



**U.S. Citizenship  
and Immigration  
Services**

**TO:**

Brian Dickens  
Idaho State Regional Center, LLC  
P.O. Box 774  
Star, ID 83646

**DATE:** July 2, 2018

**Application: Form I-924**

**File Number: RCW1031910172**

**RCID: ID1031910172**

**NOTICE OF TERMINATION**

This letter shall serve as notification that U.S. Citizenship and Immigration Services ("USCIS") has terminated the designation of Idaho State Regional Center, LLC (the "Regional Center") as a regional center under the Immigrant Investor Program (the "Program") pursuant to Title 8 of the Code of Federal Regulations ("8 C.F.R.") section 204.6(m)(6). The reasons for the termination are explained, below:

**(SEE ATTACHED)**

If the Regional Center disagrees with this decision, or if the Regional Center has additional evidence that shows this decision is incorrect, the Regional Center may file a motion or an appeal to this decision by filing a completed Form I-290B, Notice of Appeal or Motion, along with the appropriate filing fee. A copy is enclosed. The Regional Center may also include a brief or other written statement and additional evidence in support of the motion or appeal. The Form I-290B must be filed within 33 days from the date of this notice. If a motion or appeal is not filed within 33 days, this decision is final.

The Regional Center must send the completed Form I-290B and supporting documentation with the appropriate filing fee to the address indicated below.

If using the U.S. Postal Service:

USCIS  
P.O. Box 660168  
Dallas, TX 75266

If using USPS Express Main/Courier:

USCIS  
Attn: I-290B  
2501 S. State Highway 121 Business  
Suite 400  
Lewisville, TX 75067

For an appeal, the Regional Center may request additional time to submit a brief within 30 calendar days of filing the appeal. Any brief, written statement or evidence in support of an appeal that is not filed with Form I-290B must be directly sent within 30 days of filing the appeal to:

USCIS Administrative Appeals Office  
U.S. Citizenship and Immigration Services  
20 Massachusetts Avenue, NW, MS 2090  
Washington, DC 20529-2090

Idaho State Regional Center, LLC – **Designation Terminated**

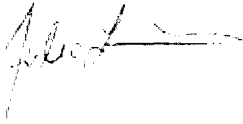
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For more information about the filing requirements for appeals and motions, please see 8 C.F.R. § 103.3 or 103.5, or visit the USCIS website at [www.uscis.gov](http://www.uscis.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Julia L. Harrison", with a horizontal line extending to the right.

Julia L. Harrison

Acting Chief, Immigrant Investor Program

Enclosure: (1) Form I-290B with instructions

(2) Notice of Intent to Terminate issued on August 3, 2017

(3) Notice of Intent to Terminate issued on January 20, 2016

cc: Daniel B. Lundy  
Klasko Immigration Law Partners, LLP  
1601 Market St., Suite 2600  
Philadelphia, PA 19103

**NOTICE OF TERMINATION**

**Termination of Regional Center Designation Under the Immigrant Investor Program  
Idaho State Regional Center, LLC**

The regulation at 8 C.F.R. § 204.6(m)(6) (*Continued participation requirements for regional centers*) provides:

(i) Regional centers approved for participation in the program must:

(A) Continue to meet the requirements of section 610(a) of the Appropriations Act.

(B) Provide USCIS with updated information annually, and/or as otherwise requested by USCIS, to demonstrate that the regional center is continuing to promote economic growth, including increased export sales, improved regional productivity, job creation, and increased domestic capital investment in the approved geographic area, using a form designated for this purpose; and

(C) Pay the fee provided by 8 CFR 103.7(b)(1)(i)(XX).

(ii) USCIS will issue a notice of intent to terminate the designation of a regional center in the program if:

(A) A regional center fails to submit the information required in paragraph (m)(6)(i)(B) of this section, or pay the associated fee; or

(B) USCIS determines that the regional center no longer serves the purpose of promoting economic growth, including increased export sales, improved regional productivity, job creation, and increased domestic capital investment.

(iii) A notice of intent to terminate the designation of a regional center will be sent to the regional center and set forth the reasons for termination.

(iv) The regional center will be provided 30 days from receipt of the notice of intent to terminate to rebut the ground or grounds stated in the notice of intent to terminate.

(v) USCIS will notify the regional center of the final decision. If USCIS determines that the regional center's participation in the program should be terminated, USCIS will state the reasons for termination. The regional center may appeal the final termination decision in accordance with 8 CFR 103.3.

(vi) A regional center may elect to withdraw from the program and request a termination of the regional center designation. The regional center must notify USCIS of such

election in the form of a letter or as otherwise requested by USCIS. USCIS will notify the regional center of its decision regarding the withdrawal request in writing.

