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U.S. Citizenship
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FILE:



Office: NEWARK

Date:

AUG 21 2008

MSC 05 211 10938

IN RE: Applicant:



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:



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 Benefits 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. Wieman, 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, Newark. The matter is now before the Administrative Appeals Office 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 (the 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 she had continuously resided in the United States during the requisite period.

On appeal, counsel asserted that the evidence submitted is sufficient to demonstrate the applicant's eligibility.

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 Immigration and Nationality Act (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 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).

As to the requirement of continuous residence in the United States from January 1, 1982 through the date the application is filed, the regulation at 8 C.F.R. § 245a.2(h)(1) provides that an applicant shall be regarded as having resided continuously if no single absence during the salient period was longer than 45 days and the aggregate of all absences does not exceed 180 days.

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). To meet his or her burden of proof, an applicant must provide evidence of eligibility apart from the applicant's own testimony. 8 C.F.R. § 245a.2(d)(6).

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, 431 (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.

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.

On the instant I-687 application, which the applicant signed on February 9, 2005 and which was submitted to CIS on April 29, 2005, the applicant stated that she had been absent from the United States only twice since January 1, 1982. The applicant stated that she visited Peru from February 1982 to March 1982 and from December 1985 to January 1986.

In reporting her residential history in the United States at item 30, the applicant stated that she had lived (1) at [REDACTED], in Queens, New York, from October 1981 to October 1986, (2) at [REDACTED] - [REDACTED] in Flushing, New York, from October 1986 to 1988, and at [REDACTED], in Union City, New Jersey, from 1988 to the present.

At item 33 of the application, the applicant was asked to list all of her employers since January 1, 1982. The applicant listed Digisew, Inc. of Union City, New Jersey as an employer. The applicant did not indicate when that employment began, or whether it was ongoing, or, if not, when that

employment ended. The applicant did not state the nature of her position at Digisew. The applicant did not list any other employers on that application.

The pertinent evidence in the record is described below

- The record contains a Form I-485 Application to Adjust Status that the applicant signed on April 25, 2003 and that was submitted to CIS on May 27, 2003. On that application the applicant stated that she last entered the United States during July of 1981. That assertion contradicts the applicant's assertion, on the instant Form I-687, that she was only absent from the United States from February 1982 to March 1982 and from December 1985 to January 1986. As either that Form I-485 or the instant Form I-687 is necessarily in error, that discrepancy demonstrates that the applicant has not accurately filled out all of the forms she has submitted to CIS.
- The record contains a G-325 Biographic Information form that the applicant signed on April 25, 2003 and submitted with the Form I-485. On that form the applicant indicated that she worked from 1998 to 2001 for Lextor Petite of Ridgefield, New Jersey, as a sample maker. This office notes that the applicant did not list that employment on the instant Form I-687, where she was required, at item 33, to list all of her U.S. employers since her initial entry.
- The record contains a Form for Determination of Class in *CSS v. Meese* that the applicant signed on February 13, 1990. On that form the applicant indicated that she had been absent from the United States from March 15, 1984 to April 18, 1984 and from December 4, 1987 to January 10, 1988. That account of the applicant's absences from the United States conflicts with the applicant's assertion, on the instant Form I-687 application, that her only absences from the United States since January 1, 1982 were from February 1982 to March 1982 and from December 1985 to January 1986. Again, this demonstrates that the applicant has not accurately completed forms that she has submitted to CIS. Further, in answer to question seven on that form, "Have you continuously (sic) resided in the United States in an unlawful status – since prior to January (sic) 1, 1982?" the applicant responded, "No."
- The record contains a previous Form I-687 application executed by the applicant on February 13, 1990. On it, at item 16, the applicant stated that she last entered the United States on January 10, 1988. The applicant further stated, at item 35, that she visited Peru from March 15, 1984 to April 18, 1984, and from December 4, 1987 to January 18, 1988. Those statements conflict with the statement the applicant made on the instant Form I-687 application, that her only absences from the United States since January 1, 1982 were from February 1982 to March 1982 and from December 1985 to January 1986. Again, this demonstrates that the applicant has not accurately completed forms that she has submitted to CIS.
- The record contains ten pay stubs showing wages ostensibly paid to the applicant by Sama Plastics Corp. of Carlstadt, New Jersey for pay periods ending from November 21, 1986 to April 10, 1987. The record also contains a letter, dated June 4, 1990, from [REDACTED].

personnel director of Sama Plastics. Ms. [REDACTED] stated that the applicant worked for Sama Plastics from October 1986 to November 1987.

