

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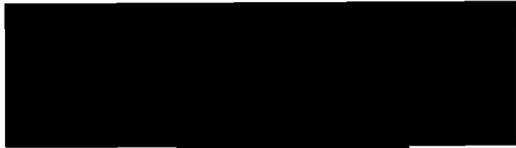
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
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Services

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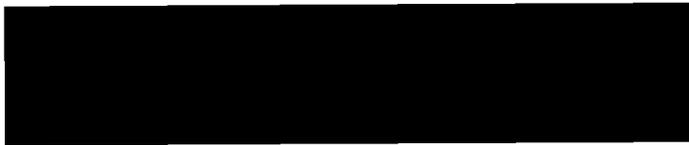
Office: CHICAGO

Date: **MAR 08 2010**

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.

IN 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: 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, Chicago, Illinois, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director determined that the applicant had not demonstrated that he had continuously resided in the United States in an unlawful status since before January 1, 1982 through the date that he attempted to file a Form I-687, Application for Status as a Temporary Resident, with the Immigration and Naturalization Service or the Service (now United States Citizenship and Immigration Services or USCIS) in the original legalization application period between May 5, 1987 to May 4, 1988. The director concluded that the applicant was not eligible to adjust to temporary resident status pursuant to the terms of the CSS/Newman Settlement Agreements and section 245A of the Immigration and Nationality Act (Act), and therefore, denied the application.

On appeal, counsel reiterated the applicant's claim of residence in the United States for the requisite period and asserted that the applicant had submitted sufficient evidence to establish such claim. Counsel included copies of previously submitted documentation in support of the appeal.

An applicant for temporary residence 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 (Act), 8 U.S.C. § 1255a(a)(2) and 8 C.F.R. § 245a.2(b).

An alien applying for adjustment to temporary resident status must 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 and 8 C.F.R. § 245a.2(b)(1).

For purposes of establishing residence and presence in accordance with the regulation at 8 C.F.R. § 245a.2(b), "until the date of filing" shall mean until the date the alien attempted to file a completed Form I-687 application and fee or was caused not to timely file, consistent with the class member definitions set forth in the CSS/Newman Settlement Agreements. Paragraph 11, page 6 of the CSS Settlement Agreement and paragraph 11, page 10 of the Newman Settlement Agreement.

An alien applying for adjustment of status has the burden of proving by a preponderance of the evidence that he or she has resided in the United States for the requisite periods, 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 including affidavits is permitted pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L).

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 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 (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.

At issue in this proceeding is whether the applicant has submitted sufficient credible evidence to meet his burden of establishing continuous unlawful residence in the United States during the requisite period. Here, the applicant has failed to meet this burden.

The record shows that the applicant submitted a Form I-687 application and a Form I-687 Supplement, CSS/Newman Class Membership Worksheet, to USCIS on November 16, 2005.

In support of his claim of residence in the United States for the requisite period, the applicant submitted employment letters, an affidavit relating to the applicant’s attempt to apply for legalization with the Service in October 1987, photocopied pages from his Jordanian passport, photocopied pages from savings account passbook, a Form I-20, Certificate of Eligibility for Nonimmigrant (F-1) Student Status-For Academic and Language Students, photocopied student grade reports, photocopied postmarked postcards, and photocopied postmarked envelopes.

The director determined that the applicant failed to submit sufficient evidence demonstrating his residence in the United States in an unlawful status for the requisite period. Therefore, the

director concluded that the applicant was ineligible to adjust to temporary residence and denied the Form I-687 application on November 29, 2007.

