U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 34385183

Date: JUN. 26, 2025

Appeal of Field Operations Director (FOD) Decision

Form I-526, Immigrant Petition by Alien Entrepreneur

The Petitioner seeks classification as an immigrant investor pursuant to the Immigration and Nationality Act (the Act) section 203(b)(5), 8 U.S.C. § 1153(b)(5) (2016).[1] This fifth preference (EB-5) classification makes immigrant visas available to aliens who invest the requisite amount of qualifying capital in a new commercial enterprise (NCE) that will benefit the United States economy and create at least 10 full-time positions for qualifying employees.

Field Operations Directorate (FOD) denied the petition, concluding that the Petitioner did not document the lawful source of the funds she claimed to have invested in [redacted] (the NCE), which is associated with [redacted] LLC, an entity that U.S. Citizenship and Immigration Services (USCIS) designated to participate in the EB-5 program.[2] Specifically, FOD determined the record did not sufficiently document the complete path of funds from the Petitioner to the NCE and therefore did not demonstrate that she was the legal owner of the invested funds and that the funds did not derive, directly or indirectly, from unlawful means. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

An alien may be classified as an immigrant investor if they invest the requisite amount of qualifying capital in an NCE. They may invest the required funds directly in an NCE or through a regional center,

[1] On March 15, 2022, the EB-5 Reform and Integrity Act of 2022 was signed into law, revising generally eligibility requirements, substantially reforming and codifying the Regional Center Program in section 203(b)(5) of the Act, and adding significant new integrity provisions. *See* Section 203(b)(5) of the Act, 8 U.S.C. § 1153(b)(5) (2022). As the Petitioner filed her petition in November 2016, the relevant law then in existence governs this appellate adjudication.

[2] A regional center is an economic unit involved with the promotion of economic growth, "including . . . improved regional productivity, job creation, and increased domestic capital investment." *See* 8 C.F.R. § 204.6(e) (2016).

as the Petitioner has done in this case. Regional centers can pool immigrant (and other) investor funds for qualifying projects that create jobs directly or indirectly. 8 C.F.R. § 204.6(j)(4)(iii) (2016).

An immigrant investor must demonstrate that they have placed their own capital at risk in the NCE. *See Matter of Ho*, 22 I&N Dec. 206, 213 (Assoc. Comm'r 1998); *Matter of Soffici*, 22 I&N Dec. 158, 165 n.3 (Assoc. Comm'r 1998) (stating that "[a] petitioner must . . . establish, pursuant to 8 C.F.R. § 204.6(e), that funds invested are [their] own"). In addition, the investor must show that their invested capital did not derive, directly or indirectly, from unlawful means. 8 C.F.R. § 204.6(e).

To show the lawful source of the funds, the immigrant investor must submit evidence such as foreign business and tax records or documentation identifying sources of the capital. *See* 8 C.F.R. § 204.6(j)(3). Bank letters or statements corroborating the deposit of funds by themselves are insufficient to demonstrate their lawful source. *Matter of Ho*, 22 I&N Dec. at 210-11; *Matter of Izummi*, 22 I&N Dec. 169, 195 (Assoc. Comm'r 1998). The record must trace the complete path of the funds back to a lawful source.[3] *See Borushevskyi v. USCIS*, 664 F. Supp. 3d 117, 129 (D.D.C. 2023), *aff'd*, 2024 WL 2762146 (D.C. Cir. May 30, 2024) (holding that demonstrating a "complete path" of funds is USCIS' authoritative position recognized by other relevant precedent decisions); *see also Matter of Ho*, 22 I&N Dec. 206, 210-11 (Assoc. Comm'r 1998); *Matter of Izummi*, 22 I&N Dec. 169, 195 (Assoc. Comm'r 1998).

