

I, Amir, being duly sworn, depose and say:

1. I was born on September 22, 19.., in the city of, Israel.

2. I first came to the United States as a tourist, on September 16, 19... On June 19, 19.., at the New York District Office of the U.S. Immigration and Naturalization Service (hereinafter, INS), my status was adjusted to permanent resident alien, Alien Registration No.

3. I currently reside in the United States at East 24th St., Brooklyn, N.Y. 112... My telephone number is 718/332-..... I have been residing at this address since November 1, 2002. Within two weeks of our moving here, my wife and I called the appropriate telephone number of the INS, namely 1/800/375-5283, and notified the INS of this change of address, in compliance with the law. Furthermore, on November 15, 2002, when I appeared in person at the INS Office at 711 Stewart Avenue, in Garden City, N.Y., I filled out and submitted a Case/Status Inquiry form, a copy of which is attached to this affidavit as Exhibit 1 and made a part hereof. On that form, I clearly indicated my new address. Furthermore, a notice from the INS addressed to my former attorney, Muriel, dated January 12, 2004, acknowledges my new address. A copy of that notice, sent to me by the office of my former attorney, is attached to this affidavit as Exhibit 2 and made a part hereof. I highlight these facts because, despite my compliance with the law, and despite the INS's own acknowledgement of my new address and its claim to

have updated its records, when the INS, now renamed U.S. Citizenship and Immigration Services (hereinafter, USCIS), finally sent me its decision, dated June 8, 2004, concerning my application for naturalization, it mailed the decision to my old address. In addition, USCIS mailed out its decision a full 8 days after the date of the decision. Attached to this affidavit as Exhibit 3, and made a part hereof, is a copy of the envelope in which the decision was mailed, clearly showing an incorrect mailing address and a mailing date of June 16. As best as I can recall, I signed for this letter (it came by certified mail return receipt requested) on Monday, June 19; certainly, I signed no earlier than that, and it could have been later. This lateness is significant, because, until I had the good fortune of receiving the advice of competent counsel¹ – I refer to my present attorney, Oscar Abraham Jaeger, whose office is at 729 Kathleen Place, in Brooklyn, N.Y., telephone 718/615-0393 – who told me what the law actually is, I naturally took the words of the decision literally, and these words contain a complete misstatement of the law.

4. The USCIS decision dated June 8, 2004, a copy of which is attached hereto as Exhibit 4 and made a part hereof, states: “If you desire to request a review hearing on this decision pursuant to Section 336(a) of the Act, you must file a request for a hearing within 30 days of the date of this notice.” My attorney showed me that Volume 8 of the Code of Federal Regulations, Section 336.2(a), states the period of time

¹ The counsel I received from my previous attorney, Muriel, or more precisely, since I never even communicated with her, the counsel I received from her so-called paralegal Ms. Nora, was anything but competent. See numbered paragraph 10 on pages 6-7 below.

within which an appeal must be filed as follows: “The applicant, or his or her authorized representative, may request a hearing on the denial of the applicant’s application for naturalization by filing a request with the Service **within thirty days after the applicant receives the notice of denial under 336.1**” (emphasis added). As if the pressure of appealing an adverse decision were not pressure enough, it is only now clear to me that during the period of time that I trusted USCIS to provide me with an accurate statement of my appeal rights, I was unnecessarily and unfairly burdened with the added pressure of believing that I had 30 days from the date of the decision to file my appeal, with no consideration being given to the fact that this time had been significantly shortened by USCIS itself, in mailing out the decision 8 days late, and to an incorrect address at that. In point of fact, the 30 day period of time within which to file my appeal commences with my receipt of the decision, and not with the date of the decision. Reserving all my rights, I would point out to USCIS that I have 30 days from June 19, 2004, and not from June 8, 2004, to file my appeal.

