

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Immigrant Investor Program
131 M Street, NE, MS 2235
Washington, DC 20529



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

TO:

Las Vegas EB-5 Immigration, LLC
Jiting Zhang
3773 Howard Hughes Pkwy, Suite 500s
Las Vegas, NV 89169

DATE: June 14, 2017

Application: Form I-924

A-Number:

File: RCW1031910077 / ID1031910077

NOTICE OF TERMINATION

This letter shall serve as notification that U.S. Citizenship and Immigration Services ("USCIS") has terminated the designation of Las Vegas EB-5 Immigration, 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

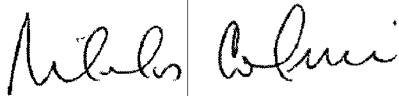
For an appeal, the Regional Center may request additional time to submit a brief within 30 calendar days of filing the appeal. Any brief, written statement, or evidence in support of an appeal that is not filed with Form I-290B must be directly sent within 30 days of filing the appeal to:

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

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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.

Sincerely,



Nicholas Colucci
Chief, Immigrant Investor Program

Enclosure: (1) Form I-290B with instructions
(2) Notice of Intent to Terminate issued on September 22, 2016

cc: John Meyer & Christian Triantaphyllis
Foster LLP
600 Travis St., 20th Floor
Houston, TX 77002

NOTICE OF TERMINATION
Termination of Regional Center Designation Under the Immigrant Investor Program
Las Vegas EB-5 Immigration, 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 June 29, 2011, USCIS designated and authorized the Regional Center's participation in the Program. On September 22, 2016, USCIS issued a Notice of Intent to Terminate ("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 November 2, 2016, USCIS received a response to the 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. Lack of Regional Center Activity

As noted in the NOIT, the Regional Center’s Form I-924A filings for fiscal years 2013, 2014, and 2015¹ do not report any EB-5 capital investment or job creation. In addition, although USCIS designated the Regional Center on June 29, 2011, the Form I-924A filings do not report any pending or approved Forms I-526 filed by petitioners who have made or are actively in the process of making investments associated with the Regional Center.

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

- Copies of correspondence, agreements, and invoices related to the “Downtown Grand Project;”
- Copy of an email from Billy Choi to “Mike” relating to a project titled “Front Sight Firearms Training Institute,” dated November 12, 2012;
- Copy of an email from Billy Choi to “Steve” relating to a project titled “USA Dawgs,” dated February 1, 2013;

¹ While not referenced in the NOIT, the Forms I-924A submitted by the Regional Center for fiscal years 2011, 2012, and 2016 also do not report any EB-5 capital investment or job creation or any pending or approved Forms I-526 filed by petitioners who have made or are actively in the process of making investments associated with the Regional Center. The I-924A for fiscal year 2016, receipt number RCW1630854507, was filed after the Regional Center submitted the NOIT Response.

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- Copy of an email from Darryl Laws to Billy Choi, relating to a project titled “ITIQ Solutions, Inc.,” dated March 4, 2013;
- Copy of a Chinese language presentation for Las Vegas EB-5 Immigration, LLC Regional Center, undated and untranslated;
- Copies of email correspondence between Jenny Zhang and Bradley Sher, dated between March 2013 and June 2013;
- Copies of an invoice and check relating to business between the Regional Center and Howard & Howard, dated June 5, 2013;
- Copies of email correspondence between Jenny Zhang and Patrick McKnight, regarding a project titled “Stingray Cove,” dated January 2014;
- Copy of email correspondence between Jenny Zhang and David Osman, regarding a project titled “Skypoint” dated January 18, 2014;
- Copy of an email from Bud Pattengale, related to a project titled “OTS Bistro,” dated February 12, 2014;
- Copies of email correspondence between Jenny Zhang and Arik Tendler, regarding a project titled “Clayton Park,” dated March 2014 to June 2014;
- Copies of email correspondence from Robert Leidig, Jr. to Jenny Zhang, dated September 2, 2014 and between Gary Wenger and Jenny Zhang and Billy Choi, dated from April 2016 to May 2016, regarding a project titled “Country Inn”;
- Copy of an engagement letter from SIO Law Group, dated May 22, 2015, including copies of checks to and invoices from SIO Law Group;
- Copies of invoices from Miller Mayer, LLP and Banta Immigration Law Ltd, and checks made out to Banta Immigration Law Ltd., dated from September 2015 to December 2015;
- Copy of an email from Jerry Walker to Jenny Zhang, dated February 3, 2013;
- Copy of an email from Jenny Zhang to Robert Banta, dated November 4, 2015;
- Copies of email correspondence between Jenny Zhang and Sarah Wang, dated November 2015, untranslated;
- Copies of invoices and receipts for various travel and hotel expenses from 2013 to 2016;