This office notes that the applicant did not indicate, on the Form I-687 application, that she had ever worked for Sama Plastics, which detracts from the credibility of the claim. Further, the employment verification letter does not comply with the requirements of 8 C.F.R. § 245a.2(d)(3)(i), in that it does not provide the applicant's address at the time of employment, does not identify the exact period of employment, does not state the applicant's duties, does not 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. This failure to comply with the governing regulation further diminishes the evidentiary value of the letter. It will nevertheless be considered, pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L), as it is relevant evidence. Standing alone, the letter and pay stubs from Sama Plastics would be accorded slight evidentiary value.

- The record contains an affidavit, dated June 11, 1989, from [REDACTED] who stated that she has known the applicant in the United States as a friend since 1982, when they were introduced by friends of the affiant's husband.

[REDACTED] gave her address as [REDACTED], but did not identify the town or city in which she lives. As such, locating her is not feasible and the information provided is unverifiable. Even standing alone, that affidavit would be accorded only slight evidentiary value.

- The record contains another affidavit from [REDACTED], also dated June 11, 1990. In that affidavit [REDACTED] stated that the applicant worked for her as a housekeeper from March 1982 to April 1986. Ms. [REDACTED] provided no address on that affidavit, which, again, renders verification difficult. Further, the applicant did not claim, on the Form I-687 application, to have worked as a housekeeper, although she was required to list all of her employment in the United States since January 1, 1982. Finally, that letter does not conform to the requirements of 8 C.F.R. § 245a.2(d)(3)(i) pertinent to employer verification letters. Although letter will be considered pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L), it would be accorded only slight evidentiary value, even standing alone.
- The record contains an almost identical form affidavit dated December 6, 1990 from [REDACTED] of Secaucas, New Jersey. Ms. [REDACTED] states that she has known the applicant in the United States since 1982 and they met because the applicant worked for the affiant. The affiant did not state where or when the applicant worked for her, or in what capacity. That employment verification affidavit does not comply with the requirements of C.F.R. § 245a.2(d)(3)(i) but will be considered pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L). Even standing alone, that affidavit would be accorded only slight evidentiary value. The affidavit was attested to by notary public [REDACTED] of New Jersey.

- The record contains an affidavit, dated May 26, 2006, from [REDACTED] of Union City, New Jersey. Ms. [REDACTED] stated that she has known the applicant since 1981 “as a friend, and because she use to [sic] work at my house as the housekeeper for many years.” This office notes that the applicant did not claim, on the Form I-687 application, to have worked as a housekeeper, although she was required to list all of her employment in the United States since January 1, 1982 at item 33. Because this affidavit does not qualify as a employer verification letter pursuant to the requirements of 8 C.F.R. § 245a.2(d)(3)(i), it will be considered as an acquaintance affidavit. The affidavit does not state where the acquaintance began or that the applicant lived in the United States during the requisite period. Because it conflicts with the employment history the applicant provided on the Form I-687 application and because it does not state unambiguously that the applicant lived in the United States during the requisite period, however, that affidavit will be accorded no evidentiary weight.
- The record contains a letter, dated June 11, 1990, from [REDACTED] M.D., of the Latin American Medical Group of Jackson Heights, New York. That letter indicates that the doctor has known the applicant as a patient since 1982, has seen her periodically since then, and believes that she has lived in the United States during that time. Standing alone, that letter would be accorded moderate evidentiary value for the proposition that the applicant has been in the United States, at least during various times during the requisite period.
- The record contains a photocopy of a receipt dated January 13, 1987 evincing a purchase at Queens Discount Electronics in Jackson Heights, New York. That receipt bears no indication that it was issued to the applicant and is not evidence in support of any material proposition in this matter.
- The record contains a photocopy of a receipt dated December 5, 1986 showing that the applicant sent funds from a Jackson Heights, New York company to Peru on that date. Standing alone, that receipt would be accorded moderate evidentiary value for the proposition that the applicant was in the United States on that date.
- The record contains three other photocopied receipts from the same company. The dates on those receipts are illegible. Those receipts do not support any material proposition in this matter.
- The record contains October 1987 and December 1987 natural gas utility bills issued to the applicant and [REDACTED] at [REDACTED], Union City, New Jersey. This office notes that the applicant indicated, on the instant Form I-687 application that she did not move to Union City until 1988, and that she never lived at [REDACTED]
- The record contains an affidavit, dated May 5, 2003, from [REDACTED] of Orange, New Jersey. The relevant paragraph of that affidavit states, [REDACTED]

