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U.S. Citizenship  
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FILE: [REDACTED] Office: Hartford  
MSC 01 363 61480

Date: AUG 06 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. 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.

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, Hartford, Connecticut, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The district director denied the application because the applicant failed to demonstrate that he had continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988.

On appeal, the applicant contends that he has submitted sufficient evidence to substantiate his claim of continuous unlawful residence in the United States from before January 1, 1982 through May 4, 1988.

Section 1104(c)(2)(B) of the LIFE Act states:

(i) In General – The alien must establish that the alien entered the United States before January 1, 1982, and that he or she has resided continuously in the United States in an unlawful status since such date and through May 4, 1988. In determining whether an alien maintained continuous unlawful residence in the United States for purposes of this subparagraph, the regulations prescribed by the Attorney General under section 245A(g) of the Immigration and Nationality Act (INA) that were most recently in effect before the date of the enactment of this Act shall apply.

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 applicant 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.

Although the 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. *See* 8 C.F.R. § 245a.2(d)(3)(vi)(L).

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

The regulation at 8 C.F.R. § 245a.2(d)(3)(i) states that letters from employers attesting to an applicant's employment must: provide the applicant's address at the time of employment; identify the exact period of employment; show periods of layoff; state the applicant's duties; declare whether the information was taken from company records; and identify the location of such company records and state whether such records are accessible or in the alternative state the reason why such records are unavailable.

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 record contains the following documents relevant to the application:

- An undated sworn affidavit of residence by [REDACTED], who stated that he lived with the applicant at [REDACTED] Brooklyn, New York from September 1981 to June 1984. He noted that the rent receipts were in his name and the applicant contributed towards the payment of the rent.
- An undated sworn affidavit of residence by [REDACTED] who stated that he lived with the applicant at [REDACTED] Flushing, New York from July 1984 to July 1987. He noted that the rent receipts were in his name and the applicant contributed towards the payment of the rent.
- An undated sworn affidavit of residence by [REDACTED] who stated that he lived with the applicant at [REDACTED] Arlington, Virginia from December 1987 to the date of the affidavit. He noted that the rent receipts were in his name and the applicant contributed towards the payment of the rent.
- A February 6, 1985 letter by board member [REDACTED], who stated that the applicant had been a member of the [REDACTED] from 1981 to 1984. [REDACTED] indicated that the

applicant no longer attends the mosque since he moved to [REDACTED] in Brooklyn, New York; however, the applicant sometimes attends the weekly Friday congregational prayers. [REDACTED] indicated that the applicant is "also a regular member of [REDACTED]"

- A June 14, 1987 letter by [REDACTED], who stated that he had seen the applicant as a patient in April 1986 and May 1987.
- An October 20, 1989 letter by [REDACTED], who stated that he had seen the applicant as a patient on October 20, 1989.
- An August 30, 2001 sworn affidavit by [REDACTED] who stated that the applicant has resided in the United States since August 1981.
- An April 18, 2005 sworn affidavit by [REDACTED] who stated that he had known the applicant since 1981 when he met him at a mutual friend's home.
- An April 18, 2005 sworn affidavit by [REDACTED], who stated that he had known the applicant since 1984 when he met him in Jackson Heights, New York.
- A September 10, 2005 sworn affidavit by [REDACTED] who stated that he had known the applicant since 1987 when the applicant worked with [REDACTED] roommate at Montage International in New Jersey.
- A September 10, 2005 sworn affidavit by [REDACTED] who stated that he had known the applicant since 1986. [REDACTED] indicated that he met the applicant while he worked at the National Bank of Pakistan in New York and met him again in 2002.
- An undated employment letter from Moon Construction Co., Inc. signed by manager [REDACTED] who certified that the applicant had been employed by this company as a clerk from September 1981 to June 1984.
- Two employment letters dated April 21, 2002 and September 8, 2005 from Executive 2000 Transportation, L.L.C. signed by owner [REDACTED], who certified that the applicant had been employed by this enterprise in some capacity since 1997.
- An undated letter of employment from Jersey Trading Co. signed by manager [REDACTED] who stated that the applicant worked for the company as a labour from July 1984 to July 1987.
- An August 12, 1985 letter of employment letter from United Mobil Service Station, Inc. with an unintelligible signature. The letter stated that the applicant worked as a part-time gas attendant from August 1984 to July 1985.

- A December 10, 1987 letter of employment from Montage International signed by manager [REDACTED] who stated that the applicant worked in the shipping department on a part-time basis from January 1986 to October 1987.
- An undated letter of employment from Alpine Construction Co., Inc. signed by manager [REDACTED] who stated that the applicant worked as a labour supervisor since December 1987.

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 on March 13, 1992. In connection with the Form I-687, the applicant submitted the sworn affidavit of residence by [REDACTED]. As previously indicated, [REDACTED] noted that the rent receipts were in his name and the applicant contributed towards the payment of the rent. The applicant subsequently filed an I-485 LIFE Act application on September 28, 2001. On April 23, 2002, the applicant was interviewed in connection with the above application. As evidence of his residence in the United States from prior to January 1, 1982, the applicant submitted a photocopy of a lease agreement for premises at [REDACTED] in Brooklyn, NY beginning on September 1, 1981 to August 31, 1984. It is signed by the applicant as tenant and [REDACTED] as the landlord. The applicant also submitted a rent receipt for the above address which indicates that it was signed by [REDACTED] and received by the applicant on April 1, 1983. The evidence submitted by the applicant directly conflicts with the sworn statement of [REDACTED]. Moreover, [REDACTED] is not listed on the lease agreement.

