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FILE: [Redacted]
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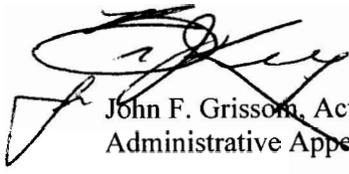
IN RE: Applicant: [Redacted]

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:
[Redacted]

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. Grisson, 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, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

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

On appeal, counsel asserts that the applicant has been residing in the United States since 1981. Counsel submits additional evidence in support of the appeal.

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 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 issue in this proceeding is whether the applicant has furnished sufficient credible evidence to demonstrate that he 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:

- A statement from [REDACTED] of Queens Village, New York, who indicated that he has known the applicant since 1981.
- Statements from [REDACTED] and [REDACTED], who attested to the applicant's departure to Pakistan on July 3, 1987.
- A statement from [REDACTED] of Bronx, New York, who indicated that he has known the applicant since 1987 and attested to the applicant's departure to Pakistan on July 3, 1987.
- An affidavit dated August 28, 1989, from [REDACTED] of Bronx, New York, who indicated that he and the applicant have shared an apartment at [REDACTED], Bronx, New York since February 1981.
- An affidavit dated July 12, 2001, from [REDACTED] of White Plains, New York, who indicated that the applicant was hired to work (brick pointing roofing and masonry) in his multi-family apartment building from 1982 to 1988.
- A one-year lease agreement entered into on January 1, 1981, between the applicant and Walton Realty Associates for property at [REDACTED] Bronx, New York
- A letter dated January 14, 1991, from [REDACTED] president of S.S. Construction Corp, in Bronx, New York, who indicated that the applicant was employed as a supervisor from June 1981 to July 1990.
- A letter dated July 11, 2001 from [REDACTED] of [REDACTED] Management Corp, in Bronx, New York, who indicated that the applicant was employed as a maintenance man from 1981 to 1991.

On August 11, 2007, the director issued a Notice of Intent to Deny, which advised the applicant that his testimony and evidence submitted contain numerous discrepancies. Specifically:

1. At the time of his LIFE interview, the applicant claimed that except for his LIFE application he had no other applications pending. However, Service records reflect that the applicant had three alien registration numbers relating to Form I-687 applications.

2. On his Form I-687 applications filed in Chicago, Illinois,¹ and Baltimore, Maryland,² the applicant claimed to have had departed the United States to Pakistan from July 1987 to August 1987. On his Form I-687 application filed in Chicago, the applicant claimed one son, [REDACTED], born in Pakistan on November 4, 1989 and on his Form I-687 application filed in Baltimore, the applicant claimed that his son, [REDACTED] was born on May 4, 1988 in Pakistan.
3. On his Form I-687 application filed in Seattle, Washington,³ the applicant claimed no children and that he had departed the United States to Canada from October 5 to 15, 1987.
4. At the time of his LIFE interview, the applicant indicated that he had never departed from the United States since his return in August 1987 from Pakistan.
5. The affidavits and statements submitted appeared to be neither credible nor amenable to verification and that no evidence was submitted demonstrating that the affiants had direct personal knowledge of the events testified in their respective documents.
6. An attempt to locate the business license for [REDACTED] Management Corporation revealed that the business was never registered with the State of New York.

Counsel, in response, submitted an affidavit from the applicant, who indicated that he did not have any documents to establish his residency in the United States from 1981 due to his illegal status. The applicant claimed that he was incorrectly advised to file three Form I-687 applications in different cities. The applicant indicated that he did not understand English very well and trusted the individuals who prepared each application.⁴ Regarding his absences, the applicant indicated that he went to Pakistan in July 1987 and to Canada in October 1987. Regarding his son's date of birth, the applicant indicated that he was born on November 4, 1989 and the date of birth of May 4, 1988, was an error made by the individual who prepared his application.

Counsel also submitted:

- A letter dated August 23, 2007, from [REDACTED] of Bronx, New York, who indicated that the applicant worked on his parents' house 23 years ago.
- Statements dated August 18, 2007, from [REDACTED] and [REDACTED] of Bronx, New York, who indicated that they have known the applicant for 19 and 20 years, respectively as a general contractor and attested to the applicant's moral character.
- A letter dated August 27, 2007, from [REDACTED] of Bronx, New York, who indicated that she has known the applicant for over 20 years and that the applicant had worked (brick pointing) at her home in 1985.

