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U.S. Department of Homeland Security  
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Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

L2

PUBLIC COPY

[REDACTED]

FILE:

[REDACTED]

Office: LOS ANGELES

Date: APR 27 2007

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. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the District Director, Los Angeles, California, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The 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, counsel states that the adjudicating officer failed to properly consider the evidence submitted in response to the Notice of Intent to Deny (NOID), and that the director's Notice of Denial did not adequately address the grounds for denial of the application. Counsel indicated on the Form I-290B, Notice of Appeal to the Administrative Appeals Unit, that a brief and/or additional evidence would be submitted within 30 days of filing the appeal. However, in response to a query by the AAO on January 18 and February 17, 2007, counsel stated that he did not submit a brief or additional evidence as the reasons stated on the Form I-290B clearly established the error committed. Accordingly, the record will be considered complete as presently constituted.

In denying the application, the director failed to address the evidence furnished in response to the NOID, and did not set forth the specific reasons for the denial pursuant to 8 C.F.R. § 103.3(a)(1)(i). As such, the documentation submitted throughout the application process will be considered on 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. Section 1104(c)(2)(B) of the LIFE Act; 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 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. 8 C.F.R. § 245a.12(e).

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 applicant 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.

Although Citizenship and Immigration Services (CIS) regulations provide an illustrative list of contemporaneous documents that an applicant may submit, the list also permits the submission of affidavits and any other relevant document. 8 C.F.R. § 245a.2(d)(3)(vi)(L).

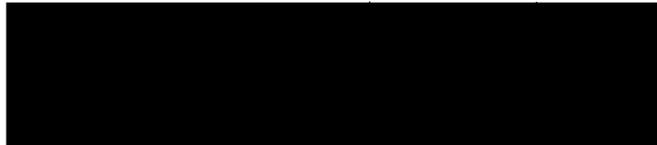
On a form to determine class membership, which he signed under penalty of perjury, the applicant stated that he first entered the United States in 1981. On an undated Form I-687, Application for Status as a Temporary Resident, the applicant did not identify any employers prior to 1988. However, on a December 27, 1990 Form I-687 application, the applicant stated that he worked at Ariel's Flowers and Plants in Los Angeles from 1981 to 1984, Spears Manufacturing Company in Sylmar from 1984 to 1987, and at Sierracin/Sylmar Corporation in Sylmar from 1988 until the date of the Form I-687 application. On his undated Form I-687 application, the applicant listed his residences during the requisite period as follows:

1981 to 1983  
1983 to 1984  
1984 to 1988  
1988



However, on his 1990 Form I-687, the application claimed residences as follows:

1981 to 1982  
1982 to 1983  
1983 to 1988  
1988



In an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, the applicant submitted the following evidence:

1. Money order receipts dated March 18 and October 8, 1981. The October receipt does not reflect an address for the applicant; however, the March receipt shows an address of [REDACTED] in Sylmar. The applicant did not claim to live on [REDACTED] in Sylmar in 1981. The applicant provided no evidence to explain this inconsistency. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the applicant submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).
2. Envelopes with postmarks of May 5 and November 7, 1981, and addressed to the applicant at [REDACTED] in San Fernando. Although this information agrees with that provided by the applicant on his 1990 Form I-687 application, it is inconsistent with that provided on his undated Form I-687, on which he stated that he lived at [REDACTED] from 1981 to 1983. The applicant submitted no evidence to explain this inconsistency. *Id.* The applicant also submitted an envelope addressed to the applicant and another individual at [REDACTED] in San Fernando.
3. A November 24, 1990 letter from [REDACTED] and Plants, in which he stated that the applicant worked for the company from July 1981 through October 1984. However, according to the adjudicator's interview notes, in a phone call to verify the applicant's information, Mr. [REDACTED] stated that the applicant worked for the company from 1990 to 1993. In response to the NOID, however, in a November 8, 2004 letter, Mr. [REDACTED] denied that he had spoken with anyone from the district office, and confirmed the information provided in his 1990

letter. However, the applicant submitted no documentary evidence, such as canceled checks, pay vouchers, verified work schedules, or similar documentation to verify his employment with Ariel's Flowers and Plants. Mr. [REDACTED] statement, without more, does not constitute the independent objective evidence necessary to resolve this inconsistency. *See id.*