- Copies of email correspondence and a non-disclosure agreement with NES Financial, dated from July 2015 to December 2015;
- Copy of email correspondence between Jenny Zhang and Jeffrey Carr, dated May 21, 2012;
- Copy of email correspondence between Jenny Zhang and Michael Evans, dated November 2014; and
- Copy of email correspondence between Billy Choi and Shirley Kim, dated January 2015.

The Regional Center provided evidence showing that, from 2012 through 2016, it has engaged with a number of companies regarding potential EB-5 investments in projects, that it has engaged with firms to conduct economic analyses of projects and targeted employment areas (TEAs), promote the Regional Center at conferences, and organize and review business plans and organizational documents for potential EB-5 projects. However, despite the detailed communications between the Regional Center and its prospective business partners and all of the documentation of expenditures related to traveling to conferences and engaging with lawyers and economists, the Regional Center has not provided evidence of the actual promotion of economic growth.

The bulk of the NOIT Response includes copies of email correspondence between the Regional Center's principals, Jenny Zhang and Billy Choi, and prospective business partners. None of the emails include evidence showing that the Regional Center entered into any agreements to participate in actual projects that would promote economic growth.

In late 2012, the Regional Center communicated with CIM Group regarding a project titled "Downtown Grand Project." Despite what appeared to be serious negotiations and a preliminary Confidentiality Agreement between the Regional Center and CIM Group, the attorney's letter supporting the NOIT Response points out that "the project did not go through due to the risky nature of the project and disagreement between the two parties."

In 2013, the Regional Center communicated with Bradley Sher, of the Molasky Group, regarding a potential project in Downtown Las Vegas. The Regional Center provided a copy of a Chinese-language presentation apparently related to the project, but did not provide a translation of the presentation. The correspondence with Mr. Sher shows that the project failed due to their inability to acquire the necessary land for development.

Copies of correspondence between the Regional Center and people associated with Front Sight Firearms Training Institute, USA Dawgs, ITIQ Solutions, Inc., Stingray Cove, OTS Bistro, Skyview, Country Inn, and Clayton Park all appear to be initial contacts with potential business partners and involve only preliminary discussions about involvement in various projects. Discussions related to the Clayton Park project appeared to advance significantly, where the Regional Center presented a draft loan term sheet to its potential partner, but in the end the parties were at odds regarding the timing and scope of the Regional

Center's involvement in the project. The Regional Center did not provide any evidence to show that any actual agreements to engage in EB-5 investments of any kind resulted from any of the correspondence.

While the Regional Center provided substantial evidence to show that its principals had engaged with legal services and firms to generate economic analyses and review business plans, there is no evidence in the record to show that any of that activity resulted in the promotion of any actual projects that did lead or would lead to economic growth.

Additionally, despite the evidence showing that the Regional Center had traveled to EB-5 conferences and engaged with firms to promote itself to potential investors, the Regional Center did not provide any evidence to show that it had actually attracted any investors for any of its potential projects. As of the date of this Notice, USCIS has no record of any petitions filed in relation to any projects sponsored by the Regional Center.

In the absence of evidence of increased export sales, improved regional productivity, job creation, or increased domestic capital investment, USCIS concludes that the Regional Center no longer serves the purpose of promoting economic growth.

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.

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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

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