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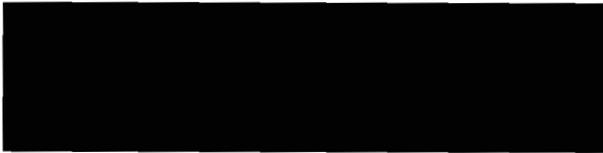
IN RE:

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.

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** On October 22, 2004, the applicant filed her Form I-687, Application for Status as a Temporary Resident Under Section 245A of the Immigration and Nationality Act, and a Form I-687 Supplement, CSS/Newman (LULAC) Class Membership Worksheet, which was approved on July 27, 2005. On July June 27, 2008, the applicant's temporary resident status was terminated by the Director, Los Angeles. The decision to terminate is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The status of an alien lawfully admitted for temporary residence may be terminated at any time in accordance with section 245A(b)(2) of the Act if it is determined that the alien was ineligible for temporary residence under section 245A of the Act. 8 C.F.R. § 245a.2(u)(1)(i). Termination of the status of any alien previously adjusted to lawful temporary residence shall act to return such alien to the unlawful status held prior to the adjustment, and render him or her amenable to exclusion or deportation proceedings under section 236 or 242 of the Act, as appropriate. 8 C.F.R. § 245a.2(u)(4).

The director terminated the approval of applicant's temporary resident status because she did not establish that she continuously resided in the United States for the duration of the requisite period.

On appeal, counsel states the director didn't consider or give the evidence enough weight. Counsel submits additional evidence for consideration.

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 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). To meet his or her burden of proof, an applicant must provide evidence of eligibility apart from his or her own testimony, and the sufficiency of all evidence produced by the applicant will be judged according to its probative value and credibility. 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.* 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, 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 request additional evidence or, if that doubt leads the director to believe that the claim is probably not true, to deny the application.

The pertinent evidence in the record is described below.

1. Declarations from [REDACTED] and [REDACTED] and an Affidavit of Witness from [REDACTED] who state they know the applicant has resided in the United States since 1980.
2. A notarized statement from [REDACTED] who states he knows the applicant has resided in the United States since 1981.
3. Declarations from [REDACTED] and [REDACTED] who state they know the applicant has resided in the United States since 1983.
4. A notarized statement from [REDACTED] who states he knows the applicant has resided in the United States since 1985.
5. Declarations from [REDACTED] and [REDACTED] who state they know the applicant has resided in the United States since 1985.
6. Declarations from [REDACTED] and [REDACTED] who state they know the applicant has resided in the United States since 1987.
7. A declaration from [REDACTED] who states the applicant has resided in the United States since 1988.
8. A notarized statement from [REDACTED] who states the applicant resided with her at [REDACTED] in Los Angeles, California, from 1980 until February 1990.
9. The applicant’s unsigned letter from “The Gas Company” Sempra Energy Utility in Los Angeles, California, stating she received service at [REDACTED] in Los Angeles, California, from January 1, 1980 to November 16, 1990.

10. The applicant's statements from a doctor with an indecipherable name and signature listed as a District Health Officer of the Ruth Temple Health Center in Los Angeles, California, who states she was examined at the health center on February 10, 1982 and on July 18, 1985.
11. The applicant's unsigned letter from [REDACTED] of AT&T who states the applicant has a service history with the company from December 1980 to February 13, 2008.
12. A notarized employment verification letter from [REDACTED] of [REDACTED] in Los Angeles, California, who states the applicant was employed by the firm from January 15, 1981 to May 19, 1982.
13. A notarized employment verification statement from [REDACTED] representing [REDACTED] in Los Angeles, California, who states the applicant was employed by the firm from June 1982 to June 18, 1990.
14. A letters from [REDACTED] of [REDACTED] in Los Angeles, California, who states the applicant and her son lived in Los Angeles, California, from 1980 to 1989, that they attended the Church since 1981 and that she became a member of the parish in 1981.
15. A letter from [REDACTED] of SBC California who states the applicant has had telephone service with the firm since February 1988.
16. The applicant's IRS Form 1040, U.S. Individual Income Tax Return, for 1988.

The persons providing declarations and notarized statements (Items # 1 through # 7 above) claim to have known the applicant for a substantial length of time, in nine cases since 1980. However, their statements are not accompanied by any documentary evidence such as photographs, letters or other documents establishing the affiants' personal relationships with the applicant in the United States during the 1980s. In view of these substantive shortcomings, the AAO finds that the statements have little probative value. On her Form I-687 filed on October 22, 2004, the applicant stated she resided at [REDACTED] in Los Angeles, California, from December 1979 to December 1989. However, [REDACTED] (Item # 8) states the applicant resided with her at that address from 1980 until February 1990. Additionally, the letter from Sempra Energy Utility (Item # 9) reflects the applicant received service at that address from January 1, 1980 to November 16, 1990. The statement from a doctor (Item # 10) is of little probative value because the name of the writer and signature are not discernable. Also, the letter from [REDACTED] (Item # 11) is not signed. The employment verification letter and statement (Items # 12 and # 13) do not provide the applicant's address at the time of employment and identify the location of company records and state whether such records are accessible or in the alternative state the reason why such records are unavailable as is required of employment letters by 8 C.F.R. § 245a.2(d)(3)(i). Additionally, on her Form I-687, the applicant did not list any employment during the entire requisite period. Also, on her Form I-687, the applicant was asked to list any affiliations or associations that she had in the United States such as clubs, organizations, churches unions or businesses. She did not list the Presentation of Mary Church. (Item # 14).

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, 591-92 (BIA 1988). These inconsistencies cast doubt not only on the evidence containing the conflicts, but on all of the applicant's evidence and all of his assertions.

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. The applicant's asserted affiliation and residential histories on her Form I-687 are accompanied by inconsistent evidence.

The evidence must be evaluated not by the quantity of evidence alone but by its quality. 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 its amenability to verification. Given the absence of credible supporting documentation, the applicant has failed to meet his burden of proof and failed to establish continuous residence in an unlawful status in the United States during the requisite period. The applicant is, therefore, ineligible for temporary resident status under section 245A of the Act. The applicant's temporary resident status was correctly terminated. The director's decision is affirmed.

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