U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37460643

Date: OCT. 24, 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).[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 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 record did not establish that the Petitioner's investment funds derive from lawful sources. 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

Any assets acquired directly or indirectly by unlawful means, such as criminal activity, will not be considered capital. 8 C.F.R. § 204.6(e). A petitioner must demonstrate by a preponderance of the evidence that the capital was his or her own and was obtained through lawful means. 8 C.F.R. § 204.6(j)(3); *see also Matter of Ho*, 22 I&N Dec. 206, 210 (Assoc. Comm'r 1998). To show that the capital was his or her own, a petitioner must document the path of the funds. *Matter of Izummi*, 22 I&N Dec. 169, 195 (Assoc. Comm'r 1998). 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. 206, 210

[1] On March 15, 2022, the EB-5 Reform and Integrity Act of 2022 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* 8 U.S.C. § 1153(b)(5) (2022). As the Petitioner had filed the petition on October 3, 2019, the relevant law in existence on that date governs this appellate adjudication.

(Assoc. Comm'r 1998); *Matter of Izummi*, 22 I&N Dec. 169, 195 (Assoc. Comm'r 1998). The record must trace the path of the funds back to a lawful source. *Id.*

II. ANALYSIS

The Petitioner claimed that she invested $500,000 into the NCE, [redacted] LP, associated with a regional center, [redacted] LLC. The NCE proposed to pool up to $15.5 million from up to 31 immigrant investors and lend the entire amount to [redacted] LLC, the job creating entity (JCE). The JCE intends to build and operate a five-story apartment building and adjoining six story parking structure in [redacted] California.

The only issue to be discussed is whether the record sufficiently demonstrates that the Petitioner's investment derived from lawful sources. FOD's denial focused on the inconsistencies in the Petitioner's bank statements and the discrepancies between the claimed employment of the Petitioner and her husband in the present petition and the claimed employment history in their non-immigrant visa applications filed with the U.S. Department of State.[2] On appeal, the Petitioner contends that FOD applied an incorrect, heightened standard of proof in denying the petition.

A petitioner in administrative immigration proceedings must prove by a preponderance of evidence that they are eligible for the benefit sought. *Matter of Chawathe*, 25 I&N Dec. at 375. The "preponderance of the evidence" standard requires that the evidence demonstrate that the petitioner's claim is "probably true," where the determination of "truth" is made based on the factual circumstances of each individual case. *Id.* at 376 (citing *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989)). Thus, in adjudicating the petition pursuant to the preponderance of the evidence standard, we examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true. *Id.*

Upon review, we conclude that the Petitioner did not overcome the deficiencies in the record with probative and credible evidence and has not sufficiently shown that the funds come from lawful sources, as discussed below. First, the Petitioner did not sufficiently demonstrate that the source of her investment funds derived from the accumulation of her husband's wages and bonuses. Second, the Petitioner did not adequately document the path and lawful source of the funds used in the informal currency swap.

A. Accumulated Employment Income

The Petitioner claimed that the funds invested into the NCE on May 4, 2016, originated from her husband's accumulated salaries and bonuses from 2010 to 2015 while he worked at [redacted] Corporation [redacted] in China. The Petitioner asserted that "the use of [her husband's] net income is solely for the purposes of investment" while her own income working as a professor in a medical college was

[2] On appeal, the Petitioner attributes these discrepancies on the visa applications as "an honest mistake" due to her limited English proficiency. In light of our discussion on the lawful source of funds, we will reserve our opinion on this issue for future consideration should the needs arise. *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).

utilized for living expenses and other costs.[3] However, the Petitioner's claims are not supported by relevant and credible evidence.

The Petitioner provided a chart itemizing the husband's salaries and bonuses, claiming that her husband's net income from 2010 to 2015 amounted to Chinese Renminbi (RMB) 4,569,533.27, which equates to "roughly $696,957.73 using present day currency conversion rates." The Petitioner also submitted her husband's employment certificate, tax payment certificates, and pay records from [redacted] from 2010 to 2015.[4] However, the Petitioner did not identify the specific bank account(s) in which her husband's earnings and bonuses were accumulated over time and did not submit bank statements from the relevant time period showing salary deposits from the husband's employer.