## **I. Procedural History**

On February 16, 2010, USCIS designated and authorized the Regional Center's participation in the Program. On January 20, 2016, USCIS issued a Notice of Intent to Terminate to the Regional Center (the "First NOIT") indicating that, pursuant to 8 C.F.R. § 204.6(m)(6), USCIS intended to terminate the participation of the Regional Center in the Program because it no longer served the purpose of promoting economic growth in compliance with the Program. Specifically, USCIS pointed out in the First NOIT that:

- The Regional Center's Form I-924A filings contained a number of discrepancies and omissions; and
- The Regional Center's ability to promote economic growth was called into question by the fact that the new commercial enterprises (each, an "NCE") under its jurisdiction had not created jobs commensurate with EB-5 investments received, a significant number of Form I-526 petitions associated with the Regional Center had been denied, and at least one of the NCEs had not presented a credible business plan.

On February 24, 2016, USCIS received a response to the NOIT. The NOIT Response failed to overcome the concerns addressed in the First NOIT and additional derogatory information about the Regional Center's ability to continue serving the purpose of promoting economic growth came to light.

On August 3, 2017, USCIS issued a second NOIT to the Regional Center which afforded the Regional Center 30 days from receipt of the NOIT to offer evidence in opposition to the grounds alleged in the NOIT. On September 12, 2017, USCIS received a response to the second NOIT (the "NOIT Response"), which did not sufficiently address the grounds alleged in the NOIT. Accordingly, USCIS has determined that the Regional Center's participation in the Program should be terminated. Pursuant to 8 C.F.R. § 204.6(m)(6)(v) and through this Notice of Termination, USCIS hereby terminates the Regional Center's participation in the Program.

## **II. Reasons for Termination**

USCIS has determined that the Regional Center no longer serves the purpose of promoting economic growth, including increased export sales, improved regional productivity, job creation, or increased domestic capital investment as required by 8 C.F.R. § 204.6(m)(6).

### **A. Failure to Continue to Serve the Purpose of Promoting Economic Growth**

Regional centers are designated for the promotion of economic growth and must continue to meet the requirements of section 610(a) of the Appropriations Act as amended, and promote economic growth in a

manner that does not conflict with requirements for classification under section 203(b)(5) of the Immigration and Nationality Act (“INA”), removal of conditions on lawful permanent residence under section 216A of the INA, and implementing regulations following their designation. According to section 610(a) of the Appropriations Act, economic growth includes increased export sales, improved regional productivity, job creation, or increased domestic capital investment. *See also* 8 C.F.R. § 204.6(m)(6)(ii) (“USCIS will issue a notice of intent to terminate the designation of a regional center in the program if. . . USCIS determines that the regional center no longer serves the purpose of promoting economic growth, including increased export sales, improved regional productivity, job creation, and increased domestic capital investment.”).

The reasons why a regional center may no longer serve the purpose of promoting economic growth are varied and “extend beyond inactivity on the part of a regional center.” 75 FR 58962. For example, depending on the facts, a regional center that takes actions that undermine investors’ ability to comply with EB-5 statutory and regulatory requirements such that investors cannot obtain EB-5 classification through investment in the regional center may no longer serve the purpose of promoting economic growth. *See* Section 610(a)-(b) of the Appropriations Act (stating that one purpose of a regional center is to concentrate pooled investment in defined economic zones and accomplishing such pooled investment by setting aside visas for aliens classified under INA 203(b)(5)). Likewise, a regional center that fails to engage in proper monitoring and oversight of the capital investment activities and jobs created or maintained under the sponsorship of the regional center may no longer serve the purpose of promoting economic growth in compliance with the Program and its authorities.

When derogatory information arises (such as evidence of inaction, mismanagement, theft, or fraud by the regional center or related entities), USCIS weighs all relevant factors in the totality of the circumstances to determine whether the regional center is continuing to serve the purpose of promoting economic growth. Such factors may include the seriousness of the derogatory information, the degree of regional center involvement in the activities described in the derogatory information, any resulting damage or risk imposed on investors and the economy, as well as any mitigating, corrective, or restorative actions taken or forthcoming to redress the situation.

USCIS has considered all evidence in the record, including evidence provided in response to the NOIT, “for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence,” in determining whether the Regional Center’s continued participation is justified under the regulations by a preponderance of the evidence. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). For the reasons set forth below, USCIS has determined by a preponderance of the evidence that the Regional Center no longer serves the purpose of promoting economic growth in compliance with the Program.

### **1. *Diversion of EB-5 Funds***

A requirement of the Program is that EB-5 capital must be placed at risk for the purpose of generating a return. In situations where the NCE is not the job-creating entity, *Matter of Izummi*, as well as USCIS policy, requires that, in order to be considered properly at-risk, “the full amount of money must be made

available to business(es) most closely responsible for creating the jobs upon which EB-5 eligibility is based.”<sup>1</sup> As noted in the USCIS Policy Manual, “the payment of administrative fees, management fees, attorney’s fees, finders’ fees, syndication fees, and other types of expenses or costs by the new commercial enterprise that erode the amount of capital made available to the job-creating entity do not count toward the minimum required investment amount.”<sup>2</sup>

At the time of Idaho State Regional Center’s initial designation, Mr. Serofim “Sima” Muroff was identified on the application as the principal (in his capacity as the owner and manager) of the Regional Center. Mr. Muroff formed Blackhawk Gold, LLC and Quartzburg Gold, LP as new commercial enterprises (each, an “NCE”) in the State of Idaho in 2010 and 2012, respectively. Both NCEs were formed to raise immigrant investment capital, which would be deployed to job creating entities (each, a “JCE”) for final investment into job creating projects. The proposed job creation relating to the NCEs Quartzburg Gold, LP and Blackhawk Gold, LLC was based on projects involving metal ore mining and processing as well as resort and residential real estate development.

