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U.S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
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FILE: [REDACTED]  
MSC 01 271 60069

Office: PHILADELPHIA

Date: AUG 12 2009

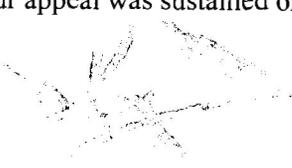
IN RE: Applicant: [REDACTED]

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).

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.

  
John F. Grissom  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was initially denied and then reopened by the Director, New York, New York. The Director, Philadelphia, Pennsylvania subsequently denied the application again and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

In the most recent decision, 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 as required by section 1104(c)(2)(B) of the LIFE Act.

On appeal, counsel reiterated the applicant's claim of residence in this country for the requisite period and asserted that the applicant had submitted sufficient evidence in support of such claim.

An applicant for permanent resident status under 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; 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).

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 to May 4, 1988, the submission of any other relevant document including affidavits is permitted pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L).

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.* At 80. 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. *Id.*

Even if the director has some doubt as to the truth, if the petitioner 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, 431 (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.

At issue in this proceeding is whether the applicant has submitted sufficient credible evidence to meet his burden of establishing continuous unlawful residence in the United States during the requisite period. Here, the applicant has failed to meet this burden.

The applicant made a claim to class membership in a legalization class-action lawsuit and as such, was permitted to file a Form I-687, Application for Temporary Resident Status Pursuant to Section 245A of the Act, on December 12, 1989. Subsequently, the applicant filed his Form I-485 LIFE Act application on June 28, 2001.

In support of his claim of residence in the United States for the requisite period, the applicant submitted a letter of membership, affidavits of residence, original paycheck stubs, an employment affidavit, affidavits relating to the applicant’s absence from this country in 1987, a photocopied airline ticket, and original envelopes.

The director determined that the applicant failed to submit sufficient credible evidence demonstrating his residence in the United States in an unlawful status during the period in question and, therefore, denied the Form I-485 LIFE Act application on January 16, 2009.

Counsel’s remarks on appeal relating to the sufficiency of the evidence submitted by the applicant in support of his claim of continuous residence are noted. However, during the adjudication of the applicant’s appeal, information came to light that adversely affects the applicant’s overall credibility as well as the credibility of his claim of residence in this country from prior to January 1, 1982 to May 4, 1988. As has been previously discussed, the applicant submitted supporting documentation including original envelopes. While two of these envelopes either do not contain a discernible postmark or are postmarked subsequent to the requisite period, the remaining envelopes are postmarked July 19, 1982, April 3, 1983, an indeterminate day in April of 1986, July 4, 1986, September 15, 1986, April 2, 1987, and September 20, 1987. The envelopes bear Mexican postage stamps and were presented as having been mailed from Mexico to you at the address in this country that you claimed to have resided for the entire period in question. A review of the *2009 Scott Standard Postage Stamp Catalogue Volume 3* (Scott Publishing Company 2008), reveals the following regarding the postage stamps affixed to these envelopes:

- The envelopes postmarked July 4, 1986, September 15, 1986, and April 2, 1987 all bear the same Mexican postage stamp each with a value of one hundred pesos.

This stamp contains a stylized illustration of a cup of steaming coffee, the Spanish word for coffee “cafe,” and the notation “Mexico Exporta” encircling an eagle’s head in the right hand corner. This stamp is listed at page 917 of Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 1470A A320. The catalogue lists this stamp’s date of issue as 1988.

The fact that envelopes postmarked July 4, 1986, September 15, 1986, and April 2, 1987 all bear a postage stamp that was not issued until well after the date of these respective postmarks establishes that the applicant utilized these documents in a fraudulent manner and made material misrepresentations in an attempt to establish his residence within the United States for the requisite period. This derogatory information establishes that the applicant made material misrepresentations in asserting his claim of residence in the United States for the period in question and thus casts doubt on his eligibility for adjustment to permanent residence under the provisions of the LIFE Act. By engaging in such an action, the applicant has negated his own credibility, the credibility of his claim of continuous residence in this country for the requisite period, and the credibility of all documentation submitted in support of such claim.

Doubt cast on any aspect of the applicant’s proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. It is incumbent upon the 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, 591-92 (BIA 1988).