5. Perhaps this is as good a place as any to further express my dismay at the procedural aspects of this June 8, 2004 decision (in numbered paragraph 15 below, at pages 9-10, I express my dismay at the substantive aspects of that decision). I marvel at the double standard that the USCIS is employing, when it sends out an adverse decision with an incorrect statement of the rights of the naturalization applicant. While sitting in judgment of the moral character of the applicant, and deciding that his moral character does not meet the law’s requirements, USCIS apparently has no problem with misstating the law

and misinforming the applicant of his legal rights. The natural tendency of such misinformation, absent the good fortune of receiving competent counsel to the contrary, is to illegitimately and unfairly curtail the time within which the applicant is entitled to contest an adverse decision. I wonder at the kind of moral character the USCIS is itself displaying, as it sits in judgement on the supposed deficiencies in the moral character of others.

6. On May ..., 2001, I filed a naturalization application with the INS Vermont Service Center in St. Albans, Vermont. On April ..., 2002, INS District Adjudications Officer (hereinafter, DAO) (I do not know her first name) interviewed me at the INS Garden City Office, at 711 Stewart Avenue, Garden City, N.Y. Amongst the many questions DAO asked me was whether I had ever been arrested. I believed that I may have been arrested, so I answered affirmatively. At the end of the interview, DAO told me that I had passed the English and government portions of the naturalization test but that, before my application for naturalization could be approved, I would need to submit a disposition concerning my arrest. She provided this same assessment in writing, handing me two INS forms. The first was entitled "Naturalization Interview Results," and since I have retained a copy of this form, I attach it to this affidavit as Exhibit 5 and make it a part hereof. The second INS Form she gave me was called Form N-14. Unfortunately, on April 30, 2002,² when I submitted the document that I believed was in compliance with the instructions on that Form N-14, I handed in that original Form N-14 without making a copy thereof for my

² That date appears as a "Received" stamp in the body of Exhibit 5.

records. I certainly believe that, in light of the misleading instructions DAO issued to me on the second Form N-14 (see numbered paragraph 15 below, at pages 9-10), USCIS personnel reading the instant affidavit would be well advised to review the USCIS file containing that first Form N-14 which DAO issued to me, to determine if it too contains misleading instructions.

7. Before further explaining what I did, in my efforts to submit the proper documents to the INS/USCIS, I would first like to explain the circumstances surrounding my arrest, and also to explain the nature of the charge of which I was convicted. In or about June of 1993, I began working as a store manager at , a clothing store at , Corona, N.Y. 11368, telephone (718) 651-..... The owner of the store, Mr. Abraham , who was my employer, used to put stereo speakers outside the store, through which he played music, believing that in this way he would attract more customers. On February 9, 2001, a Police Officer passed by the store and heard the music playing loud and asked me who the owner was. At that time Mr. was not at the store and I told this to the Officer. The Officer then asked me to show him some I.D. I repeated that I was not the owner but the Officer still insisted that I show him an identification document. I did as I was asked. The Officer then began writing out a summons, made out to me.

8. In the middle of writing the summons, the Officer informed me that he had just realized that he had been writing the wrong kind of summons for this type of violation. He told me that he did not have the right kind of summons with him, having run out; that I could disregard the summons he was writing; and that when he got back to the precinct

he would void the summons. He added that, for technical reasons, he needed to complete the summons anyway and hand it to me, which he then did. When Mr. came in later that day I told him what had happened and he took the summons from me and ripped it up. I thought that was the end of the story of this summons.

9. I do not remember the exact date, but in late March of 2001, on a Saturday morning (making the most likely date either March 24, 2001, or March 31, 2001), two Police Officers rang my home door bell. I was in shock when I heard why they came to look for me. They told me that they had come to personally escort me to the Queens Criminal Court, to make sure that I showed up there, since I had ignored a summons and missed a required appearance in that Court. They then took me in their car to the Court. They may have told me that I was under arrest, but I do not specifically recall this. My main reason for believing that I might have been under arrest is the fact that, although the Officers did not handcuff me in taking me from my home, nor on the ride from my home to the Court, they said they had to handcuff me from the time I emerged from their car until I actually entered the Courtroom; accordingly, I was briefly handcuffed.