Blackhawk Manager, LLC, was the managing member of the NCE Blackhawk Gold, LLC. ISR Capital, LLC was the managing partner of the NCE Quartzburg Gold, LP. In addition to being the Regional Center principal, Mr. Muroff was also the Chief Executive Officer of Blackhawk Manager and ISR Capital.

On April 28, 2017, the U. S. Securities and Exchange Commission (the “SEC”) brought a civil action in the U.S. District Court for the District of Idaho (the “District Court”) against Mr. Muroff, Blackhawk Manager, LLC, and ISR Capital, LLC, as well as Equity Recap Account, LLC and Debra Riddle (the “SEC Complaint”).<sup>3</sup> Equity Recap Account, LLC was Mr. Muroff’s wholly-owned company.<sup>4</sup> Ms. Riddle held the title of Chief Financial Officer of ISR Capital and worked as a bookkeeper and administrative assistant for Muroff, ISR Capital, Blackhawk Manager, and Equity Recap Account, LLC from 2010 to 2014.<sup>5</sup>

As addressed in the NOIT and the SEC Complaint, evidence indicates the Regional Center engaged in acts, practices, and courses of business that defrauded and deceived investors, prospective investors, and other persons. Both the NOIT and the SEC Complaint detail evidence of wire transfers from bank accounts belonging to Quartzburg Gold, LP and Blackhawk Gold, LLC to entities associated with the Regional Center or Mr. Muroff and indicate that EB-5 funds were not used for purposes consistent with

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<sup>1</sup> Matter of Izummi, 22 I&N Dec. 169, 179 (Assoc. Comm’r 1998).

<sup>2</sup> USCIS Memorandum, “EB-5 Adjudications Policy”, PM-602-0083, p. 16 (May 30, 2013); and USCIS Policy Manual, Volume 6, Part G, Chapter 2 on “Capital Made Available” available online at

<sup>3</sup> Complaint, *SEC vs. Sima Muroff, et al.*, filed, Civil Action No. 1:17-cv-00180-CWD (D.Idaho April 28, 2017).

<sup>4</sup> *Id.* 3.

<sup>5</sup> *Id.* 4.

the business plans submitted to USCIS by the Regional Center or by individual investors associated with the Regional Center, were not properly at-risk, and were not used in furtherance of job creation.

a) Quartzburg Gold, LP

Ms. Riddle made a wire transfer of \$20 million from the NCE Quartzburg Gold, LP to an account controlled by Sima Muroff and Ms. Riddle on January 18, 2013.<sup>6</sup> Evidence described in the NOIT and the SEC Complaint showed that these funds, consisting of investment funds from EB-5 capital contributions, were diverted from the NCE's proposed business activities and invested into mutual funds and other financial instruments.

This diversion of funds from the NCE Quartzburg Gold, LP is not in accordance with the Confidential Private Offering Memorandum dated June 14, 2012, the Subscription Agreement dated April 16, 2012, and the Quartzburg Gold Business Plan dated September 20, 2013. Those documents indicated that the EB-5 investment capital would be deployed to various JCEs for final investment into job creating mining projects.<sup>7</sup> Instead, these actions exposed the capital to the risk that EB-5 investors' funds would not be made available to the businesses most closely related to job creation.

In fact, account statements for the investment account into which EB-5 investors' funds were wired indicate that during this period, approximately \$640,000 was lost due to market fluctuations and was therefore not ultimately made available to the contemplated job creating projects. This diversion and loss of funds, including Mr. Muroff's involvement and knowledge thereof, is consistent with the statements contained in the SEC Complaint.<sup>8</sup> The SEC Complaint further states that Mr. Muroff and ISR Capital also caused Quartzburg Gold, LP to pay an investment adviser almost \$400,000 in fees related to the improper investment.<sup>9</sup>

b) Blackhawk Gold, LLC and Idaho State Gold Company, LLC

From 2010 to 2012, Blackhawk Gold, LLC raised \$62.5 million from 129 foreign investors.<sup>10</sup> As initially presented to USCIS and potential investors through Blackhawk Gold, LLC's Private Placement Memorandum, EB-5 funds invested in the NCE, Blackhawk Gold, LLC, were to be deployed to a JCE, Idaho State Gold Company, LLC, to acquire and complete a real estate development project and acquire interests in companies engaged in gold mining ventures in Idaho. However, EB-5 investment funds were diverted away from these job creating activities in a number of ways including through:

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<sup>6</sup> Wire Transfer initiated by Debra Riddle January 18, 2013 from Quartzburg Gold, LP, Checking Account Number ending in 2635 to investment account with account number ending in 7870 credit to Quartzburg Gold, LP Attn Sima Muroff.

