U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39544978

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) (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 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 funds he invested into [redacted] LP, an NCE associated with [redacted].[2] 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. 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).

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[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 INA 203(b)(5), 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 his petition prior to the enactment of the RIA, the relevant law then in existence governs this appellate adjudication.

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

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 other documentation identifying sources of the invested 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; the record must trace the complete path of the funds back to a lawful source.[3] *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. 169, 195 (Assoc. Comm'r 1998).

II. ANALYSIS

The Petitioner asserts that he invested $500,000[4] into the NCE on November 29, 2016. According to its business plan, the NCE proposes to pool $300 million from 600 immigrant investors, and to loan these funds to the job-creating entity, [redacted] LLC, for the development and construction of a mixed-used complex that will include a luxury hotel, condominium apartments, two retail centers, and parking facilities in [redacted], California.

The Petitioner asserts that the sole source of his $500,000 investment was a gift from his mother. He claims that he purchased a residential property in [redacted], China for 383,248 Chinese renminbi (RMB) using his accumulated employment earnings for the downpayment and mortgage, and that he later transferred ownership of the property to his mother in December 2009, shortly after he paid off the mortgage loan. On November 15, 2016, the Petitioner's mother obtained a pawn brokerage loan in the amount of RMB 3,950,000 (approximately $583,333), which was secured by the same property. She gifted the full amount of the loan proceeds to the Petitioner to use the funds for his EB-5 investment.[5] To do so, she exchanged the funds for U.S. currency with the assistance of 11 friends and family members in China. The U.S.-denominated funds were ultimately deposited in the Petitioner's [redacted] bank account ending in [redacted] and transferred to the NCE's designated bank account on November 29, 2016.

The Petitioner has sufficiently documented his original ownership of the [redacted] property, and his transfer of ownership to his mother in 2009. He also provided evidence of the RMB 3,950,000 pawn brokerage loan his mother secured with the property, and the deposit of the loan proceeds in her

[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 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] The record includes a declaration signed by the Petitioner and his mother, in which she explains that the RMB 3,950,000 was given to him freely and irrevocably to use the funds for his immigrant investor petition.

account at [redacted] on November 15, 2016. Finally, the record documents the transfer of those funds from his mother's account to the Petitioner and 11 other individuals who helped exchange the RMB-denominated currency to U.S. dollars through their Chinese banks, to the Petitioner's [redacted] account, and finally to the NCE's bank account.

In its decision, FOD determined that the record, including the Petitioner's initial evidence and response to a notice of intent to deny (NOID), did not demonstrate that he accrued and maintained sufficient lawful funds to purchase the [redacted] property in 2003 and repay the associated mortgage loan in 2009. FOD emphasized that the record lacked complete bank records for the relevant period, copies of the Petitioner's social insurance and tax records, and other relevant evidence to corroborate the information contained in employment certificates issued by the two Chinese companies that employed him between 1999 and 2009.

On appeal, the Petitioner asserts that FOD did not apply the preponderance of the evidence standard and based the denial, in part, on his failure to provide evidence that is either not reasonably available due to the passage of time, or not relevant to his eligibility. He also indicates that he has been able to obtain additional bank and income records which demonstrate his accumulated employment earnings in China were the sole source of funds he used to purchase the [redacted] property that ultimately secured his mother's RMB 3,950,000 loan.

Despite the Petitioner's submission of additional evidence on appeal, we conclude that the record does not establish, by a preponderance of the evidence, that the funds he used to purchase the [redacted] property were obtained through lawful means. As noted above, an investor must document the complete path of the funds invested back to a lawful source. *Borushevskyi v. USCIS*, 664 F. Supp. 3d at 129; *see also Matter of Ho*, 22 I&N Dec. at 210-11; *Matter of Izummi*, 22 I&N Dec. at 195. As the [redacted] property secured the loan that served as the indirect source of the funds used for his EB-5 investment, it is the Petitioner's burden to demonstrate the lawful source of the funds he used to purchase it. Here, the record does not sufficiently document the Petitioner's claimed accumulation and retention of sufficient employment earnings to purchase the [redacted] property in 2003 and to pay off the property's mortgage in 2009.

