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**U.S. Citizenship
and Immigration
Services**

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[Redacted]

FILE: [Redacted] Office: Houston
MSC 02 241 61002

Date: JUN 14 2006

IN RE: Applicant: [Redacted]

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:

[Redacted]

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. If your appeal was sustained, or if the matter was remanded for further action, you will be contacted. If your appeal was dismissed, 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.

A handwritten signature in cursive script that reads "Mai Johnson".

2 Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was initially denied by the District Director, Houston, Texas, and the matter came before the Administrative Appeals Office (AAO) on appeal. The appeal was rejected by the AAO as having been untimely filed. The matter was subsequently reopened and denied again by the District Director, and is again before the AAO on appeal. The appeal will be dismissed.

The district director denied the application because the applicant had not demonstrated that he had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988.

On appeal, the applicant asserts that he has submitted sufficient evidence to support his claim of continuous residence in this country since prior to January 1, 1982. The applicant contends that any purported discrepancy arising from his testimony at his interview regarding the date his wife first entered the United States was the result of miscommunication and his limited ability to understand and speak English. The applicant provides copies of previously submitted documentation in support of his appeal.

An applicant for permanent 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 May 4, 1988. *See* § 1104(c)(2)(B) of the LIFE Act and 8 C.F.R. § 245a.11(b).

An applicant for permanent resident status under section 1104 of the LIFE Act has the burden to establish 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 212(a) of the Immigration and Nationality Act (Act), and is otherwise eligible for adjustment of status under this section. 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).

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 to May 4, 1988, the submission of any other relevant document including affidavits is permitted pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L).

8 C.F.R. § 245a.2(d)(3)(v) states that attestations by churches, unions, or other organizations to the applicant's residence by letter must: identify applicant by name; be signed by an official (whose title is shown); show inclusive dates of membership; state the address where applicant resided during membership period; include the seal of the organization impressed on the letter or the letterhead of the organization, if the organization has letterhead stationery; establish how the author knows the applicant; and, establish the origin of the information being attested to.

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 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 May 4, 1988. Here, the submitted evidence is not relevant, probative, and credible.

The applicant made a claim to class membership in a legalization class-action lawsuit and as such, was permitted to previously file a Form I-687, Application for Temporary Resident Status Pursuant to Section 245A of the Immigration and Nationality Act (Act) on December 19, 1989. The applicant failed to list any information at part #34 of the Form I-687 application where applicants were asked to list all affiliations or associations with clubs, organizations, churches, unions, business, etc. Further, at part #35 of the Form I-687 application where applicants were asked to list all absences from the United States since the date of their first entry, the applicant listed "None." With the Form I-687 application, the applicant included a "Form for Determinations of Class Membership in CSS v. Meese" that is signed by the applicant and dated December 14, 1989. At question #9 of the determination form where applicants were asked to provide details regarding each absence from this country during the requisite period, the applicant indicated that he had not been absent from the United States from prior to January 1, 1982 to May 4, 1988 by listing "n/a."

In support of his claim of continuous residence in this country since prior to January 1, 1982, the applicant submitted two affidavits signed by [REDACTED]. In the first of these affidavits, Mr. [REDACTED] stated that he and the applicant lived together at [REDACTED] in Houston, Texas from November 1981 to December 1983. In his second affidavit, Mr. [REDACTED] declared that he and the applicant lived together at [REDACTED] in Houston, Texas from July 1987 to December 14, 1989, the date the affidavit was executed. Although Mr. [REDACTED] attested to the applicant's residences in this country for the periods from November 1981 to December 1983 and from July 1987 onwards, he failed to provide any testimony relating to the applicant's residence in the United States from January 1984 to June 1987.

The applicant included an affidavit that is signed by [REDACTED] who stated that that he and the applicant lived together at [REDACTED] in Houston, Texas from February 1983 to March 1985. While Mr. [REDACTED] attested to the applicant's residences in this country for the period from February 1983 to March 1985, he failed to provide any testimony relating to the applicant's residence in the United

States for the periods from prior to January 1, 1982 to January 1983 and from April 1985 to May 4, 1988.