<sup>7</sup> Confidential Private Offering Memorandum, pp. 3, 17, 20, 23; the Subscription Agreement, p. 1; and the Quartzburg Gold, LP Business Plan, pp. 6-7

<sup>8</sup> Complaint, 8-9.

<sup>9</sup> *Id.* 9.

<sup>10</sup> *Id.* 5.

- payments made to Westlink Holdings Group Inc. (“Westlink”), where a migration consultant named Raymond Ku was the ultimate beneficiary<sup>11</sup>;
- payments to Sima Muroff’s business and investment company, Blackhawk Companies, Inc.<sup>12</sup>; and
- payments to Desert Rose Capital Management, Inc. (“Desert Rose”), a registered investment advisory firm that was the independent advisor for Quartzburg Gold’s investment account with account number ending in 7870.<sup>13</sup> Mr. Muroff, through his managing roles of the entities involved, appears to either have had knowledge of or exercised close control over the transfers.

As described in the NOIT, the SEC Complaint also details how Mr. Muroff engaged in self-dealing, as EB-5 funds invested in the NCE Blackhawk Gold, LLC were used to purchase and develop real property in McCall, Idaho and also to purchase Mr. Muroff’s interests in purported gold mining projects.<sup>14</sup> The SEC Complaint states that “Muroff used \$7.8 million of investor funds taken from Blackhawk Gold (which he funneled through Equity Recap Account, LLC to his business associate) to acquire a real estate development in McCall, Idaho.”<sup>15</sup> That property was titled in the name of a business associate’s company, despite the fact that Blackhawk Gold, LLC’s investors were led to believe that the property was purchased by Blackhawk Gold for a price of \$28 million. Similarly, the SEC Complaint details how Mr. Muroff also engaged in a series of acts designed to hide his misappropriation from both investors and USCIS, including secretly using investor funds to purchase the real estate and mining assets for himself and then “selling” them back to investors at an inflated price so he could pocket the profit.<sup>16</sup>

c) Other transfers

The SEC Complaint alleges that Mr. Muroff used approximately \$5 million of investor funds he diverted from Blackhawk Gold and Quartzburg Gold to Equity Recap Account to enrich himself and to benefit his own personal business ventures. Mr. Muroff used \$1.1 million of funds funneled through Equity Recap Account to purchase two personal residential properties, \$423,000 to invest in a zip line operation in Washington State, \$47,000 to purchase a Range Rover, \$40,000 to purchase a BMW, and \$97,000 for personal living expenses.<sup>17</sup>

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<sup>11</sup> Wire Transfer receipts for \$40,000 payments from Equity Recap Account, LLC to Westlink Holdings Group Inc. on 12/2/2011 and 12/7/2011.

<sup>12</sup> ERA 2502 bank statements for January 2012, July 2013, and October 2013 showing a total of \$815,000 in payments to Blackhawk Companies, Inc.

<sup>13</sup> ERA 2502 bank statements for June 2012 showing a total of \$100,000 in payments to Desert Rose Capital Management, Inc.

<sup>14</sup> Complaint, 6-7.

<sup>15</sup> *Id.* 6.

<sup>16</sup> *Id.* 2.

<sup>17</sup> *Id.* at 10.



On May 10, 2017, the United States District Court for the District of Idaho issued two final judgments, each with the consent of the relevant parties. The District Court's Final Judgment as to Defendants Serofim Muroff, Blackhawk Manager, LLC, ISR Capital, LLC, and Equity Recap Account, LLC (the "Muroff Judgment") requires that Mr. Muroff step aside from his managing roles as Chief Executive Officer of Blackhawk Manager, LLC ("Blackhawk Manager") and ISR Capital, LLC ("ISR Capital"), the two entities that are the managing members of the NCEs Blackhawk Gold, LLC and Quartzburg Gold, LP, respectively.<sup>18</sup> Pursuant to the Muroff Judgment, Blackhawk Manager and ISR Capital must retain the services of an independent manager to replace Mr. Muroff.<sup>19</sup>

The Muroff Judgment further requires Blackhawk Manager and ISR Capital to retain the services of an independent monitor, "not unacceptable" to the SEC to oversee the management and activities of Blackhawk Manager and ISR Capital to execute their management of the NCEs Blackhawk Gold, LLC and Quartzburg Gold, LP, respectively, and "serve to protect the interests of [EB-5 investors] who have purchased securities in the [NCEs] . . . as Blackhawk Manager, ISR Capital, and the independent manager endeavor to operate the job-creating businesses and work with the [EB-5 investors] to advance their EB-5 petitions in compliance with the laws, rules, and regulations of [USCIS]."<sup>20</sup> The Muroff Judgment also permanently enjoins Mr. Muroff from "participating in the issuance, purchase, offer, or sale of any security issued through the EB-5 Immigrant Investor Program" and from "participating in the management, administration, or supervision of, or otherwise exercising any control over, any commercial enterprise or project that has issued or is issuing any securities through the EB-5 Immigrant investor program . . ."<sup>21</sup>

