



U.S. Citizenship  
and Immigration  
Services

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[Redacted]

FILE: [Redacted] MSC 02 017 62398

Office: LOS ANGELES

Date: JUN 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 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. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal is dismissed based upon the withdrawal of the appeal by the applicant, with a separate finding of fraud and inadmissibility.

In an October 26, 1988 affidavit, the applicant stated that he arrived in the United States in June 1977 pursuant to an F-1, nonimmigrant student visa, and that he graduated in 1981. We note that a copy of the applicant's degree from Woodbury University in Los Angeles, California indicates that he graduated from the school with a Bachelor of Science degree in December 1980. A July 6, 2001 letter from the school verifies that the applicant was enrolled at Woodbury University in 1977 and received his degree on December 1980. The applicant stated that he left the United States on June 10, 1985 and reentered pursuant to a valid visitor's visa on July 17, 1985. On a Form I-687 application, the applicant stated that he lived at the following addresses during the requisite period:

March 1982 – June 1985  
July 1985 – January 1986  
January 1986 – August 1988

In an April 16, 2003 affidavit, the applicant stated that he lived with his brother, [REDACTED] from 1981 to 1984. Additionally, on his Form G-325A, Biographic Information, submitted in support of his Form I-485, Application to Register Permanent Resident or Adjust Status, which he signed under penalty of perjury, the applicant stated that he had lived at [REDACTED] in Canoga Park, California since August 1985. This is inconsistent with his previous statement on his Form I-687 application that he lived at the addresses listed above. 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 applicant also stated that he worked for the following employers during the required period. The applicant provided no address or further identifying information for any of the employers on the Form I-687 application.

March 1979 – March 1982  
April 1982 – June 1985  
August 1985 – July 1986  
August 1985 – July 1986  
From July 1986

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

1. A copy of a January 5, 1981 receipt from Graduation Foto in Santa Monica, California.
2. A copy of an October 26, 1985 automobile policy issued to the applicant and his wife, reflecting an address at [REDACTED] in North Hollywood, California. The applicant also

submitted a copy of an October 31, 1985 cover letter from the insurance agency forwarding the policy.

3. A copy of Form 1040, U.S. Individual Income Tax Return, and California Form 540, Resident personal Income Tax, for the year 1985. The record does not reflect that either of these documents was filed with the appropriate tax reporting authority. Additionally, the applicant listed his address as [REDACTED] in North Hollywood, California. However, the applicant did not indicate on his Form I-687 application that he lived at this address during the requisite period. Additionally, the information conflicts with that provided on his Form G-325A, in which he stated that he had lived at [REDACTED] in Canoga Park, California since August 1985. *Id.*
4. A copy of a Form 1099-MISC, Miscellaneous Income, issued to the applicant by Valley Couriers, Inc., Woodland Hills, California.
5. A copy of a January 7, 1986 lease agreement signed by the applicant and his wife for an apartment at [REDACTED]. The applicant also submitted copies of rental receipts dated March 1 and December 1, 1986 for the apartment.
6. A copy of an unsigned and undated medical leave of absence request from Mitsui Manufacturers Bank, indicating that the applicant was hired on July 16, 1986. The document does not reflect who completed the document or the source of the information relied upon for the information provided.
7. A copy of a June 9, 1987 memorandum to the applicant from the "vice president" of personnel, forwarding a pharmacy identification card to the applicant. The letter does not identify the company for whom the applicant worked.
8. A copy of two letters from the claims department of Imperial Industries dated July 30, 1987 and addressed to the applicant.
9. A copy of a Blue Cross of California direct pay form, check stub, and explanation of benefits for dental treatment received by the applicant in 1987.
10. A December 8, 1987 "explanation of benefits" from California Bankers Association Group Insurance Program for medical treatment received by the applicant's son.
11. A copy of a health insurance claim form for the applicant. The date of treatment is shown as September 10, 1987 in Los Angeles, California.
12. A copy of an envelope addressed to the applicant in North Hollywood, California with a canceled postmark in 1987.
13. A copy of March 22, 1988 unsigned letter from Taxes Matter in Canoga Park, California, forwarding the applicant's 1987 tax returns. The letter is addressed to the applicant at [REDACTED].

[REDACTED] in North Hollywood, California. The applicant did not submit copies of these returns and submitted no documentation to reflect that they were filed with the appropriate tax agencies. A 1989 Form 1099G, Report of State Income Tax Refund, indicates that "[REDACTED]" received a tax rebate from the State of California for the 1988 tax year.