II. ANALYSIS

The Petitioner asserts eligibility for EB-5 classification based on her claimed $500,000[4] investment in the NCE under the Immigrant Investor Program.[5] According to its business plan, the NCE seeks to pool $72,000,000 from up to 144 immigrant investors and will loan this money to [redacted] [redacted] LLC (the job creating entity) to fund the development of a [redacted] resort in [redacted] Georgia.

The record indicates the Petitioner received a loan for 12,350,000,000 Vietnamese Dong (VND) from [redacted], which she secured by mortgaging real property she jointly owns with her spouse. Bank documents confirm that the loan disbursement was deposited to the Petitioner's ACB account on November 11, 2016, and that she withdrew VND 12,321,120,000 in cash from this account on the same date for the stated purpose of "investment." In a personal statement dated November 6, 2018, the Petitioner indicated that [redacted] of Singapore" assisted her with transferring her EB-5 investment funds to the NCE's U.S. bank account. Specifically, she stated that on November 11, 2016, she "withdrew and transferred the amount of VND 12,321,120,000 (the equivalent of USD 550,050) to [redacted] representative in Vietnam which was [redacted]

[3] These requirements "serve a valid government interest; i.e., to confirm that the funds utilized in the [EB-5] program are not of suspect origin." *Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1040 (E.D. Cal. 2001) (holding that a petitioner had not established the lawful source of her funds because, in part, she did not designate the nature of all of her employment or submit five years of tax returns), *aff'd*, 345 F.3d 683 (9th Cir. 2003).

[4] The Petitioner indicates that the job creating entity is principally doing business in a targeted employment area, and that the required amount of qualifying capital is downwardly adjusted from $1,000,000 to $500,000. *See* 8 C.F.R. § 204.6(f)(2) (2016).

[5] *See* Section 610 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993, Pub. L. No. 102-395, 106 Stat. 1828 (1992), as amended.

Company." She further explained that "[f]ollowing the transfer, [redacted] helped me to transfer the above amount to [the NCE's] escrow account." The record shows that on November 14, 2016, [redacted] transferred $550,025 from its [redacted] account ending in [redacted] to the NCE's [redacted] account ending in [redacted]. On that date, [redacted] issued a letter to the regional center's manager acknowledging receipt of the Petitioner's investment of $550,000 in the NCE.[6]

For the reasons discussed below, we conclude that the Petitioner has not sufficiently documented the path of the investment funds, from the loan disbursement she received in Vietnam to the U.S. dollar (USD) funds [redacted] sent to the NCE's escrow account from its DBS bank account. As such, she has not established, by a preponderance of the evidence, that she was the legal owner of the $550,000 transferred to the NCE's account and that the funds did not derive, directly or indirectly from unlawful means.

First, the record does not sufficiently document the terms of any contract or agreement that may have existed between the Petitioner and [redacted] The Petitioner maintains on appeal that she "entered into a contract with [redacted] doing business as [redacted] to perform a currency exchange" and that her transfer of the VND-denominated funds to this company's representative in Vietnam "triggered [redacted] to send lawful USD to the NCE escrow account" on her behalf.

As evidence of this agreement's existence, the Petitioner provided a November 11, 2016, letter signed by [redacted], who indicated she is the deputy director of "[redacted] trading as [redacted]." [redacted] stated that on that date, [redacted], a representative of her company in Vietnam, collected VND 12,321,120,000 from the Petitioner and that the $550,025 "was transferred by [redacted] in Singapore to the account nominated by [the Petitioner] in the United States" per the Petitioner's instructions. [redacted] further stated:

> The exchanged funds are now and always have been the personal property of [the Petitioner] and [redacted] has never asserted any ownership right to them. Our role was limited exclusively to the conversion of [the Petitioner's] personal property – the funds – to U.S. dollars and we have acted only at her direction at all times.

