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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
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**U.S. Citizenship  
and Immigration  
Services**

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FILE: [REDACTED]  
MSC 02 239 61901

Office: LOS ANGELES

Date: APR 22 2009

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).

IN BEHALF OF APPLICANT: Self-represented

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.

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, Los Angeles, California. The Administrative Appeals Office (AAO) remanded the case to the director for entry of a new decision. The Director, Los Angeles, California, again denied the application and the matter is now before the AAO on appeal. The appeal will be dismissed.

The director denied the application because the applicant had not demonstrated that she had continuously resided in the United States in an unlawful status since before January 1, 1982, through May 4, 1988.

On appeal from the denial of the initial decision, the applicant asserted that she never received the Notice of Intent to Deny.

The director, in denying the application, did not address the evidence furnished initially, and did not set forth the specific reasons for the denial pursuant to 8 C.F.R. § 103.3(a)(1)(i). As such, the applicant was not afforded the opportunity to wage a meaningful rebuttal. On April 1, 2008, the AAO remanded the case in order for the issuance of a new decision that set forth the specific reasons for the denial.

The director, in his subsequent decision, denied the application because the applicant had not demonstrated that she had continuously resided in the United States in an unlawful status since before January 1, 1982, through May 4, 1988.

The applicant has not addressed the director's subsequent decision nor provided any evidence to overcome the director's findings.

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. Section 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 periods, is admissible to the United States under the provisions of section 212(a) of the Immigration and Nationality Act (Act), 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 issue in this proceeding is whether the applicant has furnished sufficient credible evidence to demonstrate that she continuously resided in the United States in an unlawful status during the requisite period. Here, the applicant has failed to meet this burden.

In an attempt to establish continuous unlawful residence since before January 1, 1982, through May 4, 1988, the applicant provided the following evidence:

- Photocopied receipts dated during the requisite period, including one dated January 1, 1981, that list the applicant’s address as [REDACTED] Pacoima, California and another dated July 9, 1982, that listed the applicant’s address as [REDACTED] Pacoima, California.
- Affidavits from [REDACTED] of Arleta, California, and [REDACTED] of Panorama City, California, who indicated that they have been acquainted with the applicant since August 1982 and February 1985, respectively. The affiants attested to the applicant’s moral character. [REDACTED] indicated that she met the applicant at her birthday party and has remained friends with the applicant since that time.
- An affidavit from [REDACTED] of Van Nuys, California, who indicated that he has been acquainted with the applicant since 1981, and attested to the applicant’s moral character and to her residence at [REDACTED], North Hollywood, California from 1981 to 1986.
- An affidavit notarized May 16, 2002, from [REDACTED] of San Fernando, California, who indicated that she has known the applicant for over 21 years. The affiant asserted that a relative of hers [REDACTED] lived next door to the applicant at [REDACTED] North Hollywood and she became friends with the applicant.

On May 23, 2008, the director issued a Notice of Intent to Deny, which advised the applicant that the affidavits submitted did not contain sufficient objective evidence to which they could be compared to determine whether the attestations were credible, plausible, or internally consistent

with the record. The applicant was advised the affidavits from [REDACTED] and [REDACTED] contradicted her claim on her Form I-687 application as the address, [REDACTED] North Hollywood, was not listed as a residence during the requisite period. The applicant was advised that the photocopied receipts dated January 1, 1981, and July 9, 1982, listed an address that was not claimed on her Form I-687 application during the requisite period, and the receipt dated January 1, 1981, lacked further credibility as the applicant claimed her first arrival in the United States was in December 1981. The applicant was advised that two of the four handwritten receipts appeared to have been copied from the same receipt, and that the applicant's last name appeared to have been added at a later date on three of the receipts. Regarding the photocopied receipts from Los Angeles Enterprises dated October 13, 1983, December 28, 1984, and September 13, 1985, the director advised the applicant:

On all three receipts it appears the years on the date had been altered. In addition, all three receipts bear a stamp of the company's name, address and this phone number: (818)890-2186. According to the history of area code 818 from Wikipedia webpage, the 818 area code entered service on January 7, 1984.

The applicant was advised that by utilizing fraudulent receipts, she had diminished her credibility as well as the credibility of her claim of continuous residence in the United States.

The applicant, in response, asserted that at the time of her LIFE interview, her mother recently passed away and she was very nervous. The applicant asserted that she resided in 1981 at [REDACTED] for two months and at [REDACTED] for one month. Regarding the photocopied receipt dated January 1, 1981, the applicant asserted, "I did not remember exactly the date I entered the U.S.A." and that she mentioned this address to the individual who prepared her Form I-687 application, but was told "since I only live for a few months, that this does not really counts [sic]."