10. At the Queens Criminal Court, I then saw a Judge, who gave me another date to come to Court, at which time my case would be heard. When I went to court on that hearing date, April ..., 2001, the Judge explained that I was being charged with a minor violation. Even though I knew that the loud music playing was not my fault, and that my employer was the one who should have been summoned to Court, I did not believe that this matter was worth fighting about, especially since I

wanted to maintain good relations with Mr. and not trouble him over such a petty matter. So I just pled guilty and paid the fine of \$25.00. The original Certificate of Disposition of that case – a document I now believe was the one that the INS had been intending to request at the start of all this confusion, but which request was made misleadingly in at least one provable instance – is attached to this affidavit as Exhibit 6 and made a part hereof.

11. A few days before the date of my naturalization interview, which took place as scheduled on April ..., 2002, my wife, Esther, and I visited the office of our attorney, Muriel, and as usual met with her assistant, Nora, We asked Ms. what kind of questions to expect on the interview; I especially wanted to know if the encounter that I'd had with the Police and the Queens Criminal Court could pose a problem to the approval of my naturalization application. Ms. told me that the encounter itself should not be a problem, but that the INS would require a Certificate from me, and that I must obtain this Certificate from the Police Department. Since my wife's English is better than mine, I asked her to make the necessary inquiries. Esther went to our local police precinct in Brooklyn and was told that the Certificate issued by the Police Department could be obtained only by my requesting it in person at the main office of the N.Y. City Police Department, at 1 Police Plaza, in Manhattan. Accordingly, on April 8, 2002, I went to the Police Dept. headquarters and applied for what I believed to be the document that would be required by the INS, namely a Good Conduct Certificate. I then returned to 1 Police Plaza on April 29, 2002, and picked up that Certificate. I saw that the Certificate stated

that there was no record of my ever having been arrested “within the environs of New York City.” I was pleasantly surprised, but skeptical, since every feature of the incident that concerned the clothing store, including the summons issued to me, the police escort, my hearing in Queens Criminal Court, all happened “within the environs of New York City.” I therefore asked a police clerk to review the Certificate and he confirmed that there was indeed no record of my ever having been arrested in N.Y. City. The very next day, on April 30, 2002, I hand-delivered the Good Conduct Certificate to the INS office in Garden City. A copy of that Certificate, and the Receipt therefor, is attached to this affidavit as Exhibit 7 and made a part hereof. Again, I thought that this would be the last time I would have to deal with this issue of whether I had ever been arrested.

12. I then waited for what seemed a very long time – as best as I can recall, it was more than two months – to be called to take the oath of naturalization, but received nothing from the INS. I was concerned about this and went back to the Garden City Office, where I filled out an inquiry form. I was told that I would get an answer in the mail within 120 days. After about 120 days, I finally received a letter from the INS, containing a second Form N-14, dated November 7, 2002. This time, fortunately, I retained a copy of that Form N-14 for my records, and I attach that copy to this affidavit as Exhibit 8 and make it a part hereof.

13. After Esther and I read this N-14, we concluded that the INS must have misplaced the Good Conduct Certificate that I had submitted to them, even though I had hand-delivered it to their Garden City Office on April 30. I therefore went again to 1 Police Plaza and obtained a

second Good Conduct Certificate. On November 15, 2002, I hand-delivered that second Certificate to the INS Garden City Office, where a clerk stamped "Received" on my copy of the N-14 (that stamp appears in the body of Exhibit 8).³ Again, I thought I had finally disposed of any obstacles to my finally becoming a United States citizen. Again, I waited for a reply but nothing came. I called the INS many times and each time I called I was told to wait 30 days.

14. After enduring one and a half years of additional frustration, waiting for a letter that never came, in or about May of 2004 I sought the help of Congressman Anthony Wiener, having been advised that he could help in such matters. His office was indeed helpful, and effective. Within a month from the day his office intervened, I received the June 8, 2004, USCIS decision attached hereto as Exhibit 4. Although I was deeply disappointed and confused by the decision, at least I had a response in my hand and finally understood that I needed the assistance and counsel of a good lawyer. I realized that relying on my own efforts to obtain citizenship, and on the offices of a lawyer like Muriel, when she had never even bothered to meet with me, had been a futile endeavor, a waste of time, energy, and money.