Counsel's remarks on appeal relating to the sufficiency and quality of the evidence the applicant submitted in support of his claim of continuous residence are noted. However, during the adjudication of the applicant's appeal, information came to light that adversely affects the applicant's overall credibility as well as the credibility of his claim of residence in this country for the requisite period. As has been previously discussed, the applicant submitted supporting documentation including photocopied postcards postmarked December 12, 1981 and January 13, 1982 and photocopied envelopes postmarked March 30, 1981, April 5, 1981, May 28, 1981, June 11, 1981, August 5, 1981, September 10, 1981, October 9, 1981, January 7, 1982, February 15, 1982, April 28, 1982, May 6, 1982, July 25, 1982, October 7, 1982, December 8, 1982, February 2, 1983, April 21, 1983, July 3, 1983, October 20, 1983, and an indeterminate day in October 1986, respectively. The envelopes bear Jordanian postage stamps and were represented as having been mailed from Jordan to the applicant at the addresses in this country he claimed as his residences as of the date of these respective postmarks. A review of the *2009 Scott Standard Postage Stamp Catalogue* Volume 4 (Scott Publishing Company 2008), reveals the following:

- The envelope postmarked March 30, 1981 bears two of the same stamp each with a value of forty fils that commemorates the opening of the Jordan Postal Museum. The stamp contains reproductions of two previously issued Jordanian stamps. This stamp is listed at page 130 of Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 1081 A156. The envelope also bears two of the same stamp each with a value of fifty fils that commemorates the opening of the Jordan Postal Museum. The stamp contains reproductions of two previously issued Jordanian stamps. This stamp is listed at page 130 of Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 1082 A156. The catalogue lists these stamps' date of issue as July 1, 1981.
- The envelope postmarked June 11, 1981 bears two of the same stamp each with a value of forty fils that commemorates famous Arab women. This stamp contains a stylized illustration of the writer, El-Khansa, with a quill pen in an inkwell in the foreground. This stamp is listed at page 130 of Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 1084 A157. The catalogue lists this stamp's date of issue as August 25, 1981.
- The envelope postmarked August 5, 1981 bears two of the same stamp each with a value of fifty fils that commemorates International Year of Disabled Persons in 1981. This stamp contains a stylized illustration of burning candles on the left and the logo of the International Year of Disabled Persons on the right. This stamp is listed at page 130 of Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 1091 A159. The catalogue lists this stamp's date of issue as November 14, 1981.

- The envelope postmarked January 7, 1982 bears two of the same stamp each with a value of fifty fils that commemorates the Thirtieth Anniversary of the Arab Postal Union. The stamp contains a stylized illustration of the logo of the Arab Postal Union encircled by the letter “J” in the colors of the Jordanian flag. This stamp is listed at page 130 of Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 1101 A162. The envelope also bears a stamp with a value of one hundred fils that commemorates the Thirtieth Anniversary of the Arab Postal Union. The stamp contains a stylized illustration of the logo of the Arab Postal Union encircled by the letter “J” in the colors of the Jordanian flag. This stamp is listed at page 130 of Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 1102 A162. The catalogue lists these stamps’ date of issue as April 12, 1982. The envelope also bears a stamp with a value of twenty-five fils that contains a portrait of King Hussein. This stamp is listed at pages 130 and 131 of Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 1140 A170. The catalogue lists this stamp’s date of issue as March 3, 1983.
- The postcard postmarked January 13, 1982 bears a stamp with a value of one hundred fils that contains a portrait of King Hussein. This stamp is listed at pages 130 and 131 of Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 1143 A170. The catalogue lists this stamp’s date of issue as March 3, 1983.
- The envelope postmarked February 15, 1982 bears two of the same stamp each with a value of twenty-five fils that commemorates Independence and Army Day and the thirtieth anniversary King Hussein’s accession to the throne. The stamp contains a stylized illustration of tanks crossing a bridge on the left and a portrait of King Hussein in a beret on the right. This stamp is listed at page 130 of Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 1104 A163. The envelope also bears a stamp with a value of fifty fils that commemorates Independence and Army Day and the thirtieth anniversary King Hussein’s accession to the throne. The stamp contains a stylized illustration of tanks traveling across sand dunes on the left and a portrait of King Hussein in a beret on the right. This stamp is listed at page 130 of Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 1106 A163. The envelope also bears a stamp with a value of one hundred fils that commemorates Independence and Army Day and the thirtieth anniversary King Hussein’s accession to the throne. The stamp contains a stylized illustration of soldiers raising a flag on the left and a portrait of King Hussein in a beret on the right. This stamp is listed at page 130 of Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 1107 A163. The catalogue lists these stamps’ date of issue as May 25, 1982.

