U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37735948

Date: OCT. 06, 2025

Appeal of Field Operations Directorate 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) (2019).[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 U.S. 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 $500,000 she claimed to have invested in [redacted] LP, the NCE, which is associated with [redacted] LLC.[2] The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3. On appeal, the Petitioner submits a brief and additional evidence, maintaining that she has established her eligibility for the EB-5 classification.

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 (RIA) was signed into law, revising general 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 prior to the enactment of the RIA, the relevant law then in existence governs this appellate adjudication.

[2] [redacted] LLC is an entity that U.S. Citizenship and Immigration Services (USCIS) has designated to participate in the EB-5 program. 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) (2019).

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).

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, an 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. at 210-11; *Matter of Izummi*, 22 I&N Dec. at 195.

II. ANALYSIS

The Petitioner claims to have invested $500,000 in the NCE.[4] According to the submitted business plan, the NCE seeks to solicit up to $32.5 million from 65 immigrant investors to acquire a 50 percent equity interest in [redacted] LLC, the JCE. The NCE's equity investment will be used to fund the construction and operation of an [redacted] hotel and data center in [redacted], Missouri.

For the reasons provided below, the Petitioner has not met her burden to document the complete path of her purported EB-5 investment, tracing the path of the funds back to a lawful source. *See Matter of Ho*, 22 I&N Dec. at 210-11; *Matter of Izummi*, 22 I&N Dec. at 195.

A wire transfer record provided with the petition shows that the Petitioner remitted $500,000 from her [redacted] account to the NCE's bank account on November 18, 2019. The Petitioner claimed the sole source of her investment was a $500,000 loan from [redacted] LLC. To document the existence of the loan and the source of the loaned funds, the Petitioner relied on a November 2019 letter from [redacted] (Mr. D-), president of [redacted] LLC, who stated:

> [redacted] LLC has loaned the deposit amount of US$500,000 to [the Petitioner]. These personal assets were withdrawn by [G-S-, an individual] from [redacted] LP, a partnership that in turn invests in [redacted] LP, a co-mingled

[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 NCE is 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) (2019).

> diversified investment fund, and are attributable to investment gains on [G-S-'s] initial investment in such fund. Mr. [S-] then contributed such funds, which constituted his personal assets, to [redacted] LLC, an entity wholly owned by Mr. [S-].

In a request for evidence (RFE), FOD advised the Petitioner that the initial evidence was insufficient to document the terms of her claimed loan agreement with [redacted] LLC. FOD also emphasized the lack of evidence showing the lawful source and path of the loaned funds, observing that she did not provide evidence to corroborate the transactions Mr. D- outlined in his letter or include evidence to verify G-S-'s income, his investment in [redacted] LP, his claimed ownership of [redacted] LLC, or the lawful source of the funds held in the bank accounts of the entities named in the letter. Finally, FOD noted that the Petitioner had not documented the path by which the funds she used for her investment in the NCE were transferred into her [redacted] account as she did not show that the funds derived from the claimed loan. The RFE provided a list of evidence the Petitioner could submit to address these deficiencies.[5]

The Petitioner's response to the RFE included a copy of a promissory note signed by her on November 13, 2019, which indicates that [redacted] LLC loaned her $500,000. She also provided copies of [redacted] LLC's certificate of formation and certificates of limited partnership for [redacted] LP and [redacted] LP. Finally, in response to FOD's observation that the initial evidence did not establish the lawful source and path of the funds she remitted to the NCE, she pointed to the previously submitted letter from Mr. D- and summarized its contents as follows:

> In essence, G-S- has made a loan to the Petitioner which is allowed by EB-5 regulations. G-S- has received substantial monies because he is the son of one of the wealthiest men in the world, and all of that money is "legal." There has never been any question whatsoever that the . . . family fortune wasn't earned lawfully. Therefore, the money lent from G-S- to [the Petitioner] was derived from the lawful funds "given" to G-S- by [his father].

The Petitioner also submitted published articles about G-S-'s father and his family members. The Petitioner noted that the published materials make it "abundantly clear" that G-S- is "very wealthy" and "his place in [his family] is his Source of Assets including the $500,000 loaned to [the Petitioner]."

FOD concluded that the Petitioner did not provide sufficient evidence to trace the path of the invested funds back to a lawful source. FOD emphasized that the Petitioner did not show that the $500,000 she remitted to the NCE from her [redacted] account originated from the loan, as claimed, as she did not provide bank records or any other relevant evidence to document the transfer of $500,000 from an account owned by [redacted] LLC to her account. FOD further concluded that the Petitioner did not provide evidence to corroborate her claim that the loaned funds originated from G-S's personal assets that he withdrew from [redacted] LP and contributed to [redacted] LLC.[6]

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[5] Such evidence included, but was not limited to, a copy of Petitioner's loan agreement; business registration and financial records for [redacted] LLC, [redacted] LP and [redacted] LP; G-S-'s personal tax returns; investment account statements reflecting G-S-' assets in [redacted] LP; and bank account statements for all relevant accounts or other sufficient evidence to document the source and path of the $500,000 used for the investment.