Initially, the Petitioner provided partial bank transaction records from two different [redacted] accounts in the United States, jointly held by the Petitioner and her husband, with account numbers ending in [redacted] and [redacted]. The records only showed transactions occurred in 2015 and did not show any salaries or bonuses from the husband's employer between 2010 to 2015; instead, the documents displayed various deposits in the amount of approximately $50,000 from third-party exchangers involved in the Petitioner's currency swap and other unidentified individuals. According to these transaction records, the Petitioner had a balance of $52,281.11 as of May 27, 2015, in [redacted] checking account and $926,439.94 as of December 31, 2015, in [redacted] savings account.

In the request for evidence (RFE), FOD sought evidence that the Petitioner's husband earned enough income to maintain a savings account balance over $900,000 as of December 2015, as shown in [redacted] account. The Petitioner did not directly respond to this inquiry but claimed that "in addition to employment income, [the Petitioner and her husband] also have other investments including real estate holdings in China," and offered real estate registration of holdings in China. It is unclear whether the Petitioner changed the source of her funds to include their real estate holdings, in addition to her husband's salaries and bonuses.

Furthermore, when FOD questioned incongruent cash balances shown in bank transaction records of [redacted] and [redacted] in relation to the incoming deposits and asked for complete bank statements of the Petitioner's [redacted] accounts from January 1, 2015 to the time of her investment on May 4, 2016, the Petitioner responded that she closed her [redacted] and [redacted] accounts in November 2016[5] and transferred the funds to [redacted] and [redacted] accounts. Then the Petitioner stated that she was unable to obtain [redacted] bank statements from 2015 and 2016 as [redacted] could only provide statements for the past seven years. However, in visa petition proceedings, the Petitioner bears the burden of establishing eligibility for the benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *see also Matter of Brantigan*, 11 I&N Dec. 493, 495 (BIA 1966). As the Petitioner is required by 8 C.F.R.

[3] While responding to FOD's probe into the inconsistent statements regarding her past employment, the Petitioner asserted that she took a leave of absence from work starting August 2014 and resigned from her position in March 2015. The Petitioner has not explained whether her husband's income was used to cover the living expenses during this time and whether this impacted the accumulation of her husband's income for the purpose of the investment.

[4] The English translation of the pay records from [redacted] is not a complete and accurate translation as it does not follow the same formatting of the original document and leaves out several columns.

[5] The letter dated July 25, 2024, from the [redacted] indicates that the Petitioner's and her husband's "account(s) ending in [redacted] and [redacted] were closed as of November 6, 2017, with a zero balance."

§ 204.6(j)(3) to show the lawful source of the funds by submitting "documentation identifying sources of the capital," the Petitioner has not met her burden.

In her RFE response, the Petitioner offered copies of bank statements from her husband's [redacted] account [redacted]) and her own [redacted] account ([redacted]). Although the Petitioner did not specifically identify either of these as the account where her husband's salaries and bonuses were accumulated and maintained, [redacted] account statements display several deposits labelled as "payroll" and "labor fee" from [redacted] Corporation (or other entities bearing the name of [redacted]. However, these bank statements only cover the period from January 2015 to May 2016 and prior statements from 2010 to 2014 are not in the record. As such, the Petitioner has not sufficiently demonstrated that the husband's earnings and bonuses have accumulated to the claimed amount of RMB 4,569,533.27 over the course of five years. In addition, the husband's [redacted] account statements contain other transactions, such as deposits labelled as "Bank-Securities Transfer (Third-Party Custody)" in large sums, several unexplained "internal transfer" deposits from the Petitioner herself, and other "internal transfer" deposits from unidentified individuals, leading up to the date of investment on May 4, 2016. These transaction records raise doubts on whether the investment funds are solely sourced in accumulation of the husband's wages from [redacted] as claimed or include other sources that are not explained by the Petitioner.

