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U.S. Citizenship  
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Services

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FILE: [REDACTED] Office: NEW YORK Date: **SEP 24 2008**  
MSC 01 289 60311

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. If your appeal was sustained, or if your case 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 October 5, 2006, the District Director, New York, 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 determined that the applicant failed to meet her burden of proof to establish that she first entered the United States before January 1, 1982, and resided continuously in the United States in an unlawful status since that date through May 4, 1988. The director noted that the affiants who wrote affidavits on the applicant's behalf did not know that she lived in New Jersey, did not know how she came to the United States, and failed to give specific personal knowledge of her whereabouts or employment in the United States. The director also noted that a letter from [REDACTED] cast doubt about the truthfulness of the evidence the applicant submitted.

On appeal, counsel for the applicant asserts that the affidavits the applicant submitted testify to the applicant's presence in the United States before January 1, 1982, and that the director did not verify them. Counsel asserts that the affiants are not required to submit evidence of their presence in the United States during the requisite period.

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.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 record reflects that on July 16, 2001, the applicant submitted a Form I-485, Application to Register Permanent Residence or Adjust Status. On January 26, 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 her burden of establishing by a preponderance of the evidence, that her 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 applicant has provided the following evidence relating to the requisite period:

#### Letters and Affidavits

Two statements from [REDACTED] the applicant's friend. In an October 9, 2006, affidavit, [REDACTED] asserts that he has known the applicant all his life. While he asserts that they met again in the United States on Thanksgiving Day in November of 1981, he does not explain how he remembers it was 1981 when he reconnected with the applicant. And although [REDACTED] asserts that he knows that the applicant came to the United States illegally on October 20, 1981, he provides no details to indicate that he has any personal knowledge of the applicant's initial entry into the United States. [REDACTED] states that the applicant

lived at [REDACTED] when she first arrived, that he and the applicant are best friends, and that they are in constant contact. He does not, however, provide any details about the other addresses where the applicant has lived or the circumstances of her residence during the requisite statutory period and during their relationship of over 27 years. Given this lack of detail, the letter can be given minimal weight as evidence of the applicant's continuous residence or physical presence in the United States during the requisite period;

- Two letters from [REDACTED] the applicant's childhood friend from the Dominican Republic. In a letter dated October 19, 2006, [REDACTED] states that the applicant first entered the United States without inspection near Los Angeles, on October 20, 1981. He states that the applicant lived at [REDACTED] in Patterson, New Jersey when she first arrived. He states that he and the applicant still keep in contact and have a good relationship. He states that he has knowledge that the applicant has resided at [REDACTED] in Patterson, New Jersey. In a letter dated March 29, 2005, [REDACTED] states that he has known the applicant since childhood and that she came to the United States in October 1981. He states that they still keep in contact and have a good relationship. Although [REDACTED] states that he knows the applicant entered the United States in 1981, he does not provide any details that would indicate that he has personal knowledge of the applicant's initial entry into the United States. Other than her addresses, [REDACTED] provides little information that would indicate personal knowledge of the circumstances of the applicant's residence over the 27 years of their claimed acquaintance with each other in the United States. Given this lack of detail, the letter can be given minimal weight as evidence of the applicant's continuous residence or physical presence in the United States during the requisite period;
- A handwritten letter dated October 18, 2006, from [REDACTED] attests that she worked as [REDACTED] medical assistant beginning in March 1986. She attests that the applicant was a patient of [REDACTED] and that the doctor died on May 14, 2006. She states that she has no access to his medical records and that the office closed in May 2006. While [REDACTED] attests that the applicant was a patient of [REDACTED] she does not state when the applicant was a patient, when the applicant came to the doctor's office, or what treatment the doctor provided her. Lacking such relevant details, this affidavit can only be given minimal weight as evidence of the applicant's continuous residence during the requisite period;
- A letter dated March 31, 2005, from [REDACTED] the applicant's dentist. This letter can be given minimal weight as evidence of the applicant's continuous residence during the statutory period because it lacks any indication of what records were consulted. In addition, [REDACTED] fails to provide basic details,

including what he treated the applicant for. Furthermore, the letter is not notarized;

- Three letters from two former landlords. In two nearly identical statements from [REDACTED], dated October 17, 2006, March 19, 2005, [REDACTED] provides her current address and states that she was the landlord of [REDACTED] #1, in Patterson, New Jersey, where the applicant lived from 1987 to 1990. In a fill-in-the-blank form affidavit dated February 25, 1990, [REDACTED] states that the applicant lived at [REDACTED] Jersey from May 15, 1982, to August 25, 1987. As the applicant's former landlords, [REDACTED] and Ms. [REDACTED] fail to submit corroborating evidence of the applicant's residence in the dwellings, such as a lease or rent receipts, or in the alternative, an explanation of the payment arrangements that existed with the applicant. Lacking such relevant detail, the letters can be afforded only minimal weight as evidence of the applicant's continuous residence in the United States for the requisite period;
- Three statements regarding the applicant's employment at El Ensueno Restaurant in Patterson, New Jersey. In a letter dated October 17, 2006, [REDACTED] states that she has known the applicant since October 1981. She states that the applicant was hired at their restaurant El Ensueno in March 1982 and worked as a cook there until September 1990. In a fill-in-the-blank form, notarized on October 3, 1993, [REDACTED] provides the address of the restaurant and indicates that the applicant worked at El Ensueno from April 3, 1982, to the date the affidavit was notarized. These letters can be given little evidentiary weight of the applicant's continuous residence during the statutory period. Specifically, the [REDACTED] 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, identify the exact period of employment, show periods of layoff, state the applicant's duties, declare whether the information was taken from company records, or 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;
- An "Affidavit of Witness" form sworn to on January 19, 1990. The form signed by [REDACTED] states that the affiant has personal knowledge that the applicant has resided in Patterson, New Jersey, from July 1986 to present. The form language allows the affiant to fill in a statement that he or she "first met the applicant due to the following circumstances: \_\_\_\_." [REDACTED] added: "She works very hard and she is a[n] honest person." Although the dates and addresses provided are generally consistent with the information provided on the applicant's Form I-687, this affidavit, prepared on a fill-in-the-blank form, contains minimal details regarding a relationship with the applicant during the requisite period. It does not provide any details about when, where or under what circumstances he met the applicant. [REDACTED] also fails to indicate any personal knowledge of