I have known [the applicant] for de past 20 years, during which time I have been seen [her] and her family all the time. We have gone out on several occasions to parties, clubs and others evening events.

[Errors in the original.]

Other than “all the time” the affiant did not characterize the frequency of her encounters with the applicant. The affiant did not indicate where they met, the date they met, where the applicant lived during the period of their acquaintance, or what maximum amount of time may have passed without her encountering the applicant. Even standing alone, that affidavit would be accorded only slight evidentiary value for the proposition that the applicant continuously resided in the United States for 20 years prior to May 5, 2003.

- The record contains a similar declaration, dated May 29, 2006, from [REDACTED] of Union City, New Jersey. That declaration states, “I have known [the applicant] since 1983, during this time I have seen [her] all of the time.” Elsewhere the declarant indicates that the applicant was a customer in her grocery store.

Again, other than “all the time” the declarant did not characterize the frequency with which she encountered the applicant. The declarant did not indicate where the applicant lived, or what maximum amount of time may have passed without her encountering the applicant. Further, although that declaration bears a notary’s seal and signature, the notary did not attest to the signature and did not indicate that she administered an oath to the declarant. Even standing alone, that declaration would be accorded slight evidentiary value for the proposition that the applicant has continuously resided in the United States since 1983.

- The record contains an almost identical affidavit, dated May 29, 2006, from [REDACTED], also of Union City, New Jersey. That declaration states, “I have known [the applicant] since 1983, during this time I have been seen [sic] [her] all of the time.” Elsewhere the declarant indicates that the applicant was a customer in his grocery store.

Once again, other than “all the time” the declarant did not characterize the frequency with which he encountered the applicant. The declarant did not indicate where the applicant lived, or what maximum amount of time may have passed without his encountering the applicant. Further, although that declaration bears a notary’s seal and signature, the notary did not attest to the declarant’s signature and did not indicate that she administered an oath to the declarant. Even standing alone, that affidavit would be accorded slight evidentiary value for the proposition that the applicant has continuously resided in the United States since 1983.

- The record contains a form declaration dated October 22, 2004 from [REDACTED] of Union City, New Jersey. Mr. [REDACTED] stated, “I have known [the applicant] since 1982 as a friend.” The declarant further stated, “During this time, I have witnessed [the applicant] as being an incredible hard worker and very dedicated to his [sic] family. He [sic] is an honest and law-abiding individual.” This office notes that the applicant is a woman and that her appearance

is not sexually ambiguous. The declarant did not state whether he and the applicant were in the United States at the time of that meeting.

That declaration contains a notary's stamp and signature. The notary did not attest, however, that she had witnessed the declarant's signature or confirmed his identity. The purpose for which that notary's stamp was placed on that declaration is therefore unknown to this office, and it does not enhance the evidentiary value of the declaration.

Because of the misidentification of the applicant as a man, because the declarant failed to unambiguously state that the applicant was in the United States, and because of the irregularities in the notary's attestation, that declaration, even standing alone, would be accorded no evidentiary value.

- The record contains another form declaration from [REDACTED]. This declaration is dated May 26, 2006. In it, Mr. [REDACTED] stated that he has known the applicant since 1981 and that "during this time I have been seen [sic] [the applicant] and her family together all the time." The declarant does not state whether he and the applicant met in the United States, or whether the applicant lived in the United States during any part of the requisite period.

Although the declaration bears a notary's signature and seal, the notary did not attest to the authenticity of Mr. [REDACTED]'s signature or state that she administered an oath to Mr. [REDACTED]. The purpose of the notary's subscription is unknown to this office. The notary has done nothing to enhance the evidentiary value of the declaration.