The applicant was assigned alien registration number [REDACTED]

² The applicant was assigned alien registration number [REDACTED]

³ The applicant was assigned alien registration number [REDACTED]

Once it was apparent that the applicant had a prior alien registration file ([REDACTED]), all the documentation from the Form I-485 and Form I-687 applications were consolidated into the prior A-file.

- A photocopy of the letter dated July 12, 2001, from [REDACTED] of White Plains, New York.

Counsel also submitted additional documents that have no relevance in this proceeding as they serve to establish the applicant's presence in the United States subsequent to the period in question.

The director, in denying the application, noted that on September 18, 2007 [REDACTED] was contacted by telephone and he indicated that he first met the applicant in 1994 and that the applicant worked for his company from 1994 to 2004. Regarding the applicant's absences during the requisite period, the director noted that the applicant had not submitted any evidence of his departures or reentries and failed to provide the manner in which he had departed and reentered the United States. The director determined that as the applicant offered no evidence to corroborate the veracity of his new statement, he had not overcome the adverse information outlined in the Notice of Intent to Deny.

On appeal, counsel submits a copy of the applicant's affidavit that was previously provided in response to the Notice of Intent to Deny. Counsel also submits an additional letter from Adelfa Lugo who reasserts that the applicant worked on his parents' home 23 years ago.

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 would not necessarily be fatal to the applicant's claim, 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 counsel and 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 he has presented contradictory and inconsistent documents, which undermines his credibility. Specifically:

The applicant indicated on his Form I-687 applications filed in Chicago and Baltimore that he was employed at: a) a Texaco Service Gas Station from March 1981 to March 1983; b) at Popular Construction from April 1983 to June 1985; and c) at S.S. Construction Corp. from July 1985 to March 1990. However, on his application filed in Seattle, the applicant claimed to have only been employed by S.S. Construction during the requisite period.

The employment affidavits and letters from the affiants failed to include 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, the affiants also failed to 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 applicant indicated on his Form I-687 application filed in Chicago that he resided at [REDACTED] Bronx, New York from February 1981 to February 1985. However, on his applications filed in Baltimore and Seattle, the applicant claimed to have resided at this residence from March 1, 1981 to February 28, 1983, and from February 1981 to September 1988, respectively.

The applicant indicated on his Form I-687 application filed in Chicago that he resided at [REDACTED] Queens Astoria, New York from March 1985 to December 1986 and at [REDACTED] Bronx, New York from December 1986 to March 1990. However, on his application filed in Baltimore, the applicant claimed to have resided [REDACTED] Queens Astoria, New York from March 1983 to July 1985 and at [REDACTED] Bronx, New York from August 1985 to May 1990, and [REDACTED] in his affidavit dated September 20, 1989, indicated that the applicant resided "in my house at [REDACTED].." since September 1988.

It must be noted that the address, [REDACTED] Bronx, New York, is listed as the place of business on the letterhead of [REDACTED]

As conflicting information has been provided, it is reasonable to expect an explanation from the preparers of the Form I-687 applications filed in Chicago and Seattle in order to resolve the discrepancies. However, to date, no statements from his former counsels have been submitted to corroborate the applicant's statement.

Further, the Form I-687 application filed in Baltimore 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. Consequently, the applicant's assertion that the application was prepared by someone other than himself cannot be considered as persuasive. The applicant, in affixing his signature on item 44 of his Form I-687 application, certified that the information he provided was *true and correct*.

The lease agreement submitted raises questions to its authenticity as the applicant admitted in a sworn statement dated April 18, 1992, that he entered the United States on January 5, 1981; four days after the lease agreement was purportedly signed. In addition, the applicant, in an affidavit notarized April 27, 1990, indicated that he first arrived in the United States on February 5, 1981, and the applicant did not claim on his Form I-687 application to have resided at [REDACTED] during the requisite period.

[REDACTED] indicated that he and the applicant shared an apartment at [REDACTED] Bronx, New York since February 1981. However, the applicant indicated on two of his Form I-687 applications to have resided at other residences throughout the requisite period.

The affidavits from the remaining affiants failed to state the applicant's place of residence during the requisite period and provide any details regarding the nature of their relationship with the applicant or the basis for their continuing awareness of the applicant's residence. The absence of sufficiently detailed documentation to corroborate the applicant's claim of continuous residence for the entire requisite period seriously detracts from the credibility of his claim.

attested to the applicant's employment from 1984 to 1991 at Management Corp. However, the applicant did not claim employment at this entity on his Form I-687 application.

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).

Given the numerous credibility issues arising from the documentation provided by the applicant, it is determined that the applicant has not met his burden of proof. The applicant has not established, by a preponderance of the evidence, that he 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.