the applicant's claimed entry to the United States and provides few details of the circumstances of her residence. Lacking relevant details, this statement has minimal probative value;

- A letter dated October 17, 2006, from [REDACTED], the applicant's childhood friend from the Dominican Republic. [REDACTED] states that when the applicant first arrived in the United States in 1981, they met as they had not seen each other for a few years. She states she had already been living here when the applicant first entered the United States without inspection in 1981. She states that they have maintained a close friendship ever since. She states that the applicant lived in Patterson, New Jersey, from the time she arrived until 1990. She states that she visited the applicant at different addresses and also at El Ensueno, the restaurant where the applicant worked. She states that the applicant worked there as a cook for about eight years, until 1990. **She states that she still patronizes that restaurant.** She states that in 1990, the applicant moved to Florida for a few months, then went to live in New York City, where she resides to this day. Ms. [REDACTED] states that she was reunited with the applicant in 1981 when the applicant first entered the United States, but does not explain how she remembers it was 1981 when this occurred. Although she asserts that the applicant entered the United States in 1981, [REDACTED] does not indicate personal knowledge of the **applicant's entry into the United States.** Lacking such relevant details, this affidavit can be given minimal weight as evidence of the applicant's continuous residence during the requisite period;

Two similar statements from [REDACTED] dated October 11, 2006, and March 26, 2005. [REDACTED] asserts that he has known the applicant since about October 1981. He states that the applicant came to live in the house of his very good friend, [REDACTED]. He states that the applicant only lived at [REDACTED] house for a few months, but that she worked at El Ensueno Restaurant, where he continued to see her regularly for eight years. These letters can be given minimal weight as evidence of the applicant's continuous residence in the United States during the required period. He states that he has known the applicant since October 1981, but does not explain how he remembers it was October 1981 when he first met her. He states that the applicant lived at his friend's house for a few months, but does not indicate what few months. He also does not indicate any personal knowledge of the locations of the applicant's residence after she moved out of his friend's house. He states that he saw her regularly at the restaurant, but does not indicate what duties the applicant performed at the restaurant or how regularly he saw her. Given this lack of detail, the letter can be given minimal weight as evidence of the applicant's continuous residence or physical presence in the United States during the requisite period;

- An affidavit from [REDACTED] provides her current address and social security number and states that she has known the applicant since 1984, when they met at their neighborhood church, Cathedral of St. John the Baptist. She states that the applicant is honest and good. [REDACTED] does not indicate how she recalls that it was 1984 when she first met the applicant. She does not indicate any personal knowledge of the applicant's residence in the United States during the required period. As such, this letter can be given minimal evidentiary weight; and,
- An undated fill-in-the blank form affidavit from [REDACTED] indicating that the applicant lived in his house from October 1981 to March 1982. [REDACTED] fails to provide the street address of the house where the applicant resided. As the owner of the house, [REDACTED] fails to submit corroborating evidence of the applicant's residence in his house, such as a lease or rent receipts, or in the alternative, an explanation of the payment arrangements that existed with the applicant. Lacking such relevant detail, the affidavit can be afforded only minimal weight as evidence of the applicant's residence in the United States for the requisite period.

As noted above, to meet her burden of proof, the applicant must provide evidence of eligibility apart from her own testimony. In this case, her assertions regarding her entry prior to January 1, 1982 and residence through May 4, 1988, are supported only by affidavits, all of which have minimal probative value for the reasons described above. When viewed within the context of the totality of the evidence, such documentation does not place the applicant in the United States prior to January 1, 1982, nor is it sufficient to support a finding that it is more likely than not that the applicant resided continuously in the United States from prior to January 1, 1982, through May 4, 1988. The duplicative language, use of forms and the failure to meet statutory standards also detract from the probative value of the affidavits.

The record of proceedings contains other documents, including the birth certificate of the applicant's son, [REDACTED] born on [REDACTED] in New York City, and a letter dated October 20, 2006, from [REDACTED] of St. Rose of Lima Church in New York City, stating that the applicant has been living in the community for more than 15 years. This evidence is dated after or refers to events that occurred after May 4, 1988, and does 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 she claims to have first entered the United States in October 1981 without inspection, and to have resided for the duration of the requisite period in Florida, New York, and New Jersey. As noted above, to meet his or her burden of proof, the applicant must provide evidence of eligibility apart from his or her own testimony. The applicant has failed to do so. In

this case, her assertions regarding her entry are not sufficiently supported by the evidence in the record.

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 she entered into the United States before January 1, 1982, and that she 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 her 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 her entry and residence in the United States from prior to January 1, 1982 and for the years 1982 and 1983, the applicant has failed to establish by a preponderance of the evidence that she 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.