In the NOIT Response, the Regional Center provided the following evidence:

- NOIT Response Cover Letter ("Cover Letter");
- Exhibit 4, Letter from Brian Dickens, New Owner and Chief Executive Officer of the Regional Center ("Dickens Letter");
- Exhibit 5, Curriculum Vita and Biographic Information for Brian Dickens;
- Exhibit 6, Independent Monitor and Manager Agreements;

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<sup>18</sup> Final Judgment as to Defendants Serofim Muroff, Blackhawk Manager, LLC, ISR Capital, LLC, and Equity Recap Account, LLC, at 5, *SEC vs. Sima Muroff, et al.*, Civil Action No.1:17-cv-00180-EJL (D. Idaho May 10, 2017).

<sup>19</sup> *Id.* at 9-10.

<sup>20</sup> *Id.* at 10.

<sup>21</sup> *Id.* at 5.

- Exhibit 7, Idaho State Regional Center Transfer Agreement;
- Exhibit 9, I-924 Application to Amend the Regional Center's designation, seeking approval for the change in ownership and organizational structure of the Regional Center;
- Exhibit 10, Cover Letter and Updated Economic Studies for Quartzburg Gold, LP, and Blackhawk Gold, LLC; and
- Exhibit 11, Memorandum Opinion, filed March 10, 2017.

The NOIT Response did not provide any evidence in opposition to the allegations that the Regional Center, through its principal Mr. Muroff, diverted investor funds from job-creating purposes upon which EB-5 eligibility is predicated. Therefore USCIS finds that the Regional Center, through the actions of Mr. Muroff, knowingly diverted funds from EB-5 capital contributions to purposes unrelated to the job-creating business activities upon which EB-5 eligibility was based and in so doing, rendered numerous immigrant investors ineligible for the immigration benefits they sought, violated the “at risk” requirement of the EB-5 Program, prevented capital from being made available to the job creating activity, and failed to provide sufficient due diligence, monitoring, and oversight of the capital investment activity it sponsored.

In the Cover Letter, the Regional Center acknowledged the misdeeds and lack of oversight by the Regional Center in the past. However, the letter asserts that it is not likely that there will be further problems due to changes to the Regional Center’s management and oversight structure. The Cover Letter states, “each of the issues USCIS raises (diverting EB-5 funds, apparent misrepresentations and the inability to effectively manage, monitor, and oversee the capital investment activity it sponsors) were issues that resulted, as the NOIT notes several times, from the actions of Sima Muroff, not the Regional Center entity or its current management.” The Regional Center did not otherwise deny that the diversion of EB-5 investor funds occurred.

It is important to note that USCIS designated the entity Idaho State Regional Center, LLC as a regional center with Mr. Muroff as its principal. While the NOIT does highlight actions that Mr. Muroff undertook, his actions on behalf of the Regional Center entity were, essentially, the actions of the Regional Center. Indeed, as mentioned in the NOIT, numerous petitioners remain actively engaged in ongoing civil litigation against Mr. Muroff and the Regional Center, asserting Regional Center liability for its past actions through the former principal.<sup>22</sup>

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<sup>22</sup> Prospective immigrant investors who invested through the Regional Center have brought two civil actions against the Regional Center and Mr. Muroff, among others, alleging that the defendants violated the terms of their escrow agreements. *Chi Chen, et al. v. U.S. Bank National Association; Quartzburg Gold, LP; ISR Capital, LLC; Idaho State Regional Center; and Sima Muroff*, Second Amended Complaint, Civil Action No. 2:16-cv-01109-RSM. (W.D.Washington filed January 23, 2017). See also *Rui Mao, et al. v. U.S. Bank National Association; Quartzburg*

Since the Regional Center took actions that diverted EB-5 investors' funds away from the purposes outlined in the business plans for NCEs submitted to USCIS, the Regional Center has failed to serve the purpose of promoting economic growth in accordance with the Program.

## ***2. No Viable Projects***

Idaho State Regional Center sponsored capital investment activity in two NCEs that resulted in some job creation and approval of some petitioners' I-526 and I-829 petitions. However, every I-526 petition associated with EB-5 investments in one of these two NCEs, Quartzburg Gold, LP, has been denied for numerous project-related reasons, including failure to identify all of the job-creating entities at the time of the petition's filing, making it impossible to demonstrate that the investment was made in a targeted employment area; failure to demonstrate that the minimum amount of capital contribution would be fully made available to the businesses most closely related to job creation; and failure to demonstrate that the investment would create the requisite number of jobs. The aforementioned diversions of EB-5 funds prevented investor capital from being fully made available to the job creating businesses, illustrating the severe harm caused by those actions. EB-5 funds appear to have been similarly misappropriated from Blackhawk Gold, LP, resulting in EB-5 funds being used for purposes inconsistent with the business plans submitted to USCIS. Therefore, neither of the Regional Center's NCEs promoted economic growth fully in compliance with USCIS Program requirements. USCIS records also show that there have been no new I-526 petitions sponsored by the Regional Center since December 2013.

