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U.S. Department of Homeland Security  
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U.S. Citizenship and Immigration Services

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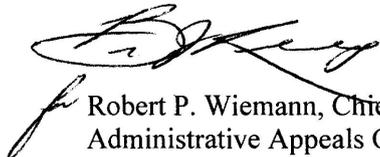
IN RE: Applicant: [Redacted]

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: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the National Benefits Center. 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, Dallas, Texas, 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 entered the United States before January 1, 1982, and resided in a continuous unlawful status through May 4, 1988. The director noted that the record reflects that the applicant made a legal entry on May 23, 1987, with a U.S. Visa issued on May 19, 1987, in Johannesburg.

On appeal, the applicant states that he has been living in the United States since 1981, briefly visited his country where he obtained a U.S. Visa on May 19, 1987, then immediately returned to the United States to resume his residence. The applicant does not submit additional evidence on appeal.

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 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)(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.

In the Notice of Intent to Deny (NOID), dated July 12, 2006, the director stated that the applicant failed to submit sufficient evidence demonstrating his continuous unlawful residence in the United States during the requisite period. The director noted that the applicant made a legal entry on May 23, 1987, with a U.S. Visa issued on May 19, 1987, in Johannesburg. The director granted the applicant thirty (30) days to submit additional evidence.

In response to the NOID, the applicant submitted a letter stating that he traveled outside the United States in 1984, 1987, and 1990, and he obtained a visa in 1987 to resume his continuous residence in the United States, and that it was not possible for him to keep old documents since 1981. No additional evidence was submitted. In the Notice of Decision, dated February 10, 2005, the director denied the instant application based on the reasons stated in the NOID.

The issue in this proceeding is whether the applicant has furnished sufficient credible evidence to demonstrate that he continuously resided in the United States in an unlawful status during the requisite period. The record reflects that the applicant submitted letters of employment and affidavits as evidence to support his Form I-485 application. The AAO has considered the entire record. Here, the submitted evidence is not relevant, probative, and credible.

#### Employment Letters

The applicant submitted two letters of employment. The first is an undated letter, from [REDACTED] of Control Services, Inc., located at Harmon Tower South, [REDACTED] [REDACTED] states that the applicant had been employed from September 30, 1980 until October 1984. It is noted that [REDACTED] does not indicate the position in which the applicant was employed.

The applicant also submitted a letter of employment from [REDACTED] located at [REDACTED] Union City, New Jersey, dated January 15, 1990, stating that the applicant has been employed as a machine operator since November 1984. It is noted that Mr.

does not indicate his position with the firm or in what capacity he writes the employment letter.

Pursuant to 8 C.F.R. § 245a.2(d)(3)(i), letters from employers should be on employer letterhead stationery. The letters of employment failed to provide the applicant's address at the time of employment as required under 8 C.F.R. § 245a.2(d)(3)(i). Under the same regulations, the affiants also failed to 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.

### Affidavits

The applicant submitted form affidavits:

1. An affidavit from [REDACTED] notarized on June 5, 1990. The affiant states that he has known the applicant to have resided in the United States since August 1981, and during that time the longest period he has not seen the applicant is 6 months.
2. An affidavit from [REDACTED] notarized on June 4, 1990. [REDACTED] states that she has known the applicant to have resided in the United States since August 1981, and during that time the longest period she has not seen the applicant is 3 months. The affiant also states that she became acquainted with the applicant during her marriage in May 1983.
3. An affidavit from [REDACTED] notarized on June 5, 1990. [REDACTED] states that she has known the applicant to have resided in the United States since August 1981; she has extensive social and religious contact with the applicant; and, during that time the longest period she has not seen the applicant is 5 years and 6 months.
4. An affidavit from [REDACTED] notarized on June 6, 1990. [REDACTED] states that she has known the applicant to have resided in the United States since August 1981; she has known the applicant socially and professionally; and, during that time the longest period she has not seen the applicant is 2 years.
5. An affidavit from [REDACTED] notarized on June 5, 1990. [REDACTED] states that he has known the applicant to have resided in the United States since August 1981; he has known the applicant through business and the same religious community; and, during that time the longest period he has not seen the applicant is 4 months.
6. An affidavit from [REDACTED] notarized on June 4, 1990. [REDACTED] states that he has known the applicant to have resided in the United States since August 1981; he has known the applicant from [REDACTED] July 1981; and, during that time the longest period he has not seen the applicant is 4 months.

