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**U.S. Citizenship
and Immigration
Services**

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FILE: [REDACTED]
MSC-06-077-11370

Office: LOS ANGELES

Date: **OCT 30 2006**

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Status as a Temporary Resident pursuant to Section 245A of
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. 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.

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

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Application for Class Membership under *Catholic Social Services, Inc., et al., v. Ridge, et al.*, CIV. NO. S-86-1343-LKK (E.D. Cal) January 23, 2004, or *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 and the Application for Status as a Temporary Resident pursuant to the terms of the CSS/Newman Settlement Agreements was administratively closed by the District Director, Los Angeles. This matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

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 denied the applicant's Class Membership Application, finding that the applicant failed to establish that he met the definition of a class member. Pursuant to the denial of the applicant's Class Membership Application, the director administratively closed the applicant's Form I-687 application.

On appeal, the applicant asserts that he has properly filed his Form I-687 and previously submitted documents in support of that application. He asserts that he first entered the United States prior to 1982 and then resided continuously in the United States from prior to 1982 and through 1986 and argues that he has satisfied his burden of proof.

Under the CSS/Newman Settlement Agreements, if the director finds that an applicant is ineligible for class membership, the director must first issue a notice of intent to deny (NOID) that explains any perceived deficiency in the applicant's class member application and provide the applicant 30 days to submit additional written evidence or information to remedy the perceived deficiency. CSS Settlement Agreement paragraph 7 at page 4; Newman Settlement Agreement paragraph 7 at page 7. Once the applicant has had an opportunity to respond to any such notice, if the applicant has not overcome the director's finding, then the director must issue a written decision to deny an application for class membership to both counsel and the applicant with a copy to class counsel. CSS Settlement Agreement paragraph 8 at page 5; Newman Settlement Agreement paragraph 8 at page 7. The notice shall explain the reason for denial of the application, and notify the applicant of his or her right to seek review of such denial by a special master. *Id.*

On January 30, 2007, the director issued a Class Membership NOID to the applicant. The director stated that the applicant stated under oath on October 5, 2006 that he did not file for legalization during the original filing period because he lacked proof to do so. The director stated that she intended to deny the application because the applicant was not eligible for CSS/Newman class membership. The applicant was afforded 30 days to respond to the notice. The applicant responded to the NOID by stating that he attempted to apply for legalization at the Riverside, California legalization office during the original filing period, but was turned away at that time because he lacked sufficient evidence to apply for legalization. On March 29, 2007, the director issued a Notice of Denial of Class Membership to the applicant. In denying the applicant's Class Membership Application, the director concluded that the applicant failed to establish that he meets the class definition. The director provided instructions for the applicant

to appeal the denial to a Special Master appointed under the terms of the CSS/Newman Settlement Agreements.

Pursuant to 8 C.F.R. § 245a.2(p), the AAO has jurisdiction over the denial of a Application for Temporary Resident Status under section 245A of the Immigration and Nationality Act. Here, the applicant's Class Membership Application was denied and his Application for Temporary Resident Status was administratively closed. The CSS/Newman Settlement Agreements stipulate that an applicant should seek review of the denial of his Class Membership Application by a Special Master. The director accordingly provided the applicant with instructions to appeal the denial of his Class Membership Application to a Special Master. Therefore, the AAO is without authority to review the denial of the Class Membership Application, and the appeal must be rejected.

ORDER: The appeal is rejected.