The Regional Center has not provided any clear plans for future projects. Subsequent to the issuance of the NOIT, the Regional Center filed a Form I-924, seeking USCIS approval for an amendment to the Regional Center's designation, on September 6, 2017, which was also attached as Exhibit 9, "I-924 Application to Amend the Regional Center's Designation," in their response to the Second NOIT. The amendment seeks approval for the change in ownership and organizational structure of the Regional Center and replacement of the principal with Brian Dickens. Mr. Dickens's Cover Letter accompanying the I-924 amendment, dated August 31, 2017, states that the Regional Center "will resume efforts to secure exemplar approval of [the] Phase III Bonneville project" that was originally submitted to USCIS as an exemplar project in November 2013. The Regional Center interfiled a "Feasibility Study of Bonneville Natural Resources, LP" on December 18, 2014. The Regional Center acknowledges that it has not sponsored further projects or been able to proceed with the Bonneville Project due to USCIS's "lengthy processing times" and the issuance of the First and Second NOITs which hinder the Regional Center's ability to market and subscribe new investors to new projects. The Regional Center's I-924As submitted for 2014, 2015, 2016, and 2017 show no job creating or investment activity for the NCE Bonneville Natural Resources, LP, and no Form I-526s associated with that NCE have been submitted to USCIS. In addition, publicly-available information from the Nevada Secretary of State website shows that

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*Gold, LP; ISR Capital, LLC; Idaho State Regional Center; and Sima Muroff*, Second Amended Complaint, Civil Action No. 2:16-cv-01113-RSM. (W.D.Washington filed January 23, 2017).

Bonneville Natural Resources, LP had their business license revoked in November 2016<sup>23</sup>. The Cover Letter further states that Mr. Dickens plans request re-adjudication of their Phase IV “Blue Sun” project and submit new exemplar petitions for projects once he is able to testify to the good standing of the Regional Center. As of the date of this notice, USCIS has not received any amendments seeking exemplar project approval. Absent any independent objective evidence in support, USCIS considers the aspirational statements about Bonneville and Blue Sun contained in the Cover Letter to be of limited probative value as evidence of future ability to serve the purpose of promoting economic growth in comparison to the past failures and the severity of the consequences.

Based on the failure of previous projects sponsored by the Regional Center to comply with Program requirements and the lack of credible evidence of the Regional Center’s plans to sponsor future projects, USCIS has determined by a preponderance of the evidence that the Regional Center no longer serves the purpose of promoting economic growth in compliance with the Program.

### ***3. Material Misrepresentations***

As indicated in the NOIT during the course of adjudications and the verification of information submitted by the Regional Center and individual Form I-526 petitioners, USCIS discovered significant discrepancies between what the Regional Center represented in its filings to USCIS and in documents provided to individual Form I-526 petitioners, and the actions actually undertaken by the Regional Center and NCEs under the Regional Center’s sponsorship.<sup>24</sup>

Each diversion of EB-5 investor funds from the NCEs Quartzburg Gold, LP and Blackhawk Gold, LLC contradict the respective Confidential Private Offering Memoranda, Subscription Agreements, and Business Plans for those entities submitted to USCIS by the Regional Center and individual petitioners sponsored by the Regional Center. Those documents indicate that EB-5 capital would be invested for the purpose of specific real estate development and gold mining projects. These uses of the EB-5 capital provide the basis for the economic impact analysis submitted by the Regional Center to show how the projects will create jobs and benefit the economy. That funds were knowingly diverted away from the proposed uses indicates that the Regional Center materially misrepresented critical facts to USCIS and to EB-5 investors.

The Regional Center’s NOIT Response does not dispute or provide any evidence in opposition to the allegations of material misrepresentations made by the Regional Center as explained in the NOIT.<sup>25</sup> Therefore, USCIS has determined that the Regional Center failed to properly oversee all investment

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<sup>23</sup> <https://www.nvsos.gov/sosentitysearch/>, last accessed June 28, 2018.

<sup>24</sup> USCIS may verify information submitted by the Regional Center to establish its eligibility for regional center designation at any time to ensure compliance with applicable laws and authorities, pursuant to authority granted by 8 U.S.C. sections 1103, 1155, and 1357; the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 Pub. L. No. 102-395, section 610, 106 Stat 1828, 1874 (1992) (as amended).

<sup>25</sup> NOIT, 10-11.

activities under the sponsorship of the Regional Center and materially and willfully misrepresented information to both USCIS and EB-5 investors.

These discrepancies and misrepresentations cast doubt on the credibility of the Regional Center's filings and call into question the legitimacy of its operations. For these reasons, USCIS has determined by a preponderance of the evidence, that the Regional Center no longer serves the purpose of promoting economic growth in compliance with the Program.

