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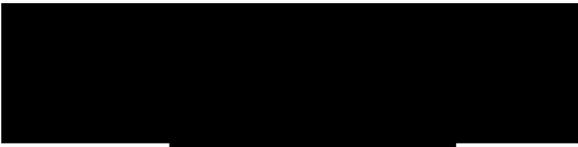
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



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FILE: [REDACTED]
MSC-06-055-11539

Office: LOS ANGELES

Date: SEP 30 2009

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.

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, 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 administratively closed by the Los Angeles office because the CSS/Newman (LULAC) Application for Class Membership was denied. The 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 (LULAC) Class Membership Worksheet. The director determined that the applicant had not established that he is eligible for class membership pursuant to the CSS/Newman Settlement Agreements because applicant was not discouraged from filing during the eligibility period of the legalization program. The director concluded that on this basis the applicant was ineligible to adjust to temporary resident status and administratively closed the application.

On appeal, the applicant asserts his eligibility for temporary resident status under the terms of the CSS/Newman Settlement Agreements.

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, which explains any perceived deficiency in the applicant's class membership application and provides the applicant 30 days to submit additional written evidence or information to remedy the perceived deficiency. 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. The decision shall explain the reason for the denial of the application, and notify the applicant of his or her right to seek review of such denial by a special master. *See* CSS Settlement Agreement paragraph 8 at page 5; Newman Settlement Agreement paragraph 8 at page 7.

On May 4, 2007, the director issued a notice of intent to deny applicant's class membership application, based on the applicant's testimony that he had previously tried applying for legalization in 1984. The director found that applicant was ineligible for CSS/Newman class membership because applicant was not discouraged from filing during the eligibility period of the legalization program. **The applicant was afforded 30 days to respond to the notice.** The applicant responded by stating that he attempted to apply for legalization in 1987, and that he had made a mistake in his testimony at the time of his interview because he was nervous. On June 21, 2007, the director denied applicant's class membership application and administratively closed the application for temporary resident status. The director instructed the applicant to appeal the decision to the special master. **The applicant appealed the decision to the Administrative Appeals Office (AAO) by filing a Form I-694, Notice of Appeal.**

Pursuant to 8 C.F.R. § 245a.2(p), the AAO has jurisdiction over the denial of an application for temporary resident status under section 245A of the Act. However, the AAO is without authority to review the denial of an application for class membership.

Since the AAO is without authority to review the denial of an application for class membership, the appeal must be rejected.

ORDER: The appeal is rejected.