Before turning to the contents of Ms. [redacted] letter, we note that the record lacks sufficient probative evidence of her role with [redacted] As evidence of [redacted] employment, the Petitioner submitted a letter dated September 20, 2014, appointing her as the company's deputy director for a term of five years. Throughout the letter, the company is referred to as "[redacted]." However, the record includes a "Business Profile Information" report from the Singapore Accounting and Corporate Regulatory Authority (ACRA) indicating that [redacted] was initially registered as "[redacted]" and did not change its name until November 16, 2015. The use of the company's new name in a document that ostensibly pre-dates this name change by more than one year undermines the probative

[6] This amount includes the $500,000 investment and a $50,000 administrative fee.

value of this evidence and raises questions regarding Ms. [redacted] position with the company, her authority to act as [redacted] representative, and the reliability of statements she has made on behalf of the company. The record does not contain any other corporate records for [redacted] to corroborate Ms. [redacted] position with the company.

Further, the explanation provided in Ms. [redacted] letter, like the Petitioner's own statements, suggests the Petitioner entered a contract or agreement with [redacted] that included provisions regarding her transfer of ownership of her VND funds and her acquisition of ownership of equivalent U.S. dollar (USD) funds associated with the currency exchange. However, despite the Petitioner's repeated references to her contract with [redacted] the record does not document the existence of any written contract or other agreement, with a specific explanation of the terms of the currency swap purportedly agreed to by the parties. Without this evidence, the record does not support the Petitioner's claim that, based on her contract with [redacted], she was the legal owner of the USD funds that the Singaporean company ultimately transferred to the NCE's escrow account. *See Matter of Ho*, 22 I&N Dec. at 213; *Matter of Soffici*, 22 I&N Dec. at 165 n.3 (stating that "[a] petitioner must . . . establish, pursuant to 8 C.F.R. § 204.6(e), that funds invested are [their] own").

Second, the record does not sufficiently corroborate that the Petitioner transferred the VND 12,321,120,000 that she withdrew in cash from her [redacted] bank account to a representative of [redacted] in Vietnam. She provided a copy of a "receipt" dated November 11, 2016, which identifies her as the "sender" of VND 12,321,120,000 and Mr. [redacted] as the "receiver" of those funds. The receipt, which bears the company stamp of [redacted] was signed by [redacted] "on behalf of receiver," but neither the Petitioner nor Ms. [redacted] have claimed that Ms. [redacted] was a direct party to this claimed cash transaction.

Although Mr. [redacted] is identified as the individual who directly received the Petitioner's funds on behalf of [redacted], the Petitioner did not provide documentation of his identity despite FOD's request for this evidence. Further, as emphasized in FOD's decision, the Petitioner did not provide evidence of Mr. [redacted] employment relationship with [redacted] or other objective evidence to demonstrate that he was authorized to collect funds on the company's behalf in Vietnam. Finally, even if the Petitioner had documented Mr. [redacted] identity and employment relationship with [redacted], the record lacks any evidence or explanation of what he did with the VND 12,321,120,000 he purportedly received from the Petitioner. The Petitioner has not presented independent, objective evidence, such as bank records from [redacted] verifying that it received and deposited the VND-denominated funds purportedly collected by Mr. [redacted] on its behalf.

The Petitioner maintains on appeal that evidence showing the deposit of the VND 12,321,120,000 into an account owned by [redacted] or any other third party is immaterial, because she exchanged those funds and acquired ownership of the USD transferred by [redacted] to the NCE. The Petitioner further asserts "there is no statute, regulation or decision that states a 'break in the chain of funds' makes the funds unlawful" or that "no break in the chain of funds can occur in the context of the EB-5 Petition." She maintains that she met her burden to document "all parts of the exchange transaction" by showing that her cash withdrawal in VND funds "reached the Representative of [redacted] in Vietnam and thereafter [redacted] used lawful funds in Singapore to wire

[her] funds to the escrow account." The Petitioner further contends that "[redacted] has confirmed the funds belonged to [her] at all times during this exchange transaction" and emphasizes that she acquired uncontested ownership of the USD funds transferred by [redacted] "by right under the agreement" she had with this company, which provided for an "offsetting transaction." However, as discussed, the record does not contain sufficient evidence of any contract or agreement that existed between the parties or otherwise corroborate the details of the claimed "offsetting transaction" that allowed her to acquire ownership of the USD funds.

