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U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

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[REDACTED]

FILE: [REDACTED] Office: NEW YORK  
MSC 01 300 60476

Date: **NOV 28 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:

[REDACTED]

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.

A handwritten signature in black ink, appearing to read "John F. Grissom".

John F. Grissom, Acting Chief  
Administrative Appeals Office

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

The director denied the application on the ground that the applicant failed to establish that he had entered the United States before January 1, 1982, and had resided continuously in the United States from then through May 4, 1988.

On appeal, the applicant submits a brief and additional documentation.

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 its amenability to verification. *See* 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 regulation at 8 C.F.R. § 245a.2(d)(3) provides an illustrative list of contemporaneous documents that an applicant may submit in support of his or her claim of continuous residence in the United States in an unlawful status since prior to January 1, 1982, the submission of any other relevant document is permitted pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L). *See* 8 C.F.R. 245a.15(b). To meet his or her burden of proof, an applicant must provide evidence of eligibility apart from the applicant's own testimony. 8 C.F.R. § 245a.12(f). Affidavits indicating specific, personal knowledge of the applicant's whereabouts during the relevant time period are given greater weight than fill-in-the-blank affidavits providing generic information.

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.

The regulation at 8 C.F.R. § 245a.2(d)(3)(v), states that attestations from churches, unions or other organizations should: 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 the membership period; include the seal of the organization impressed on the letter or the letterhead of the organization, if the organization has letterhead stationery; establish how the author knows the applicant; and, establish the origin of the information being attested to.

The applicant filed a Form I-485, Application to Register Permanent Resident Status or Adjust Status, under the LIFE Act on July 27, 2001. On July 11, 2007, the director denied the application. The applicant filed a timely appeal from that decision on July 23, 2007.

The issue in this proceeding is whether the applicant has established that he continuously resided in the United States in an unlawful status from before January 1, 1982, through May 4, 1988.

The record reflects that the applicant has submitted the following documentation in an attempt to establish his continuous unlawful residence in the United States during the requisite time period:

#### Employment Letters

1. A letter from [REDACTED], for the Manager of Royal Bengal Restaurant, dated February 20, 1991, stating that the applicant was employed as a bus-person from February 1982 to May 1985.

2. A letter from [REDACTED] for the proprietor of Robe Films Production, stating that the applicant was employed as a cashier from July 1985 to June 1990.

The employment letters do not comply with the regulation at 8 C.F.R. § 245a.2(d)(3)(i) in that they fail to identify the exact periods of employment; show periods of layoff (if any); 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. Furthermore, the employment letters do not attest to the applicant's presence in the United States prior to January 1, 1982.

#### Organization Letter

3. A letter from [REDACTED], General Secretary of the Bangladesh Society, Inc. in Elmhurst, New York, stating that the applicant had been an active member since 1986.

The letter from the Bangladesh Society does not comply with the regulation at 8 C.F.R. § 245a.2(d)(3)(v), in that it does not establish how the author knows the applicant and the origin of the information being attested to. Furthermore, the letter only attests to the applicant's presence in the United States since 1986.

#### Affidavits from Acquaintances

4. An affidavit from [REDACTED] dated August 1, 2007, stating that he met the applicant at a family gathering in the Spring of 1982.
5. An affidavit from [REDACTED], dated July 30, 2007, stating that he and the applicant met around September 1988.
6. A letter from [REDACTED], dated July 28, 2007, stating that he had personally known the applicant since February 1982 when they met at the Royal Bengal Restaurant in Brooklyn, New York – where they were both employed – and that the applicant worked there until May 1985.
7. An affidavit from [REDACTED], dated July 27, 2007, stating that he first met the applicant around July 1982.
8. A letter from [REDACTED], dated July 25, 2007, stating that he knew the applicant from Robe Films Productions in Brooklyn, New York, where he (the applicant) worked as a cashier from July 1985 to January 1990.
9. A letter from [REDACTED], dated July 25, 2007, stating that he had known the applicant since December 1981 – they met at “the Mosque” – and that the applicant worked at Royal Bengal Restaurant from 1982 to 1985, and at Robe Films Productions from 1985 to 1990.
10. A letter from [REDACTED], dated February 8, 2004, stating that he had known the applicant since June 1982.

11. An un-notarized letter from [REDACTED], dated January 20, 2004, stating that he had known the applicant since 1982, when [REDACTED] was the Resident Minister of [REDACTED] in Long Island City, New York.
12. Similar fill-in-the-blank affidavits from [REDACTED] and [REDACTED] dated in April 1991, listing the applicant's addresses in the United States since December 1981.

The affiants are generally vague as to how they date their acquaintances with the applicant, how often and under what circumstances they had contact with the applicant during the requisite period, and lack details that would lend credibility to their claimed 10 to 25-year relationships with the applicant. Other than the affiants in Nos. 8, and 11, none of the statements attest to the applicant's presence in the United States prior to January 1, 2002.

#### Other Documentation

13. A letter from [REDACTED], dated July 23, 2007, stating that the applicant had been a patient between April 3, 1984 and May 15, 1990. Dr. [REDACTED] does not state the origin of the information attested to and the applicant did not submit any contemporaneous documents regarding his treatment by Dr. [REDACTED].

In summary, in order to demonstrate his continuous residence in the United States throughout the requisite time period, the applicant has provided no employment letters that comply with the guidelines set forth in 8 C.F.R. § 245a.2(d)(3)(i)(A) through (F), no utility bills according to the guidelines set forth in 8 C.F.R. § 245a.2(d)(3)(ii), no school records according to the guidelines set forth in 8 C.F.R. § 245a.2(d)(3)(iii), no hospital or medical records according to the guidelines set forth in 8 C.F.R. § 245a.2(d)(3)(iv), and no church, union or other organization attestations that comply with the guidelines set forth in 8 C.F.R. § 245a.2(d)(3)(v)(A) through (G). The applicant also has not provided documentation (including, for example, money order receipts, passport entries, children's birth certificates, bank book transactions, letters of correspondence, a Social Security or Selective Service card, automobile license receipts, deeds, tax receipts, insurance policies or other similar documentation) according to the guidelines set forth in 8 C.F.R. § 245a.2(d)(3)(vi)(A) through (K). The documentation provided by the applicant consists solely of third-party affidavits ("other relevant documentation"). These documents lack specific details as to how the affiants knew the applicant – how often and under what circumstances they had contact with the applicant – during the requisite time period, and therefore provide little evidentiary weight. Furthermore, only three of the affiants attest to the applicant's presence in the United States prior to January 1, 1982.

The regulation at 8 C.F.R. § 245a.12(e) provides that "[a]n alien applying for adjustment of status under [section 1104 of the LIFE Act] has the burden of proving by a preponderance of the evidence that he or she has resided in the United States for the requisite periods." Preponderance of the evidence is defined as "evidence which as a whole shows that the fact sought to be proved

is more probable than not.” Black’s Law Dictionary 1064 (5<sup>th</sup> ed. 1979). *See Matter of Lemhammad*, 20 I&N Dec. 316, 320, Note 5 (BIA 1991).

It is concluded that the applicant has failed to establish, by a preponderance of the evidence, that he entered the United States before January 1, 1982, and maintained continuous unlawful residence since such date through May 4, 1988, as required for eligibility for adjustment of status to permanent resident status under section 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b). Thus, 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.