4. An August 28, 1990 letter from Santa Rosa Church in San Fernando, California signed by Father [REDACTED], which stated that the applicant had been a member of the church since 1981. The letter indicates that the information is based on parish records.
5. Envelopes with postmarks in 1982, addressed to the applicant variously at [REDACTED] in Sylmar, California. These addresses are inconsistent with that provided by the applicant on his undated Form I-687 application for this time frame. Further, the applicant did not claim to live on [REDACTED] on either of his Form I-687 applications, and did not identify a [REDACTED] address on his 1990 Form I-687 application. The applicant submitted no documentation to explain the inconsistency. *Id.*
6. Envelopes with postmarks of April 11, 1983 and October 21, 1983, and addressed to the applicant at [REDACTED] in [REDACTED] and [REDACTED]. These addresses are inconsistent with those provided by the applicant on his undated Form I-687. The applicant also submitted a post card with a 1983 postmark. However, the last name of the individual to whom it is addressed is not that of the applicant or any of the aliases that he claimed to have used. *Id.*
7. Money order receipts dated in May, July and November 1983. The applicant's name is written at the bottom; however, the address listed on all receipts is for a residence in Sylmar, California. According to the information provided by the applicant on his undated Form I-687, he lived in San Fernando, California during this time frame. Additionally, it cannot be determined when the information regarding the applicant was added to the receipt. The applicant also submitted a copy of a March 11, 1983 money order receipt payable to Southern California Gas Company. The address on the receipt reflects the address at which the applicant claimed to have lived beginning in 1988. The applicant submitted no documentation to explain this discrepancy in the evidence. *Id.*
8. Envelopes with postmarks in 1984 and addressed to the applicant at [REDACTED] California.
9. Copies of pay stubs for the applicant for periods ending in December 1984; January, March and September 1985; and May, July and August 1986 in the name of [REDACTED], and January, May and July 1987 in the name of [REDACTED]. The applicant also submitted a copy of an identification card from Spears Manufacturing Company for [REDACTED]; however, the document does not contain a date.
10. A June 13, 1990 letter from Spears Manufacturing Company, signed by [REDACTED] as personnel manager, and certifying that the applicant worked for the company from December 6, 1984 to September 24, 1985, and from March 25, 1986 to July 1986 under the name of [REDACTED] and from July 21, 1986 to November 11, 1987 under the name of [REDACTED] z. Ms. [REDACTED] did not state whether the information that she provided was taken from official company

records, the location of those records, or the applicant's address at the time of his employment with the company. 8 C.F.R. § 245a.2(d)(3)(i). Ms. [REDACTED] recertified this information in a March 8, 2002 letter.

11. Copies of envelopes with July 1985 postmarks addressed to the applicant at [REDACTED] in Sylmar.
12. A 1986 Form W-2, Wage and Tax Statement, issued to the applicant by Spears Manufacturing Company, and reflecting an address of [REDACTED] Street in San Fernando.
13. A copy of a Form 1040, U.S. Individual Income Tax Return, for 1986 and 1987. The returns are not signed or certified, and do not reflect that they were ever filed with the Internal Revenue Service. Additionally, the 1986 return reflects an address for the applicant of [REDACTED] in Canyon County, California and the 1987 return reflects an address of [REDACTED] in Sylmar. The applicant did not claim either of these addresses on his Form I-687 application.
14. Copies of money order receipts dated May 14, 1987 showing the applicant as the recipient but not reflecting an address.
15. A copy of an envelope with a November 30, 1987 postmark and addressed to the applicant at [REDACTED]
16. A May 14, 1990 affidavit from [REDACTED], in which she stated that she took the applicant to the bus station in Los Angeles, California in 1987 when he traveled to Mexico to visit his ill father, and picked him up at the bus station upon his return two weeks later. Ms. [REDACTED] did not state her relationship to the applicant, but they share the same last name and shared the same address at the time of the affidavit. The affiant reiterated this information in a January 21, 1991 affidavit.
17. A February 22, 1994 letter from [REDACTED] human resources coordinator with Sierracin/Sylmar, in which she confirmed the applicant's employment with the company as of January 12, 1988. The record also contains two other letters from the company, each confirming the applicant's employment as of January 12, 1988. The applicant also submitted a copy of a 1988 Form W-2 issued to him by Sierracin/Sylmar.
18. Copies of pay stubs for the applicant from Sierracin Corporation for periods ending January, February and May 1988. The applicant also submitted a copy of an April 1988 pay stub from the company in the name of [REDACTED]. The name and social security do not match those of the applicant.
19. A copy of the applicant's July 5, 2001 Social Security earnings statement reflecting wages paid to the applicant beginning in 1986.

The applicant also submitted a money order claim receipt dated February 11, 1982. However, the name that appears on the receipt is not that of the applicant or one of his claimed aliases. Therefore, it is not probative evidence of his presence and residency in the United States during the qualifying period. Another January 1985 money order claim receipt merely contains initials and is also not probative evidence of the applicant's continuous residency in the United States. Other documentation submitted by

the applicant is outside of the requisite period and therefore is not evidence of his continuous residence in the United States during the qualifying period.

Given the many unresolved inconsistencies regarding the applicant's residences, it is concluded that he has failed to establish continuous residence in the U.S. for the required period.

We note that the record contains a copy of a Federal Bureau of Investigation record which reflects that he was arrested by the Los Angeles Police Department on June 22, 1999 for a violation of California Penal Code 484a, shoplifting. The record does not contain an official record of the disposition of this offense.

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