Therefore, the Petitioner's assertions on appeal that there was a "lawful agreement for the exchange of funds," that she "transferred the VND to the Representative in fulfillment of the exchange contract with [redacted]" and that "[a]ll parts of the transaction are documented to USCIS" are not persuasive. The record does not sufficiently document the claimed "lawful agreement" between the parties, provide probative evidence of Mr. [redacted] claimed relationship with [redacted], or include evidence that [redacted] received and deposited her funds to trigger an "offsetting transaction." All this evidence is material to the Petitioner's assertion that she engaged in a legitimate currency exchange transaction in order to make the claimed investment in the NCE. FOD did not deny the petition solely based on a determination that there was a break in the path of funds or based solely on the Petitioner's acknowledgement that the funds she purportedly transferred to [redacted] never left Vietnam. Rather, FOD's decision addressed numerous evidentiary deficiencies and omissions in the record pertaining to the claimed currency exchange transaction and the Petitioner's legal ownership of the USD funds that were transferred to the NCE's designated escrow account.

Finally, while the Petitioner asserts that [redacted] is a legitimate business engaged in the trade of agricultural equipment, she did not provide evidence to demonstrate that it is an authorized money services business licensed by regulatory authorities in Singapore and/or Vietnam. The company's Business Information Profile from ACRA, a Singapore government authority, states that the company's registered activities, with corresponding industry codes, include "46900 – General wholesale trade" and "70201 – business and management consultancy services (general)." The Petitioner also indicates that [redacted] does business as "[redacted]" in Singapore and Vietnam but has not provided evidence that it has registered this trade name in Singapore. Further, the record does not corroborate [redacted] formal registration, operations, or activities in Vietnam.

In a new personal statement submitted on appeal, the Petitioner acknowledges that the Business Information Profile from ACRA "does not provide details" about the types of business activities that are included under "business and management consultancy services." However, she emphasizes that she provided evidence that [redacted] wired $550,000 to the NCE's escrow account on her behalf. The Petitioner states that "[i]n accordance with legal provisions, all banking transactions must be supervised by the government" and as such she can "affirm that the wire transactions facilitated by [redacted]. are subject to oversight by the Singapore government as these transactions must be reported for tax purpose and reflected in the company's financial statement." The Petitioner maintains that it can therefore "be concluded that . . . [redacted] in Singapore is authorized for money transfers."

The Petitioner's statement is not persuasive. She contends that because [redacted] has engaged in wiring funds to U.S. bank accounts on behalf of foreign investors for EB-5 investment purposes, she can positively affirm that such activities must fall within the Singapore government's code for "business and management consultancy services" and therefore be deemed permissible. However, the Petitioner claims no particular knowledge or expertise of Singapore's business or financial laws and regulations. In immigration proceedings, the law of a foreign country is a question of fact which must be proven if a petitioner relies on it to establish eligibility for an immigration benefit. *Matter of Annang*, 14 I&N Dec. 502 (BIA 1973). The Petitioner has not demonstrated that Singapore's laws authorize [redacted] to engage in the type of foreign currency exchange described in the record under the guise of operating a "general wholesale trade" business or providing "business and management consultancy services."

The Petitioner has also described '[redacted]' or '[redacted]' as "a registered money exchange agent in [redacted] Vietnam." The '[redacted]' name, and its variations, is identified in the record as both a trade name used by [redacted] and as a separate legal entity registered in Vietnam. In response to a request for evidence, the Petitioner submitted a "Business Registration Certificate of One Member Limited Company," ostensibly for [redacted], issued by the [redacted] City Business Registration Office. This document indicates that one of the company's registered lines of business falls under the industry code "6499 - other financial service activities" and specifically includes authorization to act as a "supply agent of money transmission services." The Petitioner has not submitted any additional evidence to demonstrate how the Vietnamese government defines this type of business activity.