- The envelope postmarked April 28, 1982 bears a stamp with a value of one hundred fils that commemorates the opening of the Salt Secondary School in Jordan. The stamp contains a photograph of the entrance and front of the Salt Secondary School. This stamp is listed at page 130 of Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 1112 A164. The catalogue lists this stamp's date of issue as September 12, 1982. The envelope also bears a stamp with a value of twenty-five fils that contains a portrait of King Hussein. This stamp is listed at pages 130 and 131 of Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 1140 A170. The catalogue lists this stamp's date of issue as March 3, 1983.
- The envelope postmarked May 6, 1982 bears a stamp with a value of fifty fils that commemorates the opening of the Salt Secondary School in Jordan. The stamp contains a photograph of the entrance and front of the Salt Secondary School. This stamp is listed at page 130 of Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 1111 A164. The catalogue lists this stamp's date of issue as September 12, 1982.
- The envelope postmarked July 25, 1982 bears a stamp with a value of fifty fils that commemorates the Second United Nations Conference on Peaceful Uses of Outer Space in Vienna, Austria from August 9, 1982 to August 21, 1982. The stamp contains a stylized illustration of a satellite dish in the lower left corner, the outline of a portion of the planet Earth in the lower right corner, a celestial map in the upper left corner and the logo of the United Nations in the upper right corner. This stamp is listed at page 130 of Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 1127 A167. The catalogue lists this stamp's date of issue as December 1, 1982. The envelope also bears two of the same stamp each with a value of twenty-five fils that contains a portrait of King Hussein. This stamp is listed at pages 130 and 131 of Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 1140 A170. The catalogue lists this stamp's date of issue as March 3, 1983.
- The envelope postmarked October 7, 1982 bears a stamp with a value of forty fils that contains a portrait of King Hussein. This stamp is listed at pages 130 and 131 of Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 1141 A170. The catalogue lists this stamp's date of issue as February 8, 1983. The envelope also bears a stamp with a value of sixty fils that contains a portrait of King Hussein. This stamp is listed at pages 130 and 131 of Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 1142 A170. The catalogue lists this stamp's date of issue as February 1, 1983. The envelope also contains a stamp with a value of forty fils that commemorates the the Massacre at the Shatilla and Sabra Palestinian Refugee Camps in Lebanon on

September 17, 1982. The stamp contains a stylized illustration of three frightened children. This stamp is listed at page 131 of Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 1147 A171. The catalogue lists this stamp's date of issue as April 9, 1983.

- The envelope postmarked December 8, 1982 bears a stamp with a value of twenty-five fils that contains a portrait of King Hussein. This stamp is listed at pages 130 and 131 of Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 1140 A170. The catalogue lists this stamp's date of issue as March 3, 1983.
- The envelope postmarked February 2, 1983 bears a stamp with a value of twenty five fils that commemorates the proclamation of October 16th as the annual World Food Day by the United Nations. The stamp contains a photograph of greenhouses framed by a stylized illustration of an edible grain. This stamp is listed at page 131 of Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 1167 A175. The catalogue lists this stamp's date of issue as October 16, 1983. The envelope also bears a stamp with a value of twenty-five fils that commemorates the proclamation of 1983 as World Communications Year by the United Nations. This stamp contains the symbol of World Communications Year in the upper left corner, a series of telephones in the lower left corner, bolts of electricity in the upper right corner and an Earth satellite station in the lower right corner. This stamp is listed at page 131 of Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 1172 A176. The envelope also bears a stamp with a value of fifty fils that commemorates the proclamation of 1983 as World Communications Year by the United Nations. This stamp contains a stylized illustration of a Jordanian flag draped over a globe in the center flanked on both sides by the symbol of the World Communications Year. This stamp is listed at page 131 of Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 1173 A176. The envelope also bears a stamp with a value of one hundred fils that commemorates the proclamation of 1983 as World Communications Year by the United Nations. This stamp contains the symbol of World Communications Year in the upper left corner, a series of telephones in the lower left corner, bolts of electricity in the upper right corner and an airmailed envelope. This stamp is listed at page 131 of Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 1175 A176. The catalogue lists these stamps' date of issue as November 14, 1983.
- The envelope postmarked April 21, 1983 bears a stamp with a value of fifty fils that commemorates the Royal Academy for Islamic Cultural Research. The stamp contains a stylized illustration of the Dome of the Rock in Jerusalem. This stamp is listed at page 131 of Volume 4 of the *2009 Scott Standard Postage Stamp*