Further, in his October 22, 2004 declaration Mr. [REDACTED] stated that he has known the applicant since 1982. In the instant declaration he stated that he has known the applicant since 1981.

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. Further, the applicant must resolve any inconsistencies in the record with competent, independent, objective evidence. Attempts to explain or reconcile such inconsistencies, absent competent objective evidence sufficient to demonstrate where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (Comm. 1988).

Because the declarant did not state unambiguously that the applicant was in the United States during the requisite period, because of the irregularity in the notary's attestation, and because the declarant's May 26, 2006 declaration conflicts with his October 22, 2004 declaration, Mr. [REDACTED]'s May 26, 2004 declaration will be accorded no evidentiary value. Further, because of this unreconciled conflict in the evidence presented, the evidentiary value of all of the other evidence submitted is greatly decreased pursuant to *Matter of Ho*, 19 I&N Dec. 582.

- The record contains a form declaration dated November 2, 2004 from [REDACTED] of Union City, New Jersey, stating that he met the applicant in 1982. The declarant further stated,

“During this time I have witnessed [the applicant] as being an incredible hard worker and very dedicated to his [sic] family. He [sic] is an honest and law-abiding individual.” The declarant did not state whether he and the applicant were in the United States at the time they met. That declaration contains a notary’s stamp and signature. The notary did not attest, however, that she had witnessed the declarant’s signature or confirmed his identity. The notary’s subscription does not enhance the evidentiary value of that declaration and the purpose for which that notary’s subscription was placed on that declaration is unknown to this office.

Because the declarant misidentified the applicant as a man, because he failed to unambiguously state that the applicant was in the United States, and because of the irregularities in the notary’s attestation, that declaration, even standing alone, would be accorded no evidentiary value.

- The record contains a form declaration, dated October 20, 2004 from [REDACTED] of Jersey City, New Jersey. Ms. [REDACTED] stated that she has known the applicant since 1982. The declarant did not state whether she and the applicant were in the United States at the time they met. That declaration bears a notary’s stamp and signature. The notary did not attest, however, that she had witnessed the declarant’s signature or confirmed her identity. The notary’s subscription does not, therefore, convert that declaration into an affidavit or otherwise enhance its evidentiary value. The purpose for which that notary’s stamp was placed on that declaration is therefore unknown to this office.

Because the declarant failed to unambiguously state that the applicant was in the United States, and because of the irregularities in the notary’s attestation, that declaration, even standing alone, would be accorded no evidentiary value.

- The record contains another form declaration from [REDACTED]. This declaration is undated. In it, Ms. [REDACTED] stated that she had known the applicant since 1982 but failed, again, to state whether their introduction took place in the United States or whether the applicant had ever lived in the United States during the requisite period. The declarant did not state how often they encountered each other during the requisite period or the maximum amount of time that may have transpired during the requisite period without their meeting. Further, although that document bears a notary’s seal and signature, the notary did not attest to the authenticity of the declarant’s signature and did not state that he administered an oath to the declarant.

Because the declarant failed to state unambiguously that the applicant was in the United States during the requisite period, because of the lack of detail in that declaration, and because of the irregularity in the notary’s subscription, Ms. [REDACTED] undated declaration will be accorded no evidentiary weight.

- The record contains a form affidavit, dated November 4, 2004, from [REDACTED] a of Union City, New Jersey. Ms. [REDACTED] stated that she has known the applicant since 1982. The

affiant did not state whether she and the applicant met in the United States or whether the applicant has ever resided in the United States.

- The record contains another statement from [REDACTED]. This second statement is dated May 25, 2006. In it, Ms. [REDACTED] declared that she has known the applicant since 1981 and that “during this time I have been seen [sic] [the applicant] and her family together all the time.” Other than “all the time,” the declarant did not characterize the frequency of her encounters with the applicant.

The declarant did not state whether she and the applicant first met in the United States or whether the applicant had ever resided in the United States. Further, the May 25, 2006 declaration states that the declarant has known the applicant since 1981, whereas Ms. [REDACTED]’s November 4, 2004 statement indicates that they met in 1982. Further still, although the letter bears a notary’s seal and signature, the notary did not attest to the authenticity of the declarant’s signature or state that she administered an oath to the declarant. As such, the significance of the notary’s subscription is unknown to this office and it lends no additional evidentiary value to the declaration.