Regardless, FOD determined, and the Petitioner concedes, that the submitted business registration certificate does not belong to '[redacted]' as the company identification number provided on the certificate is assigned to a different Vietnamese entity. The Petitioner maintains she was not aware of this fact, noting that all documentation related to the currency exchange transaction was sourced from [redacted]. In addition, the Petitioner acknowledges that the company number recorded on the submitted business registration belongs to [redacted], [redacted] (also referred to as [redacted]). However, she asserts that [redacted] 'is merely the trade name of [redacted]' and for that reason, there is "a rationale" for the same company number to be associated with both company names. As such, she claims the business registration certificate she provided for [redacted] "is not fraudulent."

The Petitioner has provided tax documents indicating the company identification number that appears on the purported business registration for '[redacted]' belongs to [redacted]. While she implies that the other details contained in the business registration certificate for '[redacted]' accurately reflects information pertaining to [redacted] she has not submitted a copy of [redacted] actual business registration certificate issued by the Vietnamese government. In lieu of such evidence, she submits a screenshot from the website [redacted], with company information for [redacted] This evidence indicates that [redacted] business scope includes "agents providing foreign currency receipt and payment services." The Petitioner does not explain how this information supports the legitimacy of her claimed transaction with [redacted] or [redacted]. That transaction, as described in the record, is not claimed to have involved the receipt of foreign currency in Vietnam.

In addition, despite submitting a personal statement and supplementary evidence intended to show that [redacted] trades as [redacted] or [redacted] and is authorized to provide certain foreign currency services in Vietnam, the Petitioner claims in her brief that "any involvement by [redacted] is immaterial to [her] case." Specifically, she states she presented "clear evidence that a representative from [redacted] collected her funds in Vietnam, and that [redacted] used its own funds in Singapore to transfer funds on behalf of Petitioner to the U.S." thereby making [redacted] irrelevant to the transaction. The Petitioner has not explained, however, why she submitted evidence related to [redacted] in response to FOD's request for evidence if such evidence is immaterial and no Vietnamese entity was involved with her currency exchange.

In fact, FOD provided the Petitioner an opportunity to submit the relevant foreign law demonstrating that [redacted] can lawfully operate in Vietnam as a money exchange business. She did not provide that evidence but rather submitted evidence intended to support her claim that [redacted] is an affiliate of [redacted]. This evidence included a letter from [redacted] certifying that he wholly owns both the Singapore company and [redacted] in Vietnam.[7] Mr. [redacted] stated that, based on this affiliate relationship, "obviously [redacted] is able to make a money transfer on behalf of [redacted] As such, the record reflects the Petitioner has not been consistent in identifying the entities involved in her claimed currency swap transaction and the relationship between those entities. The Petitioner explains that she has been reliant on documentation provided by [redacted] on behalf of [redacted], but it remains the Petitioner's burden to demonstrate, by a preponderance of the evidence, that she meets all eligibility requirements.

The Petitioner claims on appeal that USCIS has allowed intermediaries to assist investors in bringing funds to the United States for investment purposes and provides copies of redacted agency training materials that discuss "informal value transfers" and private currency exchanges. However, the issues in this case are not limited to the Petitioner's alleged reliance on intermediaries, such as [redacted] and [redacted], to assist her in exchanging VND to USD and in remitting funds from Vietnam to the United States. Rather, as we have explained above, at issue is that the Petitioner has not sufficiently documented the complete path of the investment funds, from the loan disbursement she received in Vietnam to the funds [redacted] purportedly sent to the NCE's escrow account on her behalf through DBS Bank. *See Borushevskyi v. USCIS*, 664 F. Supp. 3d at 129, *aff'd*, 2024 WL 2762146 (D.C. Cir. May 30, 2024); *Matter of Ho*, 22 I&N Dec. at 210-11; *Matter of Izummi*, 22 I&N Dec. at 195.