A. Source of funds for RMB 83,248 downpayment on [redacted] property

The Petitioner states that he earned RMB 2,919,208 (approximately $442,303) between 1999 and 2009, during which time he worked for [redacted] Ltd ([redacted]) from December 1999 to April 2002, and for [redacted] Ltd ([redacted]) from April 2002 to December 2009.

He claims that he paid the RMB 83,248 downpayment on the [redacted] property in cash using employment earnings from both [redacted] and [redacted] that he accumulated between December 1999 and September 2003.

To document his employment with [redacted], which closed its operations in 2008, the Petitioner has submitted declarations from a former employee of that company, copies of his labor contracts for the period December 1999 through April 2002, and records from the [redacted] which shows that [redacted] made payments on his behalf between January 2000 and March 2002. On appeal,

the Petitioner asserts that his salary earnings from [redacted] were deposited into an account at [redacted] ending in [redacted] between June 2001 and April 2002.[6] The bank statement for this account shows the Petitioner received RMB 31,107.92 in salary payments during this period. The [redacted] account had a balance of RMB 2656.65 when the Petitioner received his last payment on April 29, 2002, and a balance of RMB 178.81 as of July 1, 2003. Based on this evidence, the Petitioner has not shown that he retained his employment earnings from [redacted] to use towards the RMB 83,248 downpayment he made on the [redacted] property in September 2003.

The Petitioner documented his employment with [redacted] by providing employment certificates from the company, tax and social insurance records, and other relevant evidence. The Petitioner states that between May 2002 and November 2005, his salary from [redacted] was deposited into his [redacted] account ending in [redacted] and from December 2005 through October 2009, he received his salary payments in a [redacted] account ending in [redacted].

The Petitioner's [redacted] statement shows regular salary deposits made to his account and does not indicate any incoming funds from other sources. However, this evidence does not show that the Petitioner accumulated and maintained sufficient employment income to pay the RMB 83,248 downpayment on the [redacted] property in September 2003. The property seller issued the Petitioner an invoice in this amount on September 16, 2003. On that date, the Petitioner had a balance of RMB 1328.29 in his [redacted] account. Further, the total amount deposited to this account between May 2002 and September 2003 was RMB 71,913.62,[7] and the highest daily balance recorded was RMB 12,365.47. As noted, the Petitioner claims that he paid the RMB 83,248 downpayment on the [redacted] property in cash; however, he has not shown that the claimed cash payment was withdrawn from salary income he accumulated in this account.

For the foregoing reasons, the Petitioner has not met his burden to show his employment income was the sole source of the funds he used to pay the downpayment on the [redacted] property in September 2003, as claimed, nor has he otherwise established the lawful source of funds used for this portion of the property purchase.[8]

B. Source of funds used to pay RMB 300,000 mortgage loan

The record shows that the Petitioner took out a RMB 300,000 mortgage loan in February 2004 to pay the remainder of the RMB 383,248 purchase price of the [redacted] property. The Petitioner states that all monthly payments, and a final lump sum prepayment of RMB 238,794.85 paid on November 25, 2009, were debited from a [redacted] account ending in [redacted], which he opened in January 2004 specifically for the purpose of making loan repayments.

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[6] The Petitioner indicates that he could not obtain bank records for any accounts he used prior to 2001.

[7] The submitted "Work and Income Certificate" the Petitioner provided from [redacted] indicates that his earnings were RMB 39,200 in 2002 and RMB 59,117.67 in 2003.

[8] While the record shows that the Petitioner was married in 2003 and his ex-spouse was named as a co-borrower on the submitted mortgage loan contract, he has consistently stated that his own income was the sole source of funds used to purchase the apartment in [redacted]. The record, which includes the Petitioner's divorce certificate, shows that he retained ownership of the property when the couple divorced in [redacted] 2005.