Regarding the affidavits, the applicant asserted that [REDACTED] attested to her residence at [REDACTED] "for a longer time because I every time I used to visit [REDACTED] was always there most of the time and at that time we were both to close or didn't talk to each other much." The applicant also asserted that she does not know why [REDACTED] attested to her residence at [REDACTED] "because every time I moved he was aware of it. Maybe he didn't remember the other addresses and the years I lived at the other address, it probably seem easier for him just to say one address with certain years without thinking that it would effect [sic] me...."

Regarding the four handwritten receipts, the applicant asserted that the receipts were made out by [REDACTED] a former Avon representative, who would only post the individual's first name on the receipts. The applicant asserted that because her last name was not indicated on the receipts, she called the Avon representative and informed her that she needed her complete name on the receipts. The applicant asserted that the representative informed her that either she or her daughter would complete the receipts. The applicant asserted that the representative was not at her place of business and, therefore, the daughter of the representative "was already aware of what I needed so, she innocently posted my last name of the receipts.

Regarding the receipts from Los Angeles Enterprises, the applicant indicated that the preparers of her Form I-485 application informed her that one of the receipts did not have the seal of the company. The applicant asserted, in pertinent part:

I went personally to the company and explain them that I was doing my Immigration paperwork and that this receipt was not valid so, one of the workers said there was no problem that he will just post it as I requested. If in the year 1983 the (818) area code did not exist and the company had another seal with a different area code, by the rime they seal it, I did not thank about it nor the person whom seal it and if they did, they probably did not had that seal handy anymore....

The applicant submitted:

- An additional affidavit from [REDACTED] who indicated that she met the applicant at her home in August 1982 and has remained friends with the applicant since that time.
- An affidavit from [REDACTED], who indicated that she met the applicant in May 1981 and that she sold Avon products to the applicant. The affiant asserted that she would only place the applicant's first name on the receipts and that she gave her daughter authority to post the applicant's last name on the receipts.

The director, in denying the application, noted that the information submitted by the applicant failed to overcome the grounds for denial.

The applicant has not addressed the director's subsequent decision nor provided any evidence to overcome the director's findings.

The U.S. Citizenship and Immigration Services (USCIS) has determined that affidavits from third party individuals may be considered as evidence of continuous residence. *See Matter of E-- M--*, *supra*. In ascertaining the evidentiary weight of such affidavits, USCIS must determine the basis for the affiant's knowledge of the information to which he is attesting; and whether the statement is plausible, credible, and consistent both internally and with the other evidence of record. *Id.*

Following the dicta set forth in *Matter of E-- M--*, *supra*, the affidavits should be analyzed to determine if the affidavits upon which the claim relies are consistent both internally and with the other evidence of record, plausible, credible, and if the affiant sets forth the basis of his knowledge for the testimony provided. The statements issued by the applicant have been considered. However, the AAO does not view the documents discussed above as substantive enough to support a finding that the applicant entered the United States prior to January 1, 1982, and resided since that date through May 4, 1988, as she has presented contradictory and inconsistent documents, which undermines her credibility.

The Form I-687 application does not reflect that anyone other than the applicant completed the application, as no information is listed in items 48 and 50 of the application; items 48 and 50 of the application requests the name, address and signature of the person preparing the form. The applicant, in affixing her signature on the Form I-687 application, certified that the information is true and correct.

The applicant has not addressed the issue regarding the receipt dated July 9, 1982, which lists her address as [REDACTED]. The applicant did claim residence at this address until 1989.

[REDACTED] and [REDACTED] failed to state the applicant's place of residence during the requisite period, provide details regarding the nature or origin of their relationship with the applicant or the basis for their continuing awareness of the applicant's residence.

The applicant initially claimed to have entered the United States in December 1981 and to have resided at [REDACTED]. In response to the Notice of Intent to Deny, the applicant amended her claim of entry to reflect that she entered three months earlier as she indicated residence at [REDACTED] for two months and at [REDACTED] for one month. Assuming, arguendo, this amended claim of entry is true, the applicant would have first entered the United States in September 1981. Nevertheless, the receipt dated January 1, 1981 still raises questions to its authenticity as it was dated nine months prior to the applicant's amended claim of entry and tends to establish that the applicant utilized the receipt in a fraudulent manner in an attempt to support her claim of continuous residence in the United States prior to January 1, 1982.

The applicant has not provided any credible evidence to establish her residency at [REDACTED] [REDACTED]. In addition, the applicant has not provided any credible evidence from Los Angeles Enterprises, [REDACTED] and [REDACTED] to support her assertions submitted in response to the Notice of Intent to Deny. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

Doubt cast on any aspect of an applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. It is incumbent upon an 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, in fact, lies, will not suffice. *Matter of Ho*, 19 I. & N. Dec. 582 (BIA 1988).

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). Given the credibility issues arising

from the documentation provided by the applicant, it is determined that the applicant has not met her burden of proof. The applicant has not established, by a preponderance of the evidence, that she entered the United States before January 1, 1982 and resided in this country in an unlawful status continuously from before January 1, 1982 through May 4, 1988, as required under 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b). Given this, the applicant 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.