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**U.S. Citizenship
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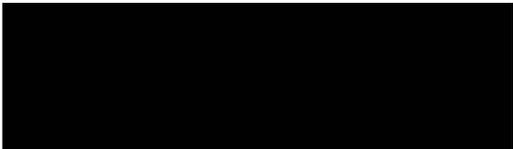
Office: NEW YORK

Date: **MAY 23 2008**

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:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

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, New York, New York, 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 asserts that the director erred in denying the application. Counsel submits copies of previously submitted documentation and copies of Forms W-2, Wage and Tax Statements, for the years 1989 through 2005.

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).

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.

On a form to determine class membership, which he signed under penalty of perjury, the applicant stated that he first arrived in the United States in September 1978 with a visitor's visa. On his Form I-687, Application for Status as a Temporary Resident, the applicant stated he violated the terms of his visa by overstaying and working. The applicant also stated that his only absence during the qualifying period was from August to September 1987, when he visited Pakistan upon the death of his grandmother.

The applicant stated on his Form I-687 application that he worked for [REDACTED] at [REDACTED] in New York from June 1984 to March 1986, and for [REDACTED] at [REDACTED] in Brooklyn from May 1986 to June 1987. The applicant identified no other employers during the qualifying period. The applicant also stated that he lived at [REDACTED] in Jersey City, New Jersey from October 1978 to February 1984, at [REDACTED] in Brooklyn from March 1984 to September 1986, at [REDACTED] in Jersey City from October 1986 to June 1987, and at [REDACTED] in New York from July 1987 to the date of his Form I-687 application. In block 34, the applicant did not identify any church or other organization with whom he was associated during the qualifying period.

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 September 9, 1991, affidavit from [REDACTED], who certified that the applicant lived with him as his live-in housekeeper at [REDACTED] in Jersey City from October 1978 to February 1984. [REDACTED] stated that he knew the applicant was from Pakistan.
2. A September 9, 1991, statement from a restaurant, [REDACTED]. The letter indicates that it was signed by the manager and sworn to before a notary. However, the name of the manager is illegible. The letter certified that the applicant worked for the restaurant as a dishwasher from June 1984 to March 1986.
3. A September 9, 1991, sworn statement from [REDACTED] signed by the manager, [REDACTED], who certified that the applicant worked at the store from May 1986 to June 1987.
4. A September 13, 1991, affidavit from [REDACTED], in which he stated that he is a friend of the applicant and had known him for the past five years. Mr. [REDACTED] stated that he and the applicant would see each other at mosque and sometimes visited at his apartment.
5. A September 9, 1991, affidavit from [REDACTED], in which he certified that the applicant lived with him at [REDACTED] in Jersey City from October 1986 to June 1987.
6. A September 9, 1991, affidavit from [REDACTED], in which he certified that the applicant had resided with him since July 1987. He stated that he met the applicant at the mosque during a religious gathering.

The applicant did not respond to the director's Notice of Intent to Deny (NOID), in which the director advised the applicant that CIS was unable to verify the information provided by Mr. [REDACTED]. On appeal, the applicant submits Forms W-2 for the years 1989 through 2005; however, these documents are not probative in establishing that he was present and residing in the United States during the qualifying period or prior to January 1, 1982, through May 4, 1988. The applicant did not address, and submits no other

documentation, to establish his continuous residence and continuous presence in the United States during the requisite period.

The letters of employment submitted by the applicant fail to contain all the information required by 8 C.F.R. § 245a.2(d)(3)(i). Specifically, the letters did not identify an address for the applicant during his employment and did not state whether the information about the applicant's employment was taken from company records. The applicant submitted no documentation such as canceled paychecks, pay stubs, or similar documentation to corroborate any of his employment. Additionally, while Mr. [REDACTED] and Mr. [REDACTED] stated that they met the applicant at mosque, neither identified the mosque that they attended. We note that in an April 26, 2004, letter signed by its secretary general [REDACTED] the Muslim Community Center of Brooklyn, Inc. verified that the applicant began participating in Friday prayer in 1989. Furthermore, on his Form I-687 application, the applicant did not identify any association with a religious organization during the qualifying period.

Although the applicant has submitted several affidavits and statements in support of his application, he provided no contemporaneous evidence of his residence in the United States during the duration of the requisite period. As stated previously, the evidence must be evaluated not only by the quantity of evidence but also by its quality. The absence of sufficiently detailed documentation to corroborate the applicant's claim of continuous residence for the entire requisite period seriously detracts from the credibility of his claim. 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. 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.