In the February 6, 1985 letter from board member [REDACTED] failed to state the address of applicant's residence during the membership period, or the origin of the information being attested to, as required by the regulation at 8 C.F.R. § 245a.2(d)(3)(v). [REDACTED] indicated that the applicant is "also a regular member of [REDACTED]. It is noted that the applicant failed to list an affiliation with the [REDACTED] or [REDACTED] on his Form I-687 dated March 13, 1992.

In the June 14, 1987 and October 20, 1989 letters from [REDACTED] and [REDACTED] respectively, they failed to provide any direct, specific, and verifiable information relating to the applicant's residence in the United States for the period in question. They failed to provide CIS with medical records or billing statements. Also, it appears as if the date on the letter, 1987, has been altered.

In the sworn affidavits from [REDACTED] and [REDACTED], they failed to provide any direct, specific, and verifiable information relating to the applicant's residence in the United States for the period in question.

In the employment letter from Moon Construction Co., Inc. by manager [REDACTED] [REDACTED] attested to the applicant's employment from September 1981 to June 1984. However, he failed to provide the applicant's duties and address at the time of employment with the company as required under 8 C.F.R. § 245a.2(d)(3)(i). It should also be noted that the New York State Department of State, Division of Corporations records indicate that the initial filing date for Moon Construction Company, Inc. was August 17, 1988, four years after the applicant's alleged

employment period. The lack of details in the employment letter stating the applicant's address at time of employment, coupled with the company's initial filing date, bring the applicant's credibility into question.

The two employment letters submitted from Executive 2000 Transportation, L.L.C. and signed by owner [REDACTED] failed to provide any details regarding the applicant's exact duties or the applicant's address at the time of employment as required under 8 C.F.R. § 245a.2(d)(3)(i). In addition, the probative value of [REDACTED] testimony is further limited by the fact that she is a member of the applicant's family and must be considered to have an interest in the outcome of these proceedings rather than being an independent and disinterested witness. It should also be noted that the State of Connecticut, Commercial Recording Division records indicate that the initial filing date for Executive 2000 Transportation, L.L.C. was December 2, 1998, one year after the applicant's alleged employment period began. The lack of details in the employment letter stating the applicant's exact duties or address at time of employment, coupled with the company's initial filing date, further deters from the applicant's credibility.

The four employment letters from Jersey Trading Co., United Mobil Service Station, Inc., Montage International and Alpine Construction Co., Inc. attested to the applicant's employment period ranging from 1984 through 1987. However, they failed to provide the address of applicant's residence during the employment period as well as the applicant's exact duties as required under 8 C.F.R. § 245a.2(d)(3)(i). They also failed to indicate whether this information was taken from company records.

Finally, the record reflects that on December 27, 2000, the applicant was arrested by the Connecticut State Police Department and charged with *threatening in the second degree* and *disorderly conduct* in violation of sections 53a-62 and 53a-182, respectively, of the Connecticut Penal Code. On August 22, 2001, the applicant was convicted of *creating a public disturbance*, in violation of section 53a-181, an infraction, in the Connecticut Superior Court (Docket No. CR01-0119135-S). This single infraction conviction does not render the applicant ineligible pursuant to 8 C.F.R. § 245a.11(d)(1) and 8 C.F.R. § 245a.18(a).

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). The record contains no explanation for these inconsistencies. Based on the inconsistent statements from the applicant and [REDACTED] as well as the vague affidavits and letters of employment with questionable periods of employment, these documents cannot be considered credible evidence of the applicant's continuous presence in the United States since prior to 1982.

There are serious questions of credibility that have arisen from the applicant's submissions. It is impossible for us to find that all of the applicant's claims are true, because those claims are sometimes in conflict. Given these credibility issues, we cannot simply take unsupported claims at face value. Competent objective evidence would overcome these issues, pursuant to *Matter of Ho*, but the lack of

primary evidence, coupled with the inconsistent claims in the affidavits with the applicant's own statements, leaves little foundation upon which we could confidently base a finding of eligibility.

A few errors or minor discrepancies are not reason to question the credibility of an alien or an employer seeking immigration benefits. *See, e.g., Spencer Enterprises Inc. v. U.S.*, 345 F.3d 683, 694 (9<sup>th</sup> Cir., 2003). However, anytime an application includes numerous errors and discrepancies, and the applicant fails to resolve those errors and discrepancies after CIS provides an opportunity to do so, those inconsistencies will raise serious concerns about the veracity of the applicant's assertions. Doubt cast on any aspect of the applicant's proof may undermine the reliability and sufficiency of the remaining evidence offered in support of the application or visa petition. *Matter of Ho*, 19 I&N Dec. at 591. In this case, the discrepancies and errors catalogued above lead the AAO to conclude that the evidence of the applicant's claimed residency is not credible. Thus, the record does not contain any contemporaneous evidence, or other sufficient credible evidence, to establish that the applicant resided in the United States prior to January 1, 1982.

The applicant has failed to establish that he maintained continuous unlawful residence in the United States during the requisite period for two reasons. First, his evidence is insufficient to establish continuous unlawful residence. Second, the credibility of the applicant and affiants has not been established.

The applicant has, therefore, failed to establish that he resided in continuous unlawful status in the United States from before January 1, 1982 through May 4, 1988, as required under Section 1104(c)(2)(B) of the LIFE Act. Given this, he is ineligible for permanent resident status under Section 1104 of the LIFE Act.

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