Catalogue as catalogue number 1164 A174. The catalogue lists this stamp's date of issue as September 16, 1983. The envelope also bears a stamp with a value of fifty fils that commemorates the proclamation of October 16th as the annual World Food Day by the United Nations. The stamp contains a photograph of tractor in a field framed by a stylized illustration of an edible grain. This stamp is listed at page 131 of Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 1169 A175. The catalogue lists this stamp's date of issue as October 16, 1983.

- The envelope postmarked July 3, 1983 bears a stamp with a value of forty fils that commemorates the Royal Academy for Islamic Cultural Research. The stamp contains a stylized illustration of the Mosque in Amman, Jordan. This stamp is listed at page 131 of Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 1163 A174. The catalogue lists this stamp's date of issue as September 16, 1983. The envelope also bears a stamp with a value of forty fils that commemorates the proclamation of October 16th as the annual World Food Day by the United Nations. The stamp contains a photograph of Light-grown crops framed by a stylized illustration of an edible grain. This stamp is listed at page 131 of Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 1168 A175. The catalogue lists this stamp's date of issue as October 16, 1983. The envelope also bears a stamp with a value of forty fils that commemorates the proclamation of 1983 as World Communications Year by the United Nations. This stamp contains the symbol of World Communications Year on the left and a stylized illustration of means of communication on the right. This stamp is listed at page 131 of Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 1173 A176. The catalogue lists these stamps' date of issue as November 14, 1983.

The fact that a photocopied postcard postmarked January 13, 1982 and photocopied envelopes postmarked March 30, 1981, June 11, 1981, August 5, 1981, January 7, 1982, February 15, 1982, April 28, 1982, May 6, 1982, July 25, 1982, October 7, 1982, December 8, 1982, February 2, 1983, April 21, 1983, and July 3, 1983 all bear postage stamps that were not issued until well after the date of these postmarks establishes that the applicant utilized these documents in a fraudulent manner and made material misrepresentations in an attempt to establish his residence within the United States for the requisite period. This derogatory information establishes that the applicant made material misrepresentations in asserting his claim of residence in the United States for the period in question and thus casts doubt on his eligibility for adjustment to temporary residence pursuant to the terms of the CSS/Newman Settlement Agreements and section 245A of the Act. By engaging in such an action, the applicant has negated his own credibility, the credibility of his claim of continuous residence in this country for the requisite period, and the credibility of all documentation submitted in support of such claim.

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 visa petition. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

The AAO issued a notice to the applicant and counsel at each of their respective addresses of record on January 13, 2010 informing the parties that it was the AAO's intent to dismiss the applicant's appeal based upon the fact that he utilized the postmarked envelopes cited above in a fraudulent manner and made material misrepresentations in an attempt to establish his residence within the United States for the requisite period. The parties were granted fifteen days to provide substantial evidence to overcome, fully and persuasively, these findings.

In response, the applicant submits a statement in which he objects to the AAO's reliance upon the *2009 Scott Standard Postage Stamp Catalogue* as an authority to determine the issue date of stamps. Specifically, the applicant objects to the AAO's reliance upon the *Scott Standard Postage Stamp Catalogue* as a basis of authority regarding postage stamps because it is not an official Jordanian government source. It is acknowledged that the *Scott Standard Postage Stamp Catalogue* is published by a private company, Scott Publishing Co, a subsidiary of Amos Press Inc. A review of the Amos Press Inc., internet website at <http://www.amospress.com/History.aspx> reveals the following:

In 1984 Amos Publishing became the world's largest philatelic publisher with the purchase of Scott Publishing Company. Scott is the most recognized name in stamp collecting and is both a publisher and merchandiser of stamp related products. The internationally renowned, 8-volume *Scott Standard Postage Stamp Catalogue* is produced annually to assist collectors in valuing and identifying their stamp holdings. A monthly magazine is also produced under the Scott name which provides collectors with entertaining and informative feature articles along with the very latest new stamp issues from around the world.