The applicant submitted what appears to be a credit report by "Checkpoint." The document contains no legend to explain entries; however, the dates are consistent with the applicant's claimed presence in the United States from 1979 to 1981. The record also contains a copy of a B-2, nonimmigrant visa issued to the applicant in Istanbul on June 12, 1985 that was valid for multiple entries through September 11, 1985. The record reflects that the applicant entered the United States on July 17, 1985 pursuant to that visa.

The applicant also submitted copies of bank statements for 1987, a 1987 letter from an attorney, a copy of a letter forwarding a visa card, a copy of a January 18, 1988 purchase agreement for a car, and a copy of a March 19, 1988 California Certificate of Title. However, these documents only refer to the applicant's wife and are probative of only her presence in the United States during the periods indicated. Of particular note, however, is a July 13, 2001 unsigned letter from the Department of Water and Power for the City of Los Angeles, indicating service in the name of the applicant's wife for [REDACTED] in Winnetka from January 1, 1986 until June 12, 2001. A copy of a June 19, 1987 earnings statement from Mitsui Manufacturers Bank identifies the employee as "[REDACTED]" The record does not establish that this earnings statement belongs to either the applicant or his wife.

In response to the director's Notice of Intent to Deny (NOID) dated November 28, 2003, the applicant submitted the following documentation:

1. An April 28, 2003 affidavit from [REDACTED] the applicant's brother, certifying that the applicant lived with him at [REDACTED] in Panorama City, California from 1981 to 1984.
2. A sworn statement from [REDACTED] in which she stated that the applicant lived with his brother at the address and during the times stated above.
3. An April 24, 2003 sworn statement from [REDACTED] in which she stated that she witnessed the applicant living at the address and during the time period stated above.
4. An April 25, 2003 sworn statement from [REDACTED] in which he certified that the applicant lived in Panorama City from 1981 to 1984.
5. An April 24, 2003 sworn statement from [REDACTED] in which he stated that he was the best friend of the applicant and confirmed that the applicant lived at [REDACTED] in Panorama City, California from 1981 to 1984.

These statements conflict with that of the applicant on his Form I-687 application, in which he stated that he lived at [REDACTED] Portland, Oregon from March 1982 to June 1985. Additionally, the

statements are inconsistent with the information contained on the applicant's credit report, which shows an address of [REDACTED] in North Hollywood, California in 1981. *Matter of Ho*, 19 I&N Dec. at 591-92.

The applicant also submitted a December 17, 2003 letter from [REDACTED], who identified himself as the president of [REDACTED], in which he certified that the applicant worked as a part-time driver for the company from 1984 to 1985. [REDACTED]'s letter does not comply with the provisions of 8 C.F.R. § 245a.2(d)(3)(i) in that it does not indicate whether the information about the applicant's employment was taken from company records, nor does it indicate the applicant's address at the time of his employment. Further, this information conflicts with that provided by the applicant, who stated on his Form I-687 application that he worked for [REDACTED] from August 1985 to July 1986. *Id.* The applicant also submitted a letter from The Iranian Nationalist Front for Constitutional Monarchist in Encino, California, confirming that the applicant was an active member of the organization from June 1982 to October 1990. The letter, signed by [REDACTED], who identified himself as a member of the board of directors, did not indicate the source of the information that he relied upon in providing the information about the applicant.

The record contains a Form I-140, Immigrant Petition for Alien Worker, filed on behalf of the applicant by [REDACTED] on April 30, 2001, which was seeking to employ him as an accountant, pursuant to 8 C.F.R. § 203(b)(3)(A)(i). In part B of the ETA 750, Application for Alien Employment Certification, which he signed under penalty of perjury on December 19, 1997, the applicant stated that he worked as an accountant for the Department of Customs in Tehran, Iran from February 1982 to May 1985, and for American Transportation Ent., Inc. in Bellflower, California, from September 1987 to October 1989. The applicant also stated that he worked as a manager for Pizza Hut from September 1986 until the date he signed Part B of the ETA 750. In connection with the Form I-140 petition, the applicant submitted a copy of a "personnel action form" from the Ministry of Economic Affairs & Finance – Customs, indicating that he began working for Customs Tehran West No.2 – Shahryar on February 11, 1982, and that he was promoted to "Grade 5 of Group 8 as of May 14, 1985." Accordingly, all of the documentation regarding the applicant's alleged presence and residency in the United States from prior to February 1982 until his reentry pursuant to a valid B-2 visa on July 17, 1985 appears to be fraudulent.

