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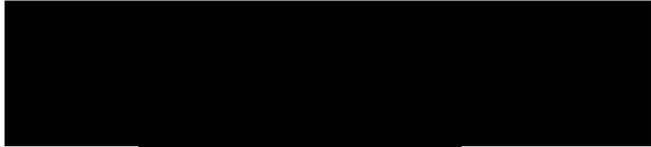
U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
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FILE: [Redacted]  
MSC 02 144 61457

Office: MISSOURI SERVICE CENTER

Date: **NOV 23 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:  
[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.

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director, Missouri Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director determined that the applicant has not established that he is eligible for class membership pursuant to the CSS/Newman Settlement Agreements. The director, therefore, did not adjust the status of the applicant to that of an alien lawfully admitted for temporary residence.

On appeal, counsel for the applicant asserts the applicant's eligibility under the terms of the CSS/Newman Settlement Agreements.

Under the CSS/Newman Settlement Agreements, if the director finds that an applicant is ineligible for class membership, the director must first issue a notice of intent to deny, which explains any perceived deficiency in the applicant's Class Member Application and provide the applicant 30 days to submit additional written evidence or information to remedy the perceived deficiency. Once the applicant has had an opportunity to respond to any such notice, if the applicant has not overcome the director's finding then the director must issue a written decision to deny an application for class membership to both counsel and the applicant, with a copy to class counsel. The notice shall explain the reason for the denial of the application, and notify the applicant of his or her right to seek review of such denial by a Special Master. *See* CSS Settlement Agreement paragraph 8 at page 5; Newman Settlement Agreement paragraph 8 at page 7.

On July 24, 2002, the director issued a notice of intent to deny (NOID) to the applicant. The director found that based on the applicant's testimony he is not eligible for CSS/Newman class membership. The applicant was afforded 30 days to respond to the notice. On November 7, 2002, the director issued a denial notice stating that the applicant had not overcome the basis for the NOID and that the applicant did not qualify for CSS/Newman class membership. The director instructed the applicant to appeal the decision to the AAO by filing a Form I-694, Notice of Appeal.

The director's instruction for the applicant to appeal the decision to the AAO is in error and is withdrawn. Pursuant to 8 C.F.R. § 245a.2(p), the AAO has jurisdiction over the denial of an Application for Temporary Resident Status under section 245A of the Act. Here, the application was denied based on the applicant's failure to establish Class Membership under the CSS/Newman Settlement Agreements. Therefore, the AAO is without authority to review the denial of the application. The CSS/Newman Settlement Agreements stipulate that an applicant should be notified of his or her right to seek review of the denial of his Class Membership Application by a Special Master. Since the AAO is without authority to review the denial of the application, the appeal must be rejected, despite the fact that the director stated an appeal could be filed with the AAO.

It is noted that the applicant submitted a Form I-687, Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act on September 9, 2002. The

Director, Texas Service Center, approved the applicant's Form I-687 on July 1, 2004, and adjusted his status to that of a temporary resident. As he is presently a temporary resident, the issues in this proceeding are moot and the case will be returned for adjudication of the Form I-698, Application to Adjust Status From **Temporary to Permanent Resident**, that was filed by the applicant on April 30, 2007, under Receipt Number [REDACTED]

**ORDER:** The appeal is rejected.