Because of the failure of the declarant to state unambiguously that the applicant was in the United States during the requisite period, because of the lack of detail in the declaration, because of the irregular notary’s subscription, and because the two declarations of Ms. [REDACTED] conflict, both of Ms. [REDACTED]’s declarations are accorded no evidentiary value.

In addition, the unresolved discrepancy between Ms. [REDACTED]’s differing accounts of when she met the applicant further erodes the evidentiary value of all of the evidence in the record pursuant to the doctrine of *Matter of Ho*, 19 I&N Dec. 582.

- The record contains a form affidavit from [REDACTED] of Astoria, New York. Mr. [REDACTED] stated that he has known the applicant since 1981, but did not state whether they then met in the United States or whether the applicant has ever resided in the United States. Further, although the affidavit is dated May 19, 2006, the notary attested to that letter on May 22, 2006. Because the affiant did not state unambiguously that the applicant lived in the United States during the requisite period, and because of the irregular notary’s attestation, that affidavit will be accorded no evidentiary value.
- The record contains a form declaration dated May 19, 2006, from [REDACTED] of Astoria, New York. Mrs. [REDACTED] stated that she has known the applicant for 25 years during which she has “seen [the applicant] and her family together all the time.” She added that they “have gone out on several occasions to parties, clubs and others [sic] evening events.” The declarant did not state where this acquaintance began or whether the applicant ever lived in the United States during the requisite period.

That document bears a notary’s seal and signature. The notary did not, however, attest to the authenticity of the declarant’s signature and did not state that he administered an oath to the

declarant. That seal and signature does not, therefore, convert the declaration into an affidavit nor in anyway enhance its evidentiary value.

Because of the failure of the declarant to state unambiguously that the applicant lived in the United States during the requisite period and because of the irregular notary's attestation, this declaration, even standing alone, would be accorded no evidentiary value.

- The record contains a May 25, 2006 declaration from [REDACTED]. Mr. [REDACTED] stated that he has known the applicant since 1981, but did not state whether they met in the United States or elsewhere. Further, he did not state whether the applicant has ever lived in the United States. Further still, although that declaration bears a notary's stamp and signature, the notary did not attest to the authenticity of Mr. [REDACTED]'s signature or state that she administered an oath to Mr. [REDACTED]. Absent such an attestation the notary's subscription does not convert the declaration into an affidavit or otherwise enhance its credibility.

Because of the failure of the declarant to state unambiguously that the applicant lived in the United States during the qualifying period, and because of the notary's irregular subscription, this declaration is accorded no evidentiary value.

- The record contains a letter dated April 25, 2003 from [REDACTED], mayor of Union City, New Jersey, who says that he has known the applicant since 1986, but without stating where they met or whether she has ever resided in the United States. That letter is of no evidentiary value.
- The record contains a June 1, 1990 letter from [REDACTED], an associate pastor of the Church of St. Joseph of the Palisades, in West New York, New Jersey. Rev. [REDACTED] stated, "[The applicant] belongs to this parish and has assisted our religious services for many years now."

However, the record also contains a May 29, 2006 letter from the parochial vicar of the St. Anthony of Padua Church in Union City, New Jersey, stating that the applicant has been a part of that parish community since 1983.

The June 1, 1990 assertion by the associate pastor of St. Josephs that the applicant had belonged to that parish for many years appears to conflict with the May 29, 2006 assertion of the parochial vicar of St. Anthony's that the applicant "has been a part of [that] parish community since 1983."

Again, pursuant to *Matter of Ho*, 19 I&N Dec. 582, this unresolved conflict in the evidence provided by the applicant casts doubt on every aspect of the applicant's proof and the applicant's assertions, and may be resolved only with competent, objective evidence. In addition to destroying the credibility of the letters from the two churches, the evidentiary value

of the remainder of the applicant's evidence and the credibility of the applicant's assertions is damaged yet further.