On March 15, 2007, in accordance with the regulation at 8 C.F.R. § 103.2(b)(16)(i), this office issued a notice advising the applicant of derogatory information. Specifically, the AAO notified the applicant that he had submitted fraudulent statements in support of his application.

The AAO's notice stated:

In response to the director's Notice of Intent to Deny dated November 28, 2003, you submitted a December 17, 2003 letter from [REDACTED], president of [REDACTED] in which he stated that you had worked as a part-time driver for the company from 1984 to 1985. You also submitted sworn statements from your brother and various other individuals who attested that you were present and living in the United States continuously since at least 1981. However, on July 26, 2001, [REDACTED] filed a Form I-140, Immigrant Petition for Alien Worker, on your behalf seeking your services as an accountant. In

conjunction with that application, a personnel action from the Ministry of Economic Affairs and Finance – Customs, Islamic Republic of Iran, was submitted. That personnel action reflects that you were hired at Customs Tehran West No. 2 – Shahryar on February 11, 1982, and promoted on May 14, 1985. Accordingly, you could not have been in the United States and working as you and those who submitted statements on your behalf have stated. The evidence indicates that you have used fraudulent documentation and made material misrepresentations in an attempt to establish your residence within the United States for the requisite period. By engaging in such an action, you have seriously undermined your own credibility as well as the credibility of your claim of continuous residence in this country for the period from prior to January 1, 1982 to May 4, 1988. Because you have submitted falsified documents, we cannot accord any of your other claims any weight.

The AAO advised the applicant that he could choose to withdraw his appeal, but that a withdrawal would not prevent a finding that he had attempted to procure immigration benefits through fraud and misrepresentation of a material fact. By letter dated April 20, 2007, the applicant advised the AAO that he wished to withdraw his appeal, “reserving [his] right to rebut a finding of misrepresentation in any further case.”

Section 212(a)(6)(C) of the Act provides:

Misrepresentation. – (i) In general. – Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

Under the Board of Immigration Appeals (BIA) precedent, a material misrepresentation is one which “tends to shut off a line of inquiry which is relevant to the alien's eligibility and which might well have resulted in a proper determination that he be excluded.” *Matter of S- and B-C-*, 9 I&N Dec. 436, 447 (BIA 1961).

The applicant signed the Form I-485, thereby certifying under penalty of perjury that “this application and the evidence submitted with it are all true and correct.”

By filing the instant application and submitting a fraudulent statements, the applicant has sought to procure a benefit provided under the Act using fraudulent documents. Because the applicant has failed to provide independent and objective evidence to overcome, fully and persuasively, our finding that the statements were false, we affirm our finding of fraud. In addition, an applicant for permanent resident status under the provisions of the LIFE Act must establish that he or she is admissible as an immigrant. Section 1104(c)(2)(D)(i) of the LIFE Act. Because of his attempt to procure a benefit under the Act through fraud, we find that the applicant is inadmissible under section 212(a)(6)(C) of the Act.

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 (9th Cir., 2003). However, anytime an application includes numerous errors and discrepancies, and the applicant fails to resolve those errors and discrepancies after Citizenship and Immigration Services (CIS) provides an opportunity to do so, those inconsistencies will raise serious concerns about the veracity of the

applicant's assertions. In this case, the discrepancies and errors catalogued above lead the AAO to conclude that the evidence of the applicant's eligibility is not credible. Accordingly, the applicant has not established his eligibility for the requested immigrant visa classification.

Regarding the instant application, the applicant's failure to submit independent and objective evidence to overcome the preceding derogatory information seriously compromises the credibility of the applicant and the remaining documentation. As stated above, 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. *See Matter of Ho*, 19 I&N Dec. at 591-92.

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, or that he was continuously physically present in the United States from November 6, 1986 through May 4, 1988, as required by section 1104(c)(2)(C) of the LIFE Act. In addition, because he has attempted to procure a benefit under the Act through fraud, he is inadmissible under section 212(a)(6)(C) of the Act. Given this, he is ineligible for permanent resident status under section 1104 of the LIFE Act.

An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the service center does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*. 345 F.3d 683 (9th Cir. 2003); *see also Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989)(noting that the AAO reviews appeals on a *de novo* basis).

**ORDER:** The appeal is dismissed based upon its withdrawal by the applicant, with a finding of fraud.

**FURTHER ORDER:** The AAO finds that the applicant knowingly submitted fraudulent documents in an effort to mislead CIS and the AAO on elements material to his eligibility for a benefit sought under the immigration laws of the United States. Accordingly, he is inadmissible under section 212(a)(6)(C) of the Act.