The applicant provided an employment letter dated December 6, 1989 and containing the letterhead of ██████████ in Houston, Texas that is signed by ██████████ who listed his position as manager. Mr. ██████████ stated that the applicant had been employed by this enterprise from December 3, 1981 to August 31, 1982. Even though Mr. ██████████ testimony tends to support the applicant's claim of residence in this country for these dates, he failed to provide any information relating to the applicant's residence in the United States from September 1, 1982 to May 4, 1988.

The applicant provided an employment letter dated November 28, 1989 that contains the letterhead of High Times Records and Tapes in Houston, Texas, as well as the illegible signature of an individual who listed his position as manager. This individual declared that the applicant had been employed by this enterprise from March 5, 1987 to August 31, 1989. Although this individual's testimony tends to support the applicant's claim of residence in this country for these dates, this individual did not provide any relevant information relating to the applicant's residence in the United States from prior to January 1, 1982 to March 4, 1987.

The record shows that the applicant filed his Form I-485 LIFE Act application with the Immigration and Naturalization Service, or the Service (now Citizenship and Immigration Services or CIS) on May 29, 2002. At part #3B of the Form I-485 LIFE Act application, where applicants were asked to list immediate family members, the applicant listed a daughter, ██████████ born in Pakistan on June 26, 1984, and son ██████████, who was born in Pakistan on September 23, 1986.

With the Form I-485 Life Act application, the applicant submitted an affidavit that is signed by ██████████ Ms. ██████████ indicated that she was an acquaintance of the applicant and had personal knowledge that he resided in the United States since 1982 because they worked together for a common employer. Ms. ██████████ also declared that the applicant had lived in Dayton, Texas from June 1993 to May 7, 2002, the date the affidavit was executed. However, Ms. ██████████ failed to specify the name of the common employer she and the applicant had worked for despite the fact that she testified that such employment was the basis of her acquaintance with him and her personal knowledge that he resided in this country since 1982. Further, Ms. ██████████ failed to provide any other relevant verifiable information relating to the applicant's residence in the United States from prior to January 1, 1982 to May 4, 1988.

The applicant provided an affidavit that is signed by ██████████ Mr. ██████████ declared that he was an acquaintance of the applicant and had personal knowledge that the applicant resided in the United States since 1982. Mr. ██████████ indicated that he and the applicant worked together for the same company in Houston, Texas from February 1995 to June 1999. Although Mr. ██████████ attested to the applicant's residence in this country since 1982, he failed provide any specific and verifiable information relating to the applicant's residence in the United States from prior to January 1, 1982 to May 4, 1988.

The applicant included an affidavit that is signed by ██████████ who indicated that she was an acquaintance of the applicant and had personal knowledge that he resided in Houston, Texas since

1982. Ms. [REDACTED] declared that she and the applicant worked together from 1993 to 2002. While Ms. [REDACTED] attested to the applicant's residence in Houston, Texas since 1982, she failed to provide any specific verifiable information such as his addresses of residence from prior to January 1, 1982 to May 4, 1988.

The applicant submitted a statement of witness that is signed by [REDACTED] Ms. [REDACTED] stated that she had personal knowledge that the applicant resided in Texas from June 1982 to July 1989 due to the fact that they were neighbors. However, Ms. [REDACTED] statement lacks specificity as it does not include any relevant and verifiable testimony relating to the applicant's residence in this country for the requisite period, despite the fact that she claims to have been his "neighbor" from 1982 to 1989.

The applicant provided a statement of witness that is signed by [REDACTED] who indicated that he was an acquaintance of the applicant and had personal knowledge that he resided in the United States since 1982. Mr. [REDACTED] also declared that he employed the applicant at his corporation in Dayton, Texas from February 1992 to May 17, 2002, the date the statement was executed. However, Mr. [REDACTED] failed to provide any direct and specific information relating to the applicant's residence in the United States from prior to January 1, 1982 to May 4, 1988.

The applicant submitted included an affidavit that is signed by [REDACTED] Mr. [REDACTED] declared that he was the head officer of the Islamic Center in Houston, Texas and that the applicant regularly attended this religious organization since 1987. However, Mr. [REDACTED] failed to provide any specific and verifiable information relating to the applicant's residence in this country for the requisite period. In addition, Mr. [REDACTED] failed to include the applicant's address of residence during that period that he was a member of the Islamic Center as required under 8 C.F.R. § 245a.2(d)(3)(v). In addition, the letter does not contain either the impressed seal of the organization or in the alternative the letterhead of the organization as required by 8 C.F.R. § 245a.2(d)(3)(v). Moreover, the applicant failed to provide any explanation as to why he did not list his membership in the Islamic Center at part #34 of the Form I-687 application where applicants were asked to list all affiliations or associations with clubs, organizations, churches, unions, business, etc.