15. In my particular case, even worse than the moral delinquency displayed by USCIS, in improperly notifying applicants of their procedural rights, is the utter hypocrisy displayed by USCIS when it comes to the very basis of its rejection of my application for

³ This is to the best of my recollection. It is possible that I mailed that second Certificate to the INS prior to November 15, and that Exhibit 8 is a document handed to me by the INS when I visited their Garden City Office on November 15 and made

naturalization. On April 30, 2002, when I responded to the first N-14 by hand-delivering to the INS the original N-14 itself, along with the original Good Conduct Certificate, I kept a copy of the Certificate but did not make a copy of the original N-14. Accordingly, I cannot comment with absolute certainty regarding what that original N-14 said.⁴ Conversely, on November 15, 2002, when I responded to the second N-14, handing in the original N-14 and the second Good Conduct Certificate, I first made a copy of the N-14; however, a search of my records shows that I apparently did not retain a copy of the second Certificate. In any case, I do recall that the information on the second Certificate duplicated the information on the first, declaring that I had no arrest record, As for the second N-14 (Exhibit 8), as my attorney reminded me when he first viewed this document, it is no wonder that my wife and I went to the wrong government agency and, as a result, submitted a document that USCIS later declared was non-responsive to its request: **USCIS itself directed us to go to the wrong agency, thereby ensuring that we would obtain the wrong document!**

16. An examination of Exhibit 8 reveals a handwritten note from Officer, stating: "You can get the disposition from the agency that issued the ticket." This is precisely what you cannot do! The agency that issued the "ticket" (a colloquial reference, surely, to the summons) is the N.Y. City Police Department, which cannot issue the Certificate of

an inquiry about the status of my case.

⁴ I can, however, observe, as I did in numbered paragraph 5 on pages 3-4 above, that it is reasonable to infer from the second N-14 that the first N-14 may also have been misleading.

Disposition of the court case, the document which the INS/USCIS was apparently seeking. To be sure, for lawyers and others conversant with such matters, including, one would think, INS/USCIS District Adjudication Officers, DAO’s handwritten note is evidently inconsistent with the boilerplate, pre-printed language at the bottom of the N-14 Form itself, which requires the requested disposition to bear a “court seal,” thus implying that it is a document issued by a court. But, for the rest of us like myself, lay persons who depend on the INS/USCIS to issue clear and reliable instructions, it is doubtful, given the prominence of the handwritten note, if we would even pay any attention to the boilerplate language, let alone notice, and try to resolve, its partial inconsistency with the handwritten note. When it comes to a choice between boilerplate language and a handwritten note personally directed to the applicant, is it surprising if the applicant ignores the boilerplate language and follows the specific instructions directed to him? I certainly did precisely that, and I would be surprised if other applicants did not do the same. In any event, I followed exactly the instructions of the Officer who interviewed me. For that reason, when USCIS rejects my application for naturalization, turning me down for my supposed display of deficient moral character, when I was in fact scrupulously following the handwritten directions of one of its own Officers, I find the situation mortifying. I’m sure there exist in the world, and in the annals of the USCIS itself, instances of outrageous hypocrisy and injustice that involve greater damage than what USCIS has inflicted on me, but, conceptually speaking, I doubt that there are many instances that are more flagrant. After all, conceptually, what could be more flagrant than misdirecting someone and then punishing him for

following your directions?

17. Since first coming to the United States, in 1991, almost thirteen years ago, I have behaved properly, have fully respected the law, and have been a responsible member of our community, guided by our society's best values. I have always worked hard to make a living, to support myself and my family. Since becoming a permanent resident, in 1995, I have consistently filed income tax returns and paid income taxes. In May of 1996 I married my beautiful wife Esther, and in September of 1998 our dear son David was born. We struggle very hard, on a limited income, to provide David with love, a good education, and some measure of material comfort, so that he will be happy, evolve as a decent person, and contribute to our society. For trying in my own way to accomplish the American dream, and for always striving to be a model citizen, so to speak, it would now be a cruel injustice, I believe, for America to deny me what I so earnestly seek, which is the opportunity to fully participate, as a United States citizen, in America's evolution as a just society with an illustrious future.

Amir

Sworn to before me this
day of July, 2004

Notary Public