[6] FOD's RFE and final decision also include an observation that the initial record lacked "documents detailing the loan agreement between Petitioner and [redacted] LLC]" and showing that "the loan is secured by Petitioner's own assets."

On appeal, Petitioner states that she "seeks to clarify step by step to explain and evidence the manner in which [G-S-] provided [her] with the $500,000 which were ultimately used for the EB-5 investment." In support of her appeal, the Petitioner provides a redacted copy of her November 2019 [redacted] Statement and a letter from [redacted] (Mr. H-), general counsel for [redacted] LLC.[7] Mr. H-'s letter includes as attachments (1) redacted November 2019 bank statements for accounts owned by G-S-, [redacted] LP, and [redacted] LP; and (2) copies of corrected Financial Crimes Enforcement Network (FinCEN) Beneficial Ownership Information Reports (BOIR) filed by [redacted] LP, [redacted] LP, and [redacted] LLC, in November 2024.

As discussed, FOD issued a detailed RFE advising the Petitioner of specific deficiencies in her initial evidence and informing her of the documentation she could provide to demonstrate the lawful source and path of the funds used for her investment. While the Petitioner submitted a response to the RFE, she offered no additional evidence pertaining to the path of the funds such as evidence demonstrating that the funds she remitted to the NCE from her [redacted] account in November 2019 were derived from a loan disbursement from [redacted] LLC, and evidence that the loaned funds from [redacted] LLC derived from the lawfully obtained personal assets of G-S-, as claimed. The only documentation the Petitioner provided prior to denial of the petition was a wire transfer notification from [redacted] advising that the NCE's account had been credited with a $500,000 payment that originated from the Petitioner's account, and Mr. D-'s unsupported statement regarding several funds transfers that preceded the claimed loan disbursement. As noted, 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).

Therefore, we agree with FOD's determination that the Petitioner did not meet her burden to submit evidence documenting the complete path of the funds and tracing them back to a lawful source.[8] *See Borushevskyi v. USCIS*, 664 F. Supp. 3d at, *aff'd*, 2024 WL 2762146; *see also Matter of Ho*, 22 I&N Dec. at 210-11; *Matter of Izummi*, 22 I&N Dec. at 195. On appeal, while the Petitioner generally claims that FOD reached an erroneous conclusion, she does not explain how the previously submitted evidence was sufficient to meet her burden to demonstrate the lawful source of the funds used for her investment.

Because the Petitioner was put on notice and given a reasonable opportunity to provide bank records and other relevant documentation showing the source and path of the funds she used for her claimed

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While it does not appear that FOD ultimately denied the petition on this basis, the Petitioner addresses this issue on appeal noting that the previously submitted promissory note "provides all the loan details" and emphasizing that "unsecured loans are allowed by investors as investment capital in EB-5 investment projects." We agree with the Petitioner that USCIS considers the investment of loan proceeds to be an investment of cash rather than indebtedness, under the definition of "capital" at 8 C.F.R. § 204.6(e). *See generally*, 6 *USCIS Policy Manual* G.2(A)(1) n.14, https://www.uscis.gov/policy-manual (citing *Zhang v. USCIS*, 978 F.3d 1314 (D.C. Cir. 2020)). An immigrant investor may invest the proceeds of an unsecured loan.

[7] According to a published article submitted with Mr. H-'s letter, [redacted] LLC is a private investment management firm that manages funds solely on behalf of G-S-' family.

[8] 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).

investment, we are not required to consider the evidence she submits for the first time on appeal. *See Matter of Furtado*, 28 I&N Dec. 794, 801-02 (BIA 2024) (declining to consider new evidence on appeal when the petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it) (citing *Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988)); *see also* 8 C.F.R. § 103.2(b)(11) (requiring that in response to a request for evidence or notice of intent to deny, all evidence must be submitted together at one time and that submitting only some of the requested evidence will be considered a request for a decision on the record). The failure to submit requested evidence which precludes a material line of inquiry shall be grounds for denying a petition. *See* 8 C.F.R. § 103.2(b)(14). Accordingly, the petition will remain denied and the appeal will be dismissed.