The applicant included an affidavit that is signed by [REDACTED] who testified that he was a facilitator for the [REDACTED] in Houston, Texas. Mr. [REDACTED] stated that the applicant was a member of this religious organization who regularly attended this institution since 1987. However, Mr. [REDACTED] failed to provide any direct and specific testimony relating to the applicant's residence in this country for the requisite period. Further, Mr. [REDACTED] failed to include the applicant's address of residence during that period that he was a member of the [REDACTED], as required under 8 C.F.R. § 245a.2(d)(3)(v). In addition, the letter does not contain either the impressed seal of the organization or in the alternative the letterhead of the organization as required by 8 C.F.R. § 245a.2(d)(3)(v). Most importantly, the applicant failed to provide any explanation as to why he did not list his membership in the Volunteer Corp., at part #34 of the Form I-687 application where applicants were asked to list all affiliations or associations with clubs, organizations, churches, unions, business, etc.

The record shows that the applicant appeared for an interview relating to his Form I-485 LIFE Act application on March 7, 2003. The notes of the interviewing officer reflect that during the course of this interview, the applicant testified under oath that his initial entry into the United States occurred

in November 1981 when crossed the border with Mexico and entered without inspection at or near Laredo, Texas. The applicant could not recall how he initially traveled to Mexico, but that he had done so without a passport and that none of his family had accompanied him. The applicant testified that that his wife and children first entered the United States in 1996. The applicant stated that he departed the United States on two occasions to visit friends when he traveled to Canada for two weeks in 1984 and another trip to Canada for one week in 1986.

The applicant's admission that he had been absent from this country on two occasions to travel to Canada during the requisite period directly contradicted his prior testimony that he had no absences from the United States when he listed "None" at part #35 of the Form I-687 application where applicants were asked to list all absences from the United States since the date of their first entry, and "n/a." at question #9 of the determination form where applicants were asked to provide details regarding each absence from this country during the requisite period. The fact that the applicant failed to disclose these absences on either the Form I-687 application or the determination form seriously impairs his credibility.

The record shows that the applicant provided an original copy of his Pakistani passport to the interviewing officer on March 7, 2003. The record contains photocopies of the separate pages of this document, page seven of which contains a stamp that states, "The holder of this passport has previously travelled on passport No. [REDACTED] Dated 5/4/86 issued from Karachi which has been reported lost." In addition, as noted above, the applicant indicated that had a daughter, [REDACTED] born in Pakistan on June 26, 1984, and a son, [REDACTED] who was born in Pakistan on September 23, 1986 at part #3B of the form I-485 LIFE Act application. The fact that the applicant was the father of two children born in Pakistan in June of 1984 and September of 1986, and had traveled on a passport issued to him in Karachi, Pakistan on May 4, 1986 further diminishes the credibility of his testimony regarding his absences from the United States in the requisite period, as well as the credibility of his claim that he resided in this country prior to January 1, 1982.

The district director initially issued a notice of intent to deny dated September 10, 2003 and then subsequent to the reopening of this matter, another notice of intent to deny dated March 17, 2005, to the applicant informing him of CIS' intent to deny his LIFE Act application because he failed to submit sufficient credible evidence of continuous unlawful residence in the United States for the period in question. The district director also noted that the applicant himself had provided conflicting testimony and evidence relating to his absences from this country from January 1, 1982 to May 4, 1988 at his interview that brought into question the credibility of his claim of residence in the United States for the entire requisite period. The record shows that copies of both of the notices of intent to deny were subsequently mailed by the AAO to the applicant on October 24, 2005, and that he was granted sixty days to submit a response to supplement his original appeal. The applicant's response shall be incorporated into his appeal.