The AAO issued a notice to the applicant and counsel on June 24, 2009 informing the parties that it was the AAO’s intent to affirm the director’s certified decision and dismiss the applicant’s appeal based upon the fact that the applicant utilized the postmarked envelopes cited above in a fraudulent manner and made material misrepresentations in an attempt to establish his residence within the United States for the requisite period. The parties were granted fifteen days to provide evidence to overcome, fully and persuasively, these findings.

In response, counsel submits a statement in which she asserts that the postage stamp in question was actually issued prior to the issue date listed in Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue*. Counsel contends that the website at [www.somestamps.com](http://www.somestamps.com) reflects that postage stamps in the third “Exporta” series were issued between the years 1983 and 1987 and any particular stamp in this series could have been issued as early as 1983 up through 1987, rather than the specific date of issue listed in Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue*. Counsel submits pages from the website and a statement from the applicant in support of her assertions. However, a review of the website at [www.somestamps.com](http://www.somestamps.com) reveals that the website fails to list any specific issue date for any of the stamps in the Mexican Exporta series. Further, the website acknowledges that it contains a limited listing of these stamps by stating the following:

The Mexico Exporta Definitives are a collector's dream. The stamps are beautiful, and were printed in an array of designs, papers, tagging, colors, and perforations. There is a comprehensive listing of these stamps at the etiangui site. Covers of this issue are hard to come by. I break down this issue into four major installments, and have finally gotten around to adding pages for each of the four major groups (which are broken down into a dozen or so issues by specialists more informed than I am), and below I also have links to pages for each design. I am missing a few major varieties, but I think I have all of the base stamps by now.

Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* reveals that domestic stamps comprising the "Exporta" series were first issued in 1975 and continued to be issued through 1992, and airmail stamps comprising the "Exporta" series were first issued in 1975 up through 1982. The domestic stamps comprising the "Exporta" series are listed in Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* on the following pages: page 908 with catalog numbers 1109 A320 through 1138 A320; page 909 with catalog numbers 1166 A320 through 1176 A320; page 917 with catalog numbers 1465 A320 through 1470A A320; page 918 with catalog numbers 1491 A320 through 1505 A320; page 920 with catalog numbers 1583 through 1603; and, page 926 with catalog numbers 1763 A320 through 1770 A320. The airmail stamps comprising the "Exporta" series are listed in Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* on the following pages: page 953 with catalog numbers C486 AP214 through C508 AP214; and, page 956 with catalog numbers C594 AP214 through C603 AP214. Once again, it must be reiterated that the stamps on the envelopes postmarked July 4, 1986, September 15, 1986, and April 2, 1987 all have a value of one hundred pesos, and contain a stylized illustration of a cup of steaming coffee, the Spanish word for coffee "cafe," and the notation "Mexico Exporta" encircling an eagle's head in the right hand corner. This stamp is listed at page 917 of Volume 4 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 1470A A320. The catalogue lists this stamp's date of issue as 1988.

The existence of derogatory information that establishes the applicant used postmarked envelopes in a fraudulent manner and made material misrepresentations negates the credibility of the applicant's claim of residence in this country for the requisite period, as well as the credibility of the documents submitted in support of such 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. The applicant has failed to submit sufficient credible documentation to meet his burden of proof in establishing that he has resided in the United States for the requisite period by a preponderance of the evidence as required under both 8 C.F.R. § 245a.12(e) and *Matter of E- M-*, 20 I&N Dec. 77 (Comm. 1989).

Given the applicant's reliance upon documents with minimal or no probative value, it is concluded that he has failed to establish continuous residence in an unlawful status in the United States from prior to January 1, 1982 through May 4, 1988 as required under section 1104(c)(2)(B) of the LIFE Act. Because the applicant has failed to provide independent and objective evidence to overcome, fully and persuasively, our finding that he submitted falsified documents, we affirm our finding of

fraud. The applicant is, therefore, ineligible for permanent resident status under section 1104 of the LIFE Act on this basis.

A finding of fraud is entered into the record, and the matter will be referred to the United States Attorney for possible prosecution as provided in 8 C.F.R. § 245a.21(c).

**ORDER:** The appeal is dismissed with a finding of fraud. This decision constitutes a final notice of ineligibility.