration of the requisite period.

In the director’s Notice of Intent to Deny (NOID), issued January 25, 2006, she noted the above and stated that the affidavits submitted by the applicant conflicted with the sworn statement he submitted at the time of his interview. She granted the applicant thirty (30) days within which to submit additional evidence in support of his application. In response to the director’s NOID, the applicant submitted the following:

- A third affidavit from [REDACTED] dated February 6, 2006. Here, the affiant, who lives in the Bronx, New York states that he knows that the applicant has resided in the United States since September 1981. He states that the first time he met the applicant was in a grocery store where he used to work. It is noted that the applicant stated on his Form I-687 that he resided in Florida until December 1981. It is also noted that the affiant has previously submitted a statement in which he states that he first met the applicant in November 1981. It is further noted that the record contains a sworn statement in which the applicant indicated he did not enter the United States until approximately 1983. The affiant states that he knows that the applicant

has been continuously present in the United States since June of 1981. However, the affiant fails to indicate how he knows this, as he has stated he did not meet the applicant until September 1981. Though this affiant indicates that he is a United States citizen and though he has submitted his birth certificate as proof that he was born in the United States, he fails to submit proof that he resided continuously in the United States for the duration of the requisite period. The affiant further fails to state the frequency with which he saw the applicant during the requisite period or whether there were periods of time during which he did not see the applicant at that time. Because it is significantly lacking in detail, this affidavit carries very minimal weight in establishing that the applicant resided continuously in the United States for the duration of the requisite period.

- An affidavit from [REDACTED] dated February 2, 2006. Here, the affiant states that he has known the applicant since December 1981 and that he first met him at [REDACTED] in Brooklyn, New York. It is noted that this is the address of residence the applicant stated he resided at on his Form I-687 at that time. The affiant indicates that he currently resides at that address. Though the form that the affidavit is written on indicates that the affiant should provide a phone number at which he can be contacted to verify information in the affidavit, the affiant failed to do so. Here, though the affiant states that he lived with the applicant during the requisite period, he has failed to provide evidence that he resided in the United States during that time. Further, as the record contains a sworn statement in which the applicant indicated he did not enter the United States until approximately 1983, doubt is cast on assertions made by this affiant regarding the dates of the applicant's residence in the United States.
- An affidavit from [REDACTED] dated February 14, 2006. In this affidavit, the affiant, who lives in the Bronx, New York, states that he knows that he has known the applicant since September 1981. He states that the first time he met the applicant was in a grocery store where the affiant used to work. It is noted that the applicant stated on his Form I-687 that he resided in Florida until December 1981. The affiant states that he knows that the applicant has been continuously present in the United States since June of 1981. However, the affiant fails to indicate how he knows this, as he has stated he did not meet the applicant until September 1981. Though this affiant indicates that he is a United States citizen and though he has submitted his birth certificate as proof that he was born in the United States, he fails to submit proof that he resided continuously in the United States for the duration of the requisite period. The affiant further fails to state the frequency with which he saw the applicant during the requisite period or whether there were periods of time during which he did not see the applicant at that time. Because of its significant lack of detail, this affidavit carries very minimal weight in establishing that the applicant resided continuously in the United States for the duration of the requisite period.

In denying the applicant, the director noted this additional evidence, but stated that it was not sufficient to overcome her grounds for denial. In saying this, the director noted the above and stated that while credible affidavits were those which included documents identifying the affiant, proof that the affiant was in the United States during the statutory period, proof that there was a relationship between the applicant and the affiant and a current phone number at which the affiant could be contact to verify information in the affidavit. However, the director noted that each newly submitted affidavit was lacking with regard to some of these criteria. The director went on to say that [REDACTED], from whom the applicant submitted a medical letter, had been suspended from practice on December 6, 1994, calling into question his reliability as a witness. The director also noted that the letter [REDACTED] Construction was not submitted with proof that this company was in business during the requisite period.

