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FILE:  Office: NATIONAL BENEFITS CENTER Date: **DEC 21 2005**

IN RE: Applicant: 

APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), *amended by* Life Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director, National Benefits Center, and is now before the Administrative Appeals Office on appeal. The appeal will be sustained.

The director concluded the applicant had not established that he had applied for class membership in any of the requisite legalization class-action lawsuits prior to October 1, 2000. The director also concluded that the Alien Registration Number provided by the applicant was never assigned to him. Accordingly, the director denied the application.

On appeal, the applicant asserts that he filed a timely written claim for class membership prior to October 1, 2000.

An applicant for permanent resident status under the LIFE Act must establish that before October 1, 2000, he or she filed a written claim with the Attorney General for class membership in any of the following legalization class-action lawsuits: *Catholic Social Services, Inc. v. Meese*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993) (CSS), *League of United Latin American Citizens v. INS*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993) (LULAC), or *Zambrano v. INS*, vacated sub nom. *Immigration and Naturalization Service v. Zambrano*, 509 U.S. 918 (1993) (*Zambrano*). See 8 C.F.R. § 245a.10.

The regulations provide an illustrative list of documents that an applicant may submit to establish that he or she filed a written claim for class membership before October 1, 2000. Those regulations also permit the submission of "[a]ny other relevant document(s)." See 8 C.F.R. § 245a.14.

The inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. See 8 C.F.R. § 245a.12(e). An alien applying for adjustment of status under section 1104 of the LIFE Act has the burden of proving his or her eligibility by a preponderance of the evidence.

The record reflects that the applicant timely filed an application for temporary resident status as a Special Agricultural Worker (SAW) under section 210 of the Immigration and Nationality Act (the Act) on July 28, 1988, and the application was denied June 3, 1991. The record contains no evidence of an appeal being filed. An application for SAW status does not constitute an application for class membership in any of the legalization class-action lawsuits. Furthermore, section 1104 of the LIFE Act contains no provision allowing for the reopening and reconsideration of a timely filed and previously denied application for temporary resident status as a SAW under section 210 of the Act.

Along with his LIFE application, the applicant submitted copies of: 1) a Form for Determination of Class Membership. The form contained a signature executed on May 18, 1994 by an officer of the Immigration and Naturalization Service (legacy INS), now Citizenship and Immigration Services (CIS); and 2) a Form I-688 Application for Status as Temporary Resident dated May 1, 1994.

The director, in denying the application, asserted that the photocopied documents provided by the applicant did not establish a claim for class membership.

It has not been demonstrated that the legacy INS necessarily created Service files in every case of aliens who attempted to file class membership applications during that time period, or that communications such as those submitted by the applicants to the legacy INS would necessarily have been retained or routinely entered into Service data bases. Moreover, if the director entertained doubts regarding the authenticity of the photocopied forms provided by the applicant, he could have opted to require that the applicant supply the originals.

Pursuant to 8 C.F.R. § 245a.14(b), an applicant may submit, as evidence of having filed for class membership, CIS documents addressed to him. The applicant have endeavored to provide evidence of the type set forth in these regulations indicative of having filed a timely claim for class membership in the *CSS* legalization class-action lawsuit. The photocopied form submitted by the applicant appears to be consistent and convincing and serves to corroborate his claim on appeal to having attempted unsuccessfully to apply for class membership in *CSS*. As such, the applicant has provided appropriate evidence of having attempted to file a timely claim for class membership in the *CSS* legalization class-action lawsuit. It is, therefore, concluded that the applicant has established eligibility for class membership.

It must now be determined whether the applicant is otherwise eligible for permanent resident status under section 1140 of the LIFE Act. Accordingly, the matter will be forwarded to the appropriate district office for further processing and adjudication of the LIFE Act application.

ORDER: The appeal is sustained.