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U.S. Department of Homeland Security  
U. S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
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U.S. Citizenship  
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Services

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FILE: [REDACTED]  
MSC-06-102-12377

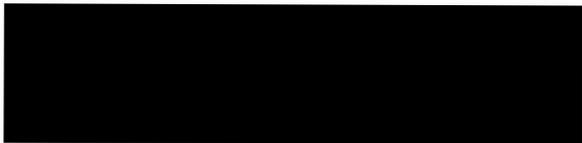
Office: LOS ANGELES

Date: APR 24 2009

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:



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. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed or rejected, 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 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 Director, Los Angeles. 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 (together comprising the I-687 Application). The director denied the application, finding that the evidence submitted was insufficient to support the applicant's claim that he had resided in the United States continuously throughout the requisite period.

On appeal, the applicant through his counsel submits four additional affidavits and a letter from a former employer.

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).

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).

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, "[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 or petition.

The issue in this proceeding is whether the applicant has furnished sufficient evidence to meet his burden of proving by a preponderance of the evidence that he has resided in the United States continuously since before January 1, 1982 and throughout the requisite period.

To prove that he has resided and worked in the United States continuously since before January 1, 1982, the applicant submitted seven affidavits and a letter of employment with his application. On appeal, the applicant provides four additional affidavits and a letter of employment.

Upon review, all of the affiants generally state that they have known the applicant since 1980 or 1981. Some affiants state that they were the applicant's co-workers in 1980; others claim to have been acquainted with the applicant since 1981; none of them, however, provides detailed information about where the applicant worked or lived in the United States during the requisite period. As stated by the director in his decision, the weight to be given any affidavit depends on the totality of the circumstances. Affidavits containing specific, personal knowledge of the applicant's whereabouts during the time period in question have greater probative value than fill-in-the-blank affidavits providing generic information. Because these affidavits lack specific detail concerning the applicant's residence and work in the United States, they lack probative value and have minimal weight as evidence of the applicant's continuous residence in the United States throughout the requisite period.

Further detracting from the credibility of his statement dated October 20, 2006 are his inconsistent statements. In states that he has personal knowledge of the applicant's residence in North Hollywood, California from August 1980 to June 2001. This

statement is in direct conflict with the other three affidavits [REDACTED] previously submitted in 1990. In a statement dated October 15, 1990 [REDACTED] stated that the applicant lived in Los Angeles, California, from 1980 to present (1990), which is in direct conflict with the October 20, 2006 statement and with the two undated affidavits by the same affiant submitted in 1990. In those two statements, the affiant stated that the applicant lived in Pacoima, California, from August 1984 to August 1989 and in Sun Valley, California, between August 1989 and November 1989. The inconsistencies between [REDACTED] affidavits regarding where the applicant lived during the requisite period cast serious doubt on the veracity of his claim that he has direct personal knowledge of the applicant's residence in the United States since 1980.

[REDACTED] in his letter claims that the applicant worked full-time for [REDACTED] from around 1980 through 1994. The letter from [REDACTED] lacks probative value because the author fails to provide specific information about the applicant's employment as prescribed by the regulations at 8 C.F.R. § 245a.2(d)(3)(i). Specifically, the author fails to provide the applicant's address at the time of his employment, the exact period of the applicant's employment, the description of the applicant's duties with the company, whether or not the information was taken from official company records, and where records are located and whether USCIS may have access to the records. Further weakening the probative value of the letter is [REDACTED]'s claim that the applicant started to worked full-time at his company from 1980 through 1994. [REDACTED]

representing [REDACTED], wrote in a letter dated July 17, 1990 that the applicant started to work full-time at [REDACTED] from February 1988. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the applicant submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Doubt cast on any aspect of the applicant's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the application. *Id.* at 591.

The absence of credible and probative documentation to corroborate the applicant's claim of continuous residence for the entire requisite period, the noted inconsistencies, and the lack of detail in the record detract from the credibility of his 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 lack of credible supporting documentation, it is concluded that the applicant has failed to establish by a preponderance of the evidence that he has continuously resided in an unlawful status in the United States for the requisite period as required 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.