On appeal, the applicant states that he had no knowledge that the individual who prepared his Form I-485 LIFE Act application was not a licensed attorney. The applicant declares that this individual made mistakes in preparing the Form I-485 LIFE Act application. Although it appears that this individual failed to list the applicant's daughter, [REDACTED] (born in Pakistan in 1979), at part #3B of the Form I-485 LIFE Act application, the record shows that the interviewing officer was able to

solicit this information from the applicant during the interview and entered such information at part #3B of the Form I-485 application. Further, the fact that this individual did not list the applicant's daughter on the Form I-485 LIFE Act application is not material in the present case in that she was not born during the requisite period and the circumstances surrounding her birth do not negatively impact the credibility of the applicant's claim of residence in the United States from prior January 1, 1982 to May 4, 1988.

The applicant claims that he "...can read and write English to an extent, but I cannot read and understand Legal language and questions." The applicant contends that the same individual who prepared his Form I-485 LIFE Act application accompanied him to his interview on March 7, 2003 and offered no assistance during the interview when the interviewing officer asked him complicated questions in English that he did not understand. However, a review of the record shows that the applicant was tested regarding his proficiency and understanding of the English language, as well as his knowledge and understanding of the history and government of the United States at his interview on March 7, 2003. The test results reflect that the applicant passed that portion of the test regarding his ability to read, write, and understand English and that he answered all ten questions correctly on the test relating to his knowledge and understanding of the history and government of the United States. In addition, a review of the interviewing officer's notes reveals no indication that the applicant was asked complicated legal questions that he could not answer or understand, but rather that he was asked a series of questions relating to the circumstances surrounding his claimed entry into the United States in 1981, the date his wife and children and children first entered the United States, and the dates of his absences from this country as well as places to which he traveled during the requisite period. The interviewing officer's notes reflect that the applicant readily provided cognizant responses to questions that he was asked during his interview. Therefore, the applicant's claim that conflict and discrepancies in his testimony at his interview were caused by the lack of assistance provided by the individual who accompanied him and his own limited ability to understand and speak English cannot be considered as persuasive.

The applicant claims that his wife first traveled to Canada and then entered the United States to visit him in 1983. The applicant asserts that his daughter, [REDACTED] was conceived at the time of this visit and that his wife subsequently traveled back to Pakistan where their daughter was born on June 26, 1984. The applicant declares that his wife subsequently traveled to Mexico using another individual's passport and then entered this country at Laredo, Texas in 1985. The applicant contends that his wife remained with him in the United States for three to four months and that his son, [REDACTED] was conceived on this visit. The applicant states that his wife subsequently crossed the border back into Mexico and returned to Pakistan where she gave birth to their son on September 23, 1986. However, the applicant's testimony on appeal directly contradicts his prior attestation that his wife did not enter the United States until 1996 as provided at his interview on March 7, 2003. Additionally, the record contains no independent evidence to corroborate any portion of the applicant's claims regarding either of the two purported trips made by his wife to this country in 1983 and 1985. Moreover, the applicant failed to address the fact that Pakistani passport, No. [REDACTED] was issued to him in Karachi, Pakistan on May 4, 1986, and that he had subsequently traveled using this same passport.

Without independent evidence to corroborate the assertions put forth on appeal, the explanations counsel offers to address the discrepancies in the applicant's supporting documents cannot be considered as either plausible or reasonable. 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)).

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. 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 (BIA 1988).

The absence of sufficiently detailed supporting documentation and the existence of conflicting testimony and evidence that contradicts critical elements of the applicant's claim of residence seriously undermines the credibility of the supporting documents, as well as the credibility of the applicant's claim of residence in this country for the period in question. The applicant himself has negated the credibility of his claim of continuous residence in this country since prior to January 1, 1982 by providing a signed sworn statement written in his own hand in which he admitted that he entered this country on January 16, 1982. Pursuant to 8 C.F.R. § 245a.12(e), 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 to May 4, 1988 by a preponderance of the evidence as required under both 8 C.F.R. § 245a.12(e) and *Matter of E-- M--*, 20 I&N Dec. at 77.

Given the applicant's reliance upon supporting documents with minimal probative value and the contradictory nature of his own testimony, 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 May 4, 1988 as required under section 1104(c)(2)(B) of the LIFE Act. The applicant is, therefore, ineligible for permanent resident status under section 1104 of the LIFE Act on this basis.

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