On appeal, the applicant submits a statement in which he asserts that many of the affiants submitted documents as proof of their identities. It is noted here that, though many of the affiants from which the applicant submitted affidavits did provide identification documents, none provided proof that they themselves were present in the United States during the requisite period. The applicant states that all affiants are willing to come forward and confirm their statements. However, it is noted here that the applicant did not provide contact phone numbers at which the Service could contact the affiants to verify the information in their affidavits. The applicant goes on to attempt to explain why he has submitted envelopes that were addressed to him at addresses he did not reside at during the dates they were postmarked in the requisite period. Here, he states that he received mail at addresses other than his address of residence because of trouble with missing mail where he was residing.

The applicant further submits the following in support of his application with his appeal:

- An affidavit from [REDACTED] that is notarized and is dated August 11, 2006. In this affidavit, the affiant states that he has known the applicant since December 28, 1981. He does not indicate how he knows the specific date that he met the applicant. He goes on to say that he first met the applicant at [REDACTED] in Brooklyn. He asserts that the applicant continuously resided in the United States for the duration of the requisite period. He submits his telephone number with this affidavit. Though he is not required to do so, he further submits a photocopy of his passport and of his New York State Benefit Identification Card as proof of his identity. The affiant does not offer proof that he himself resided continuously in the United States for the duration of the requisite period. He does not state the frequency with which he saw the applicant during the requisite period. Because this document is significantly lacking in detail, it can be afforded minimal weight in establishing that the applicant resided continuously in the United States for the duration of the requisite period.
- An affidavit from [REDACTED] that is notarized and is dated August 7, 2006. In this affidavit, the affiant states that he first met the applicant on December 28, 1981 at [REDACTED] in Brooklyn. He does not indicate how he knows the specific date that he met the applicant. He asserts that the applicant continuously resided in the United States for the duration of the requisite period. He submits his telephone number with this affidavit. Though he is not required to do so, he further submits a photocopy of his a document as proof of his identity. Because of its poor quality, it is difficult to determine what this document is. Here, the affiant does not offer proof that he himself resided continuously in the United States for the duration of the requisite period. He does not state the frequency with which he saw the applicant during the requisite period. Because this document is significantly lacking in detail, it can be afforded minimal weight in establishing that the applicant resided continuously in the United States for the duration of the requisite period.
- An affidavit from [REDACTED] that is notarized and is dated August 10, 2006. In this affidavit, the affiant asserts he has resided in the United States since 1980. The affiant states that he has known the applicant since December 28, 1981 when he met him at 84 Herkimer Street in Brooklyn. He does not indicate how he knows the specific date that he met the applicant. He asserts that the applicant continuously resided in the United States for the duration of the requisite period. He submits his telephone number with this affidavit. Here, the affiant does not offer proof that he himself resided continuously in the United States for the duration of the requisite period. He does not state the frequency with which he saw the applicant during the requisite period. Because this document is significantly lacking in detail, it can be afforded minimal weight in establishing that the applicant resided continuously in the United States for the duration of the requisite period.

As is stated above, 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. at 79-80. The applicant has been given the opportunity to satisfy his burden of proof with a broad range of evidence pursuant to 8 C.F.R. § 245a.2(d)(3). The applicant submitted affidavits and letters, photocopies of envelopes, photocopies of receipts and employment letters as corroborating evidence of his continuous residence during the requisite period to satisfy his burden of proof. However, the documents submitted by this applicant do not overcome the applicant’s signed, sworn statement in the record that indicates that he resided in Bangladesh until 1983.

The absence of sufficiently detailed supporting documentation to corroborate the applicant’s claim of continuous residence for the entire requisite period seriously detracts from the credibility of this claim. 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 contradictory statements in documents in the record and 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 for the requisite period under both 8 C.F.R. § 245a.2(d)(5) and *Matter of E- M--*, *supra*. The applicant is, therefore, ineligible for Temporary Resident Status under section 245A of the Act on this basis.

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