#### ***4. Balancing the Factors That Affect the Regional Center's Promotion of Economic Growth***

Despite the material misrepresentations made by the Regional Center to USCIS, the diversion of EB-5 funds for the personal benefit of the Regional Center's former principal, and the severity of the harm that caused to individual investors, USCIS has evaluated the totality of the circumstances in making its determination. For example, there is evidence that the Regional Center's activities resulted in some positive economic growth. The Regional Center's most recent I-924A filing asserts that a total of [REDACTED] new jobs were created by Quartzburg Gold, LP and Blackhawk Gold, LLC during fiscal year 2017. To date, over [REDACTED] investors in Blackhawk Gold, LLC have received I-526 approvals and USCIS records reflect that [REDACTED] investors in Blackhawk Gold, LLC have received I-829 approvals. USCIS thus acknowledges that some job creation has occurred. (b)(4)

(b)(4)

However, as stated above, [REDACTED] Quartzburg Gold, LP investor I-526 petitions were recently reopened and subsequently denied on a variety of project-related grounds, including grounds stemming from the apparent diversion of EB-5 investment funds. The Regional Center has only had petitions associated with two NCEs since its inception and funds were apparently misappropriated from both projects, so neither of the two projects was operating in compliance with EB-5 Program and regulatory requirements. The positive factor of some job creation is outweighed by that fact and the severity of the harm to immigrant investors by noncompliance.

Through its role in allowing EB-5 investment funds to be diverted away from their intended job creating purpose, the Regional Center was not serving the purpose of promoting economic growth through either of its two sponsored NCEs. Again, USCIS precedent cases and USCIS policy requires that "the full amount" of EB-5 capital must be made available "to the business(es) most closely responsible for creating the employment upon which the petition is based."<sup>26</sup> The evidence that EB-5 funds were used for purposes that were inconsistent with the business plans submitted to USCIS by the Regional Center and by individual investors shows that the funds were not properly placed "at risk" for the furtherance of job creation. Furthermore the purpose of the Program is to promote economic growth, however USCIS must

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<sup>26</sup> *Matter of Izummi*, 22 I&N Dec. 169, 179 (Assoc. Comm'r. 1998); USCIS Memorandum, "EB-5 Adjudications Policy", PM-602-0083, p. 16 (May 30, 2013); and USCIS Policy Manual, Volume 6, Part G, Chapter 2 on "Capital, Made Available" and "At-Risk Requirements" available online at <https://www.uscis.gov/policymanual/HTML/PolicyManual-Volume6-PartG-Chapter2.html>, citing both *Matter of Izummi* and *Matter of Ho*, 22 I&N Dec. 206, 209-210 (Assoc. Comm'r. 1998).

weigh the jobs actually created against the jobs that would have been created but for the apparent diversion of funds. In doing so, USCIS finds that there is a net negative as to the job creation that could have occurred had the Regional Center been operating in full compliance with Program requirements.

The Regional Center also asserts that it has taken steps to prevent similar activity that took place under the Regional Center's previous owner from occurring in the future. Mr. Muroff is no longer affiliated with the Regional Center, while a new Board of Advisors will provide oversight of the Regional Center's operations. However, as stated above, the Regional Center's NOIT Response does not dispute that the theft and diversion of EB-5 funds for the personal enrichment of Mr. Muroff occurred. Therefore USCIS must balance the change in ownership against the apparent misdeeds of the Regional Center.

The appointment of the Independent Monitor simply revised the Regional Center's ownership structure—it did not grant the new owners a fresh or different designation nor absolve or immunize the Regional Center for the previous principal's past wrongdoings. Pursuant to 8 C.F.R. § 204.6(m)(6)(i), it is incumbent upon the regional center to demonstrate that it continues to serve the purpose of promoting economic growth. Despite the change in management of the Regional Center, USCIS's determination is based upon a review of the historic activities of the regional center as an entity, and analysis of its present attempts to promote economic growth, as well as future potential promotion of economic growth. Even with the change in ownership, USCIS considers the Regional Center's performance from the date of its initial designation, rather than the date the Independent Monitor took ownership of the entity, to determine whether the Regional Center continues to serve the purpose of promoting economic growth and job creation.

Such determination results from an evaluation of the totality of evidence in the record. In this case, where positive and negative factors exist, we have considered both in reaching the conclusion that on balance, the Regional Center has failed to promote economic growth in compliance with Program requirements. The requirement that a regional center demonstrate it is continuing to promote economic growth implies that USCIS must consider whether these factors existed in the past, as well as the likelihood of their presence in the future.