Here, the record demonstrates that the Petitioner withdrew VND 12,321,120,000 from her [redacted] bank account, but it does not contain sufficient evidence tracing these funds to the $550,000 transferred

[7] The only independent evidence of ownership for [redacted] is a copy of its ACRA Business Information Profile dated in March 2017. This evidence indicates that the company is wholly owned by [redacted] and states he became a company director as of November 16, 2015. Mr. [redacted] is not named on this document as an owner or director of the company. The record also contains a second, partial copy of the company's ACRA business profile dated November 16, 2015. This document does not identify the company's ownership but indicates [redacted] was appointed as a company director on that date. A comparison of the two documents reflects that the same "Identity no." is provided for both Mr. [redacted] and Mr. [redacted] who are clearly not the same person. Due to these inconsistencies, the record contains insufficient evidence of Mr [redacted] ownership of [redacted].

from Singapore to the NCE's escrow account, or sufficient evidence to support the Petitioner's claim that she was the legal owner of those USD-denominated funds. Further, the legality of the claimed transaction under the relevant Vietnamese and Singaporean laws has not been documented in the record. Finally, the Petitioner did not document the terms of her claimed agreement or contract with [redacted] or provide sufficient probative evidence demonstrating that she transferred the cash she withdrew from her account to a representative of that company as claimed. As a result, the record lacks sufficient evidence to corroborate that the Petitioner's purported EB-5 investment derived from the cash she purportedly remitted to Mr. [redacted] in November 2016. *See Matter of Ho*, 22 I&N Dec. at 210-11; *Matter of Izummi*, 22 I&N Dec. at 195. Finally, in all cases, USCIS conducts "a de novo review of each prospective immigrant investor's lawful source of funds and other individualized eligibility criteria," which is what we have done in this case. *See generally*, 6 *USCIS Policy Manual* G.6, https://www.uscis.gov/policy-manual.

For the reasons we have discussed, we conclude the Petitioner has not established, by a preponderance of the evidence, her eligibility for the EB-5 classification. An immigrant investor is required to invest his or her own capital and must document the path of the funds to establish that the investment was made with their own funds. *See Matter of Izummi*, 22 I&N Dec. at 195. Here, the Petitioner has not presented sufficient evidence that she was the lawful owner of the funds [redacted] remitted to the NCE or sufficiently traced the path of those funds to a lawful source. *See* 8 C.F.R. § 204.6(j)(3), (e). *See* 8 C.F.R. § 204.6(e), (j)(3); *Matter of Ho*, 22 I&N Dec. at 210-11; *Matter of Izummi*, 22 I&N Dec. at 195.

III. CONCLUSION

It is the Petitioner's burden to demonstrate her eligibility for the EB-5 classification, which includes establishing the lawful source of her purported EB-5 investment and her legal ownership of the invested funds. *See Matter of Ho*, 22 I&N Dec. at 210-11; *Matter of Izummi*, 22 I&N Dec. at 195. Here, the Petitioner has not met this burden. Accordingly, the appeal will be dismissed for the above-stated reasons. As the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline and hereby reserve remaining issues concerning her eligibility.[8] *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

ORDER: The appeal is dismissed.

[8] FOD's decision discusses additional evidentiary deficiencies related to the value of the real property the Petitioner used to secure her loan from [redacted] bank, the lawful source of funds used to purchase that property, the lawful source of the funds transferred to the NCE's escrow account by [redacted], the lawful source of funds held in the Petitioner's [redacted] account at the time she received the loan proceeds, and other inconsistencies and omissions in the record. We reserve these and any other eligibility issues not discussed in this decision for future consideration if the need arises.