

Exhibit C:

**NOTIFICATION OF DETERMINATION OF NON-ELIGIBILITY FOR RELIEF
UNDER BARAHONA V. ASHCROFT AND**

NOTIFICATION OF RIGHT TO CHALLENGE THIS DETERMINATION

(Pursuant to paragraph II.B.7. of the settlement agreement)

Determination of Non-Eligibility

The Executive Office for Immigration Review (EOIR) has determined that you are ineligible for relief provided by the settlement agreement in Barahona v. Ashcroft, No. C 97-0895, approved by the District Court for the Northern District of California, on [date].

The settlement provides that certain class members are eligible for relief in the form of Renewed suspension, which means suspension of deportation as that form of relief existed under ' 244 of the Immigration and Naturalization Act (INA), before it was amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (and any subsequent amendments). All applicants for suspension are required to have at least seven years of continuance physical presence in the United States. Brief, casual and innocent departures during that period are allowed. The amendments that took effect on April 1, 1997 changed the law to require that those seven years be completed before certain events took place, including the service by the INS of the Order to Show Cause (OSC), the charging document in your deportation case. This is referred to as the stop time rule. Your case was not resolved before April 1, 1997, and so the stop time rule was deemed to apply to you to make you ineligible for suspension. The Barahona class action lawsuit challenged the delay in adjudicating suspension cases and, as a result of the settlement in that case, eligible class members are now eligible for suspension of deportation, and the stop time rule will not apply to those cases. In the settlement this is called Renewed suspension.

Therefore, class members who are eligible for relief will have the opportunity to have a hearing on their applications for suspension, without regard to the stop time rule, and can be granted suspension (and hence, lawful permanent residency). For those class members who are eligible for relief who have been granted suspension already by the Immigration Judge, the appeals or motion to reopen by the INS will be dismissed, and the Judge's decision will be final.

EOIR has determined that you are not a class member eligible for relief because you had a regular hearing scheduled between February 13, 1997 and April 1, 1997, and: (1) that hearing was continued at your request,; and (2) you were represented by an attorney,; and (3) the transcript of the hearing was prepared following an appeal, and makes clear which party requested the continuance.

The exact reasons for EOIR's determination are contained in the decision to which this notice is attached.

The settlement agreement in Barahona provides that where the above three circumstances events are met present, the individual is not eligible for any relief provided under the settlement agreement. This notice is required to be issued to you within 60 days of the determination by EOIR that you are not eligible for relief. Copies of the determination are also being sent to your last attorney of record and to Barahona class counsel.

Procedure to Challenge this Determination; Stay of Deportation

You have a limited period of time in which to challenge this determination, which is described below.

The Barahona settlement agreement provides that a **stay of deportation** will be in place on your case only for 30 more days from the date of the attached decision, unless you file a challenge to this determination. To file such a challenge, you must notify in writing counsel for the parties in Barahona by mailing such written notification within 30 days to:

David McConnell	and	Linton Joaquin
Counsel for EOIR		Counsel for <u>Barahona</u> class members
Office of Immigration Litigation		National Immigration Law Center
Department of Justice/Civil Division		3435 Wilshire Blvd. Suite 2850
P.O. Box 878, Ben Franklin Station		Los Angeles, CA 90010
Washington, DC 20044		

If you do not postmarkmail such written notification to the above individuals within 30 days of EOIR's decision, then the stay of deportation will end after that 30 day period runs..

If you do mail such written notification within 30 days, then the stay of deportation continues, and EOIR will have 30 days to respond to your notification. If you and EOIR are unable to resolve the issue, then you must file a motion with the District Court for the Northern District of California within 90 days of the original determination by EOIR of your non-eligibility asking the Court to review that determination. If, within 90 days, you and EOIR have not resolved the issue, and if you do not file a motion in the District Court, then the stay of deportation terminates after that 90 day periods.

If you do file a motion with the District Court, then a stay of deportation will be in place from the date of EOIR's determination of your non-eligibility, through the final determination of eligibility by the federal courts.

This notice is provided in accordance with paragraph II.B.7. of the Barahona settlement agreement. The full agreement can be found at __ F.Supp.2d. __, and is also reproduced on the EOIR website, at www.usdoj.gov/eoir. For more information about your right to challenge this determination, you may also contact Linton Joaquin, counsel for Barahona class members, at the

National Immigration Law Center, (213) 639-3900.