- The record contains photocopies of various photographs of the applicant. Most of the photographs contain no indication of where they were taken, and are not, therefore, evidence of the applicant's residence or presence in the United States. The exceptions are a photograph of the applicant standing before the Hudson River with the Manhattan skyline in the background. That photograph was apparently taken in New Jersey. In another photograph, a store in the background is identified as Washington Florist. This office notes that a Washington Florist is located at 4257 Broadway, New York, New York, which may be the store in the photograph. This office further notes that, in any event, a store named Washington Florist is likely in the United States.

The photographs do not, however, demonstrate that they were taken during the period of requisite residence. As such, they are not evidence in support of the applicant's claim of continuous residence in the United States during the requisite period.

- The record contains a declaration, dated May 31, 2006, from [REDACTED] of Newark, New Jersey. Mr. A [REDACTED] stated that he has known the applicant since 1984 as a friend, without stating whether their acquaintance began and/or continued in the United States or whether the applicant ever resided in the United States during their acquaintance. The declaration further states, "During this time, I have witnessed [the applicant] as being an incredible person, and very dedicated to his [sic] family." Although that declaration bears a notary's stamp and seal, the notary did not attest to the signature or state that the declaration was signed under oath. Because of the misidentification of the applicant as a man, the failure of the declarant to state unambiguously that the applicant was in the United States during the requisite period, and because of the irregularity in the notary's attestation, this declaration would be accorded no evidentiary value.
- The record contains an affidavit dated October 27, 2004 from [REDACTED] of Union City, New Jersey. Ms. [REDACTED] stated,

I have known [the applicant] for the past 20 years during this time I have been seeing [the applicant] and her family on many occasions. We participated together to Church events and celebrations and other events.

[Errors in the original.]

The affiant further stated, speaking of the applicant, "He has also proved an excellent ability and potential to hold any roles of responsibility."

Other than "on many occasions" the affiant did not characterize the frequency of her encounters with the applicant. The affiant did not indicate where they met, the date they met, where the applicant lived during the period of their acquaintance, or what maximum amount

of time may have passed without their encountering each other. Further, although that affidavit was dated October 27, 2004, the notary's attestation states that the affidavit was signed and sworn before the notary on October 29, 2004.

Because of the lack of detail, the misidentification of the applicant as a man, and the irregularity in the notary's attestation, that affidavit will be accorded no evidentiary value.

- The record contains an affidavit, dated May 30, 2006, from [REDACTED] of Newark, New Jersey, who stated that he has known the applicant since 1983. The affiant did not state whether they met in the United States or whether, to the affiant's knowledge, the applicant has ever lived in the United States. Even standing alone, that affidavit has no evidentiary value for the proposition that the applicant resided continuously in the United States during the requisite period.
- The record contains an undated declaration from [REDACTED] of North Bergen, New Jersey. Mr. [REDACTED] states that the applicant has worked for him twice, for four to five years each time, until 1995, at the Arlo factory in Weehawken, New Jersey. This declaration will be given nominal weight as it is vague as to when the applicant worked for the declarant.

Although that declaration will be considered pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L), it does not 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, and does not, therefore, conform to the requirements for employer verification letters at 8 C.F.R. § 245a.2(d)(3)(i), which further reduces its evidentiary value.

Further still, whether any of that employment was during the period of requisite residence, or how much may have been, is unclear. Finally, although that declaration bears a notary's seal and signature, the notary did not attest to the signature or state that the content of the document was sworn to before her. The notary's seal does not, therefore, convert the declaration to an affidavit or otherwise enhance its evidentiary value. Because this office is unable to locate the factory at which the applicant was allegedly employed, because the undated declaration does not conform to the governing regulation, because the declaration does not specify when the applicant was employed, and because of the irregularity in the notary's attestation, this office accords no evidentiary value to that declaration.

- Finally, the record contains a Memorandum of Investigation from a CIS investigator in Newark, New Jersey. That memorandum states that agents from that office executed a search warrant on the A&V Travel Agency, operated by Gloria Placencia, who was the target of the operation. The agents found "numerous blank forms (letterheads of businesses, doctors, churches, etc) along with 'work folders' on all those who had used the services of Placencia, including one for [the applicant], in applying for amnesty."