While the *Scott Standard Postage Stamp Catalogue* is privately published, it is considered to be so authoritative on the subject of postage stamps and philately (stamp collecting) that the United States Postal Service has adopted the *Scott* Numbering System as its own for identification purposes of all postage stamps issued by the United States. Further, recent editions of the *Scott Standard Postage Stamp Catalogue* are maintained at the reference desks of a large number of public libraries in the United States because the catalogue is considered to be an authoritative resource source on the subject of postage stamps and philately.

The applicant argues that the *2009 Scott Standard Postage Stamp Catalogue* notes that stamps are issued on dates prior to the issue dates listed for particular stamps in the catalogue while in some cases it is impossible to determine the specific issue date of a stamp. Although the *2009*

Scott Standard Postage Stamp Catalogue acknowledges that it is unable to determine the date of issue for some stamps, the catalogue specifically states that it classifies the date of issue for such stamps as “No release date.” Furthermore, in those cases where a date of issue cannot be determined to the exact month and day for a particular stamp, the *Scott Standard Postage Stamp* will list only the year in which that particular stamp was released as a date of issue. In addition, the editors of the *Scott Standard Postage Stamp Catalogue* correct and update any past inaccuracies or discrepancies by including a specific section at the end of each volume of the catalogue listing each and every addition, deletion, and change in information relating to any stamp in that volume that may have been printed in previous annual editions. The applicant provides a printout dated February 10, 2010 of comments and postings relating to examples of United States and Australian stamps purportedly being used prior to official dates of issue made on the Postage Stamp Chat Board and Stamp Bulletin Board Forum at the internet website <http://www.stampboards.com>. However, the applicant failed to provide any evidence that any of the Jordanian stamps contained in the envelopes and postcard cited above were in use prior to the dates of issue listed in Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue*. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998)(citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

The applicant claims that the Jordanian Postal Service in the 1980’s was corrupt in nature with employees and private contractors who regularly engaged in extortion, fraud, and practices such as the release and sale of stamps prior to listed dates of issue. The applicant declares that it was not he that had perpetrated fraud with the postage stamps in question but rather he was the victim of fraud committed by other individuals in Jordan. The applicant indicates that the postmarked envelopes and postcard in question had been mailed from Jordan to him in the United States on the dates of the respective postmarks. In support of this contention, the applicant submits a statement signed by [REDACTED] who asserts that he was an employee of the Jordanian Postal Service at the main branch located in downtown Amman, Jordan from February 24, 1969 to his retirement in 1990. [REDACTED] notes that employees of the Jordanian Postal Service regularly sold stamps before the official date of issue for such stamps. Nevertheless, neither the applicant nor [REDACTED] provides any evidence to demonstrate either that [REDACTED] worked for the Jordanian Postal Service as claimed or the level of corruption and misdeeds engaged in by employees of this organization in the 1980’s.

The existence of derogatory information that establishes the applicant used the postmarked envelopes and postcard cited above in a fraudulent manner and made material misrepresentations seriously undermines the credibility of the applicant’s claim of residence in this country for the requisite period, as well as the credibility of the documents submitted in support of such 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. The applicant has failed to submit sufficient credible documentation to meet his burden of proof in establishing that he has resided in the United States since prior to January 1, 1982 by a

preponderance of the evidence as required under both 8 C.F.R. § 245a.2(d)(5) and *Matter of E-M-*, 20 I&N Dec. 77 (Comm. 1989).

Given the applicant's reliance upon documents with minimal or no probative value, it is concluded that he has failed to establish continuous residence in an unlawful status in the United States from prior to January 1, 1982 through the time he attempted to file for temporary resident status as required under section 245A(a)(2) of the Act. Because the applicant has failed to provide independent and objective evidence to overcome, fully and persuasively, our finding that he submitted falsified documents, we affirm our finding of fraud. The applicant is, therefore, ineligible for temporary resident status under section 245A of the Act.

A finding of fraud is entered into the record, and the matter will be referred to the United States Attorney for possible prosecution as provided in 8 C.F.R. § 245a.2(t)(4).

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