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**U.S. Citizenship
and Immigration
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FILE: [REDACTED]
MSC 02 247 65997

Office: LOS ANGELES

Date: **SEP 02 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:

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: On March 27, 2007, the District Director, Los Angeles, denied the application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application, finding that the applicant did not establish, by a preponderance of the evidence that he entered the United States before January 1, 1982, and resided continuously in the United States, prior to January 1, 1982, and through May 4, 1988. The director noted that the only evidence of his continuous residence was in the form of affidavits. The director found that the affidavits submitted contained insufficient information and details, and that without corroborative evidence, failed to meet the applicant's burden of proof.

On appeal, the applicant states that he has been unable to get in touch with his former employers from the period 1981 to 1988. He states that he was able to contact [REDACTED], the manager of the apartment complex where he lived from February 1987 to May 1991. He submits affidavits from [REDACTED], a former neighbor from the same apartment complex, and from his parish priest at Divine Saviour Church. He asserts that these affidavits have the probative value the director found the others lacked.

An applicant for permanent resident status under section 1104 of the LIFE Act 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. See § 1104(c)(2)(B) of the LIFE Act and 8 C.F.R. § 245a.11(b). The applicant has the burden to establish by a preponderance of the evidence that he or she has resided in the United States for the requisite period, 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 states 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 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 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.13(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 should be on employer letterhead stationery, if the employer has such stationery, and must include: 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 record reflects that on June 4, 2002, the applicant submitted a Form I-485, Application to Register Permanent Residence or Adjust Status. On December 6, 2005, the applicant appeared for an interview based on the application.

The issue in this proceeding is whether the applicant has furnished sufficient credible evidence to meet his burden of establishing by a preponderance of the evidence, that his claim of entry into the United States before January 1, 1982, and continuous residence in the United States during the requisite period is probably true. Upon examination of each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, the AAO finds that the applicant has failed to meet this burden.

The record of proceeding contains the following evidence relating to the requisite period:

Letters and Affidavits

- An "Affidavit of Witness" form sworn to on April 26, 2007. The form, signed by [REDACTED] indicates that the affiant has personal knowledge that the applicant resided in Los Angeles California from November 1981 to the present. The addresses provided are consistent with the information provided on the Form I-687, Application for Status as Temporary Resident. The form allows the affiant to fill in a statement that he or she "is able to determine the date of the beginning of his or her acquaintance with the applicant in the United States from the following fact(s): ____." [REDACTED] adds: "Our families were friends in Mexico, so when [REDACTED] came to the United States in November 1981, we all got together. He was living near downtown Los Angeles when he first came but he visited me weekly until he was able to obtain an apartment in our same apartment

complex. We have continued to visit each other at least once a month. [REDACTED] is a hard-working man who is devoted to his family.”

- An “Affidavit of Witness” form sworn to on April 20, 2006, from [REDACTED]. On the form, identical to the one above, [REDACTED] lists the same six addresses that Ms. [REDACTED] does, indicating that he has personal knowledge that the applicant resided at addresses listed from November 1981 to the present. He adds “I am the manager of the apartments where [REDACTED] lived from February 1987 until May 1991. However, I have known him since 1981, since he regularly visited his relative, [REDACTED], who was already living at this address. [REDACTED] would inquire about any vacancy on a regular basis until we were able to find an apartment for him as well;
- A letter dated December 5, 2005, from [REDACTED] of the Divine Saviour Catholic Church, not on church letterhead stationary, does not state which records the provided information came from. [REDACTED] states that the applicant is a member of the parish. He states that this family has been in the community since the year 1981. He states that according to their records the information for the applicant is [applicant’s name] (Registration at [REDACTED] Los Angeles, CA 90065. This is the applicant’s current address where he did not begin living until 1987. [REDACTED] does not list the addresses where the applicant was living between 1981 and 1987;
- An affidavit from [REDACTED], stating the applicant is a good friend. [REDACTED] asserts that the applicant left the United States on August 7, 1987, and returned on September 12, 1987. He states that the applicant reentered without inspection. The statement is consistent with the applicant’s claim that he visited his family in Mexico in 1987. This affidavit, while confirming the applicant’s absence in 1987, has limited relevance as evidence of his residence in the United States during the requisite period; and,
- Four “Employment Affidavit” forms from [REDACTED] of Mesa Service Printing, [REDACTED] of Ornamental Industry, [REDACTED] of Central Produce Row, and [REDACTED] of Expres Industry, Inc., all dated on December 9 or 10, 1992. The form language indicates that official records of employment were not maintained and are therefore unavailable. Each form allows the affiant to fill in the blanks as to what the applicant’s duties were, what date the employment began and ended, and to indicate what periods of layoff there were. [REDACTED] states that the applicant worked for him as a machine operator from February 1982 until June 1983. [REDACTED] indicates that the applicant worked for him as a machine operator from July 1983 to September 1985. Mr. [REDACTED] states that the applicant worked in the warehouse from October 1985 until March 1987. [REDACTED] states that the applicant worked for him in the warehouse from March 1987 to November 1989. Little if no evidentiary weight can be given to these affidavits. Specifically, none of the affidavits are written on company letterhead and none of the employers indicates that they do not have such stationary. All of the

employers failed to provide the applicant's address at the time of employment as required under 8 C.F.R. § 245a.2(d)(3)(i). In addition, the letters indicate the applicant's title or the location where he worked but do not list the applicant's duties.

As stated previously, the evidence must be evaluated not by the quantity of evidence alone but by its quality. Although not required, none of the affidavits included any supporting documentation of the affiant's presence in the United States during the requisite period. Furthermore, while the applicant has submitted numerous affidavits in support of his application, he has not provided any contemporaneous evidence of residence in the United States during the duration of the requisite period.

The record of proceedings contains other documents, including the birth certificate of his child [REDACTED] born on August 16, 2001, in Glendale, California, the birth certificate of his child [REDACTED] born on September 19, 1999, in Glendale, California, pay stubs and utility bills in the applicant's name dated from 1990 to 1992, and a car title issued on May 3, 1991. These documents all indicate physical presence after May 4, 1988, do not address the applicant's qualifying residence or physical presence during the eligibility period in question, specifically from before January 1, 1982, through May 4, 1988.

The remaining evidence in the record is comprised of the applicant's statements and application forms, in which he claims to have first entered the United States without inspection in November 1981, and to have resided for the duration of the requisite period in Los Angeles, California. As noted above, to meet his burden of proof, the applicant must provide evidence of eligibility apart from his own testimony. The applicant has failed to do so.

Having examined each piece of evidence, both individually and within the context of the totality of the evidence, the AAO finds that the applicant has not shown by a preponderance of the evidence he entered into the United States before January 1, 1982, and that he resided continuously in an unlawful status for the requisite period.

The absence of sufficiently detailed and probative documentation to corroborate the applicant's claim of entry and continuous residence for the entire requisite period, 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 on affidavits alone, which lack relevant details, and the lack of any probative evidence of his entry and residence in the United States from prior to January 1, 1982 through May 4, 1998, the applicant has failed to establish by a preponderance of the evidence that he maintained continuous, unlawful residence in the United States as required for eligibility for adjustment to permanent resident status under section 1104(c)(2)(B)(i) of the LIFE Act. The applicant is, therefore, 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.