Based on the various inconsistencies and unresolved questions as discussed above, we agree with FOD's conclusion that the Petitioner did not establish that her investment funds came from a lawful source. The record did not contain bank statements from the relevant time period to support her claim that the husband had accumulated the claimed amount of RMB $4,569,533.27 from his employment before the investment occurred in May 2016. The Petitioner must resolve inconsistencies in the record with independent, objective evidence pointing to where the truth lies. *See Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Here, the Petitioner has not done so.

B. Informal Currency Swap

The Petitioner claimed that China restricts currency exchanges to $50,000 per individual per year and in order to circumvent these restrictions, the Petitioner enlisted the help of 11 individuals who purportedly agreed to exchange her RMB funds and remit U.S. dollars (USD) to her bank accounts in the United States. The Petitioner shared the names of these 11 individuals but did not provide their identification documents or the currency swap agreements. Instead, the Petitioner provided "Money Trace Summary" document and wire transfer records for all 11 individuals who purportedly assisted in this informal currency exchange. The wire transfer records indicate that each exchanger received money in RMB from the Petitioner's [redacted] or [redacted] account in China, and each individual transferred approximately $50,000 in USD to either of the Petitioner's [redacted] or [redacted] account in the United States. The Petitioner also provided partial bank transaction records from [redacted] or [redacted], showing deposits from these exchangers from January 2015 to December 2015.

However, the Petitioner has not demonstrated, by a preponderance of the evidence, the path and lawful source of the funds used in this informal currency swap. The Petitioner has not produced sufficient documentation, such as bank statements from these exchangers, to demonstrate the lawful source of the USD funds remitted to [redacted] and [redacted] bank accounts or provide evidence that a lawful currency exchange took place. The record must trace the path of the funds back to a lawful source.

Ho, 22 I&N Dec. at 210-11; *Izummi,* 22 I&N Dec. at 195. Moreover, the Petitioner's bank statements show that in addition to the named individuals who acted as money exchangers, there are other unidentified individuals with unexplained USD deposits into the [redacted] accounts. Bank letters or statements corroborating the deposit of funds by themselves are insufficient to demonstrate their lawful source. *Id.* As such, these bank records do not indicate the origin of the USD funds and therefore do not document the complete path of funds.

The plain language of 8 C.F.R. § 204.6(e) and (j)(3) supports that petitioners identify the source of funds, which is demonstrated through documentation evidencing the complete path of the funds. *See Truong v. USCIS*, No. 21-316, 2023 WL 4232658, at 5 (D.D.C. June 28, 2023). The relevant path includes tracing the funds from their point of origin though any intermediary accounts. *See id.* at 6. USCIS' complete path interpretation of the regulations is its authoritative position as explained in the 1990 precedential decisions. *Borushevskyi v. USCIS*, 664 F. Supp. 3d 117, 129 (D.D.C. 2023), *aff'd*, 2024 WL 2762146 (D.C. Cir. May 30, 2024); *see also Nguyen v. United States Citizenship & Immigr. Servs.*, 637 F. Supp. 3d 822, 835 (C.D. Cal. 2022) (affirming USCIS's denial of petitioner application where the petitioner's transfer of funds to a currency exchange "caus[ed] a clear break in the source, custody, and ownership of Plaintiff's funds," and that there therefore was no evidence that the funds invested "were obtained from a lawful source"), *aff'd*, No. 22-56068, 2023 WL 8251320 (9th Cir. Nov. 29, 2023). These decisions require the Petitioner to document the path of funds to establish the lawful source of the funds invested in the NCE.

In the present case, the Petitioner has not adequately addressed the intermediary accounts through which the funds moved through, including the third-party exchangers that the Petitioner utilized to exchange the funds in RMB to U.S. dollars. The bank statements or the chart do not indicate the source of the USD funds or provide evidence that a lawful currency exchange took place. Therefore, we conclude that the Petitioner has not sufficiently documented the path or source of the swapped funds which were later remitted to the Petitioner as her EB-5 investment fund.

III. CONCLUSION

As the evidence in the record does not sufficiently demonstrate the lawful source of funds, we conclude that the Petitioner has not established by a preponderance of the evidence that she is eligible for the immigrant investor visa classification.

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