That the applicant's work file was found in an office that was compiling fraudulent application packages, along with the work files of other aliens who had commissioned fraudulent application packages, raises suspicions pertinent to each of the items of evidence in the record, including those that would otherwise have been accorded evidentiary value. Absent a complete explanation of these circumstances, the evidentiary value of all of the evidence submitted in this matter is destroyed.

The record contains no other evidence pertinent to the applicant's residence in the United States during the salient period.

In a Notice of Intent to Deny (NOID), dated May 1, 2006, the director noted various credibility issues raised by the affidavits and declarations the applicant submitted. The director also noted that the investigative memorandum stated that a raid on the office of [REDACTED] uncovered evidence of an operation that systematically provided fraudulent paperwork in support of amnesty petitions, and that the applicant's name was on one of the files kept in that office on applicants for whom Ms. [REDACTED] had prepared such applications. The director stated that, given the lack of credibility of the applicant's documentation and the additional doubt cast on the validity of the applicant's claim by the discoveries at Ms. [REDACTED] office, the applicant's claim would be denied, absent additional evidence. The director granted the applicant thirty days to submit additional evidence.

In response counsel submitted the May 19, 2006 affidavit of J [REDACTED] the May 30, 2006 affidavit of [REDACTED], the undated declaration of [REDACTED] the May 29, 2006 declaration of [REDACTED] the May 29, 2006 affidavit of [REDACTED] the May 29, 2006 letter from the parochial vicar of St. Anthony of Padua, the May 31, 2006 declaration of [REDACTED] the May 19, 2006 declaration of [REDACTED], the May 26, 2006 affidavit of [REDACTED], the May 26, 2006 declaration of [REDACTED] the May 25, 2006 declaration of [REDACTED] the photocopies of photographs, and the May 25, 2006 declaration of [REDACTED] all of which are described above.

In the Notice of Decision, dated August 25, 2006, the director denied the application, finding that the evidence in the record still did not demonstrate the applicant's continuous residence in the United States during the requisite period.

On appeal, counsel submitted no additional evidence, but asserted that the applicant had no knowledge of any fraud perpetrated by [REDACTED] and that the evidence in the record is sufficient to demonstrate the applicant's eligibility.

The issue in this proceeding is whether the applicant has furnished sufficient credible evidence to demonstrate entry into the United States prior to January 1, 1982, and continuous residence during the requisite period.

As was noted above, the applicant admitted, on a Form for Determination of Class in *CSS v. Meese* that she signed on February 13, 1990, that she had not continuously resided in the United States in an unlawful status during the requisite period. Although this statement, in itself, might be sufficient reason to deny the application and dismiss the appeal pursuant to section 245A(a)(2) of the Act, this office observes that this may have been a simple misstatement, and does not choose to rely upon it. We turn now to the evidence that the applicant submitted, and evidence that was submitted on her behalf.

For the various reasons discussed above, most of the applicant's evidence would be accorded no evidentiary value, even standing alone. Those items of evidence include the affidavit of [REDACTED] the declaration of [REDACTED] both declarations of [REDACTED] the affidavits of [REDACTED] and [REDACTED] the affidavit of [REDACTED], the letter from [REDACTED], the photocopied photographs, the declaration of [REDACTED] the affidavit of [REDACTED] the affidavit of [REDACTED] and the declaration of [REDACTED].

Of those items of evidence that actually would have some evidentiary value, if standing alone, that conditional value ranges from slight to great. That evidence includes the letter and pay stubs from Sama Plastic, the affidavits of [REDACTED] the affidavit of [REDACTED], the affidavit of [REDACTED], and the declarations of [REDACTED] and [REDACTED].

Some of the evidence submitted, however, is inconsistent. This evidence includes [REDACTED]'s conflicting affidavits, Ms. [REDACTED]'s conflicting affidavits, and the conflicting letters from two different churches.

The investigative memorandum states that a New Jersey notary who was in the business of assembling fraudulent application packages for amnesty seekers maintained files on those customers for whom she assembled such packages, and that the applicant's name was on one of those folders. This information makes this office even less inclined to overturn the denial of the instant Form I-687 application.

The applicant has failed to meet her burden of proof. The applicant is, therefore, ineligible for temporary resident status under section 245A of the Act on this basis. The appeal will be dismissed.

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