The Regional Center's Response to the second NOIT states that Mr. Dickens will serve as the Owner and Chief Executive Officer of Idaho State Regional Center, LLC, as well as the Chief Executive Officer of NCE companies Blackhawk Manager, LLC; Blackhawk Gold, LLC; ISR Capital, LLC; and Quartzburg Gold, LLC, and all affiliated subsidiary NCEs and JCEs. Mr. Dickens asserts that he will establish a seven-member Board of Advisors to provide oversight of the Regional Center. The Board of Advisors will consist of experts in the securities, finance, and investment visa industries, in addition to at least one investor representative from among the EB-5 investors in the Regional Center's current NCE projects. Mr. Dickens states that the Board of Advisors will meet at least quarterly to review the Regional Center's operations and related enterprises to provide guidance and direction to the Regional Center's leadership. The Second NOIT response also asserts that NES Financial has produced a compliance framework platform for use by regional centers and their affiliated projects, and that Mr. Dickens is currently in discussions with NES about the Regional Center's adoption and deployment of this framework.

However, the Regional Center's response provides no time frame in which the Board of Advisors will be established or the NES Financial compliance framework will be adopted and deployed by the Regional Center. Additionally, despite the establishment of the Regional Center's Board of Advisors, Mr. Dickens still retains sole ownership of the Regional Center and the affiliated entities. Therefore, non-binding advice or guidance from a Board of Advisors does not guarantee sufficient oversight in place to mitigate the chances for future diversions of capital or self-dealing. The Regional Center's initial operational plan, dated November 5, 2009, also listed immigration, financial, and accounting experts that were to serve as advisors to the Regional Center, then under the ownership of Mr. Muroff. There is no evidence these advisors were consulted or were able to prevent the alleged misappropriation of investor funds described above.

USCIS finds that the past mismanagement of the Regional Center weighs more heavily than the assertion that such mismanagement may not occur in the future. While taking remedial action is a positive factor, USCIS notes that the change in ownership was imposed by court order. In this case, the positive aspects of the ownership change, such as Mr. Dickens' experience in economic development and familiarity with the EB-5 program, are tempered in part by the fact that his involvement was forced upon the Regional Center by the injunctions against Mr. Muroff, rather than an independent management decision made by the Regional Center itself. In addition, the record provides no evidence that Mr. Dickens has experience in monitoring, overseeing, and successfully marketing entities post-SEC action and entities currently facing civil actions brought by prospective investors. The management and oversight function is critical to ensure that the Regional Center is promoting economic growth in compliance with the Program. Therefore, on balance, considering both the past actions as well as the new change in management, USCIS has determined that since initial designation, there has been a net negative in the Regional Center's management and oversight of its projects.

After reviewing the evidence in the record, including the NOIT Response, the Regional Center has not provided any credible evidence contesting the apparent misuse of EB-5 investor funds for personal enrichment of its principal rather than for purposes related to the business activities of the NCEs and JCEs. The favorable factors that support the Regional Center's promotion of economic growth do not outweigh the adverse factors of record, particularly the former Regional Center principal's apparent and significant disregard for the immigration laws of the United States, his alleged violations of U.S. securities laws, and his attempts to hide his misappropriation of EB-5 funds from investors and USCIS.<sup>27</sup>

Based on the apparent diversion of EB-5 funds and the seriousness of its consequences, and the failure of the Regional Center to manage and oversee the investment activities under its sponsorship, balanced against the vague prospects of future economic growth under new management, USCIS has determined by a preponderance of the evidence that the Regional Center no longer serves the purpose of promoting economic growth in compliance with the Program.

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<sup>27</sup> Complaint, 2.

### **III. Conclusion**

For the reasons described above and set forth in the NOIT and pursuant to 8 C.F.R. 204.6(m)(6), USCIS has determined that the Regional Center no longer serves the purpose of promoting economic growth and hereby terminates the Regional Center's participation in the Program.

If the Regional Center disagrees with this decision, or if the Regional Center has additional evidence that shows this decision is incorrect, the Regional Center may file a motion or an appeal to this decision by filing a completed Form I-290B, Notice of Appeal or Motion, along with the appropriate filing fee. A copy is enclosed. The Regional Center may also include a brief or other written statement and additional evidence in support of the motion or appeal. The Form I-290B must be filed within 33 days from the date of this notice. If a motion or appeal is not filed within 33 days, this decision is final.

The Regional Center must send the completed Form I-290B and supporting documentation with the appropriate filing fee to the address indicated below.

If using the U.S. Postal Service:

USCIS  
P.O. Box 660168  
Dallas, TX 75266

If using USPS Express Main/Courier:

USCIS  
Attn: I-290B  
2501 S. State Highway 121 Business  
Suite 400  
Lewisville, TX 75067

For an appeal, the Regional Center may request additional time to submit a brief within 30 calendar days of filing the appeal. Any brief, written statement, or evidence in support of an appeal that is not filed with Form I-290B must be directly sent within 30 days of filing the appeal to:

USCIS Administrative Appeals Office  
U.S. Citizenship and Immigration Services  
20 Massachusetts Avenue, NW, MS 2090  
Washington, DC 20529-2090

For more information about the filing requirements for appeals and motions, please see 8 C.F.R. § 103.3 or 103.5, or visit the USCIS website at [www.uscis.gov](http://www.uscis.gov).