Even if we considered the newly submitted evidence, we note it would be insufficient to overcome the grounds for denial for several reasons. On appeal, the Petitioner provides a redacted copy of her [redacted] bank statement for November 2019. This account statement shows a $500,000 wire transfer deposit on November 15, but the evidence indicates that the funds were transferred from a [redacted] account (ending in [redacted]) owned by G-S-.[9] She has therefore not shown that the funds she remitted to the NCE were loaned to her by [redacted] LLC as she claimed. If the funds were in fact loaned or gifted to her directly by G-S- and not by [redacted] LLC, a separate legal entity, she would need to provide a loan agreement or gift instrument documenting the terms of her arrangement with G-S-.[10] She has not submitted such an agreement or instrument or explained this material inconsistency regarding the source of the $500,000 she invested.

In addition, because the Petitioner's November 2019 bank statement is heavily redacted, we cannot conclude that the $500,000 she received from G-S- was the sole source of her claimed investment in the NCE. The "Checking Summary" indicates the Petitioner's account had an opening balance of $802.30 and that she received $527,703.58 in deposits during the statement period (November 9 to December 9, 2019). We cannot determine whether the $500,000 deposited on November 15 was commingled with the other unidentified funds in the account prior to the Petitioner's transfer of $500,000 to the NCE's account on November 18, 2019, because the redacted statement lacks information regarding any other account transactions.

The remaining bank records submitted on appeal show: a $640,000 wire transfer from a [redacted] account owned by [redacted] LP to a [redacted] account owned by [redacted] LP on November 5, 2019; a $640,000 wire transfer between two [redacted] LP [redacted] accounts on November 5, 2019; a $600,000 wire transfer from [redacted] LP's account ending in [redacted] to G-S-'s [redacted] account ending in [redacted] on November 7, 2019; and a $600,000 account transfer from G-S-'s account ending in [redacted] to his [redacted] account ending in [redacted] on November 8, 2019. The account statement for the latter account shows that G-S- transferred $500,000 to the Petitioner's account on November 15, 2019.

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[9] In his summary of the transactions leading up to the November 15, 2019 transfer of $500,000 to the Petitioner's account, Mr. H- refers to the [redacted] account ending in [redacted] as G-S-' "account at [redacted] LLC." However, the redacted November 2019 bank statement for this account identifies G-S- as the account owner and contains no reference to [redacted] LLC.

[10] We acknowledge Mr. D-'s statement that G-S- wholly owns [redacted] LLC. The evidence submitted on appeal, however, indicates that [redacted] LLC filed at least four Beneficial Ownership Information Reports with FinCEN, only one of which included the FinCEN ID number established for G-S-. Absent further explanation, this evidence does not support the claim that [redacted] LLC is a single-member limited liability company owned by G-S-.

In his letter, Mr. H- states that the submitted bank statements trace the source of the $500,000 disbursed to the Petitioner while the FinCEN reports confirm G-S-' ownership of [redacted] LP, [redacted] LP and [redacted] LLC.[11] Mr. H- further explains that G-S-'s wealth "is ultimately sourced from a trust" established by his father that has "realized positive investment returns over time," while his "personal wealth derives from distributions from those trusts that he now holds in his personal name, including the funds that were invested in [redacted] LP."

While the redacted bank statements show the transfers of funds from [redacted] LP to [redacted] LP to G-S-'s personal account, they do not corroborate that any of the funds were ever deposited to an account owned by [redacted] LLC. This undermines the Petitioner's claim that the direct source of her investment was a loan from [redacted] LLC and, as noted, the record does not establish, in the alternative that she entered a loan agreement or received a gift instrument from G-S-.

Further, all the documented funds transfer transactions between [redacted] LP, [redacted] LP and G-S- pre-date the claimed loan agreement between the Petitioner and [redacted] LLC, made on November 13, 2019. While some of the funds in G-S-'s account ending in [redacted] may have derived from his investment in [redacted], the record does not show that the $500,000 transferred to the Petitioner was solely sourced from the $640,000 in "personal assets" that G-S- purportedly withdrew from this entity on November 5, 2019. The Petitioner submits only two heavily redacted pages from the six-page November 2019 statement for this account. It is evident that there were many other deposit and withdrawal transactions. As money is fungible, any other funds held in this account as of November 15, 2019, became part of the G-S-'s $500,000 remittance to the Petitioner. The record does not identify the source of any other funds held in the account on that date. While we acknowledge Mr. H-'s statement that all funds owned by G-S- are solely derived from his family's lawfully sourced wealth, neither this statement nor the supplemental evidence on appeal is sufficient to satisfy the Petitioner's burden of proof to document the lawful source of her investment and to trace the complete path of those funds back to a lawful source. *See 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. *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 made such a showing.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings

[11] The FinCEN reports show that G-S- is one of at least four owners of [redacted] LP and [redacted] LLC, and one of seven owners of [redacted] LP. The record therefore does not support that all funds in these accounts are ultimately owned by G-S- and that such funds are all derived from incoming distributions from his trusts.

may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.