In addition, the applicant submitted a copy of a letter (certified as a true copy), dated August 16, 2003, from [REDACTED] stating that he is a former member of the executive committee of the [REDACTED] New Jersey, and has known the applicant since 1980 when the applicant and his wife attended Friday services at the mosque. It is noted that the letter is not original, and therefore, is not probative.

The applicant also submitted an undated letter from [REDACTED], Office Manager, of the medical office of [REDACTED] and Associates, stating that the applicant was under the care of their Jersey City office for two years, from June 1982 to September 1984. However, the applicant does not provide any supporting details or documentation.

The applicant also submitted a letter from [REDACTED] Inc., located at [REDACTED] dated August 25, 2003, stating that the applicant and his wife regularly attended prayers from 1981 to 1986.

The applicant also submitted a reference letter from [REDACTED] Personal Banking Representative of The Trust Company of New Jersey, located at [REDACTED] dated April 5, 1990, stating that the applicant maintained a savings account since 1982.

In addition, the applicant submitted a letter from [REDACTED] Youth Burial Society, located in Johannesburg, South Africa. In the November 11, 1982 letter, Mr. [REDACTED] thanked the applicant for his effort in helping the organization. It is noted that the letter is addressed to the applicant at [REDACTED]

The applicant has two letters of employment, six affidavits, and three reference letters, however he has submitted questionable documentation. For example, the applicant submitted an affidavit from [REDACTED] stating that she has known the applicant resided in the United States since August 1981. However, [REDACTED] also states that she became acquainted with the applicant during her marriage in May 1983. Another example, in the affidavit from [REDACTED] notarized on June 5, 1990, she states that the applicant has resided in the United States since August 1981, and she lists that applicant's addresses during the entire period. However, [REDACTED] also states that she had not seen the applicant for 5 years and 6 months. Also, the applicant claims that he has been residing illegally in the United States since 1981, however, the record reflects that he entered the United States on May 23, 1987, with a U.S. Visa issued on May 19, 1987, in Johannesburg, South Africa. It is noted that in order to receive such a visa, the applicant had to convince a U.S. consular official that he resided and worked in South Africa. As noted previously, the November 11, 1982 letter from [REDACTED] of the Saaberie Christy Muslim Youth Burial Society thanking the applicant for his effort in helping the organization is addressed to the applicant in Rooderport, South Africa, however, the applicant claims that he had resided in the United States since August 1981. Therefore, the

applicant cannot establish that he resided in the United States in an unlawful status since January 1, 1982 through May 4, 1988.<sup>1</sup>

Any discrepancies which cast doubt 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 lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify the discrepancies in the record. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to establish that he continuously resided in the United States in an unlawful status during the requisite period.

As stated previously, the evidence must be evaluated not by the quantity of evidence alone but by its quality. Also, as indicated above, these letters and affiants are either not reliable, lack sufficient details, or are not probative. The applicant has failed to provide any reliable documentation to establish his claimed entry into the United States and his continuous residence throughout the requisite period. Pursuant to 8 C.F.R. § 245a.2(d)(5), the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. Given the applicant's reliance upon documents with minimal probative value, it is concluded that he has failed to establish continuous residence in an unlawful status in the United States during the requisite period.

Therefore, based on the above, the applicant has failed to establish entry into the United States prior to January 1, 1982, and continuous unlawful residence 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.

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<sup>1</sup> The record also reflects that the applicant submitted a letter, dated March 9, 1989, from [REDACTED], located in Fordsburg, South Africa. The letter requesting assistance in obtaining a visa for the applicant's travel to the United States and the United Kingdom, is signed by an unidentified individual as the "Secretary" and appears to be fraudulent. The letter indicates that the applicant is a Partner in the firm. The letter also lists the following as partners: [REDACTED], [REDACTED], and [REDACTED]. These names appear to correspond to the applicant [REDACTED] and his immediate family members: [REDACTED] (his wife); [REDACTED] (his daughter), and, [REDACTED] (his son). It is noted, however, that the letter is not probative as it does not pertain to the requisite period.