The Petitioner explains that "[d]ue to the modest monthly repayment amount, over a period of 69 months, from March 2004 to November 2009, I ensured sufficient funds in Chinese Yuan were withdrawn in cash – typically RMB 2,000, from my salary accounts and then deposited into this 6913 Account in advance." The bank statements show regular RMB 2000 cash deposits and regular monthly debits that range from approximately RMB 1825 to RMB 1975, many of which are annotated as "repayment of housing provident fund loan." Moreover, the two bank accounts the Petitioner used for receipt of his salary payments between 2004 and 2009 (the [redacted] account ending in [redacted] and the [redacted] account ending in [redacted] show sufficient funds to pay the monthly mortgage payments and reflect regular RMB 2000 cash withdrawals. The evidence is sufficient to show that the Petitioner, more likely than not, made the monthly mortgage payments using his employment income.

However, the record does not sufficiently demonstrate the source of funds the Petitioner used to make the final payment of RMB 238,794.85 from his [redacted] account ending in [redacted] on November 25, 2009. An updated source of funds flowchart submitted on appeal states that the Petitioner withdrew the funds needed to make the final payment from his [redacted] account ending in [redacted]. Specifically, it indicates he withdrew RMB 140,000 in cash on July 11, 2009, and an additional RMB 160,000 on August 24, 2009. The chart states that he used these same funds to make six cash deposits (RMB 221,999 in total) into his [redacted] account between November 14, 2009, and November 19, 2009, and that these deposits, combined with his earlier cash deposits to the account, were sufficient to pay the RMB 238,784.85 loan payoff amount.

Although the Petitioner has submitted a new declaration on appeal, his statement does not corroborate the details provided in the updated flowchart or confirm that the RMB 300,000 he withdrew from his [redacted] account in July and August 2009 were the same funds he deposited into his [redacted] account in November 2009 to pay off the mortgage loan. He simply states that he "paid off the loan of RMB 238,794.85 via my [redacted] account ending in [redacted]" and that all funds related to the [redacted] property purchase "came solely from my accumulated earnings."

The Petitioner's appellate brief highlights the following cash deposits to the Petitioner's [redacted] account:

Date	Amount (in RMB)
November 14, 2009	37,000
November 14, 2009	49,999
November 18, 2009	30,000
November 19, 2009	25,000
November 19, 2009	10,000
November 19, 2009	70,000
	Total: 221,999

The [redacted] bank statement shows cash deposits made to the account on these dates. However, as noted, the record does not contain sufficient evidence to show these desposits were derived from the funds the Petitioner withdrew from his [redacted] account in July and August 2009 or otherwise document the source(s) of these six cash deposits.[9]

[9] The evidence submitted on appeal shows that the balance of the Petitioner's [redacted] account ending in [redacted] was consistently below RMB 12,500 for the entire month of November 2009.

Further, the [redacted] bank statement shows two cash withdrawals totaling RMB 45,000, which preceded the Petitioner's transfer of RMB 238,794.85 to pay off the mortgage loan.[10] Even if the record sufficiently corroborated that the six cash deposits made to this account in November 2009 were solely derived from the Petitioner's employment income as claimed, he would need to account for the source of the funds that replaced the RMB 45,000 he withdrew. In addition, the [redacted] account had a balance of only RMB 234.97 as of November 14, 2009. Therefore, the six deposits referenced above would have been insufficient to pay the entire amount due on the mortgage.

Finally, the [redacted] bank statement shows that the remaining funds used to settle the mortgage loan were derived from an RMB 70,000 transfer deposit made on November 18, 2009, which came from an account owned by [redacted] who is identified elsewhere in the record as the Petitioner's friend. The Petitioner does not mention or explain this transfer transaction in his updated declaration or brief and has not established the lawful source of Mr. [redacted] funds.

For the reasons discussed, the record does not sufficiently trace the funds used for prepayment of the mortgage loan for the [redacted] property back to the Petitioner's own employment income or another lawful source.

The Petitioner emphasizes on appeal that he earned nearly RMB 2 million through his employment with [redacted] between 2002 and 2009 and reasonably had sufficient funds to pay for the [redacted] property, including the down payment, the mortgage payments, and the full mortgage prepayment amount. However, it remains his burden to support his claim with evidence that those earnings were in fact used to fund the property purchase. While he has submitted additional relevant evidence on appeal, the new evidence is insufficient to meet that burden and in fact tends to undermine his claim that his accumulated employment income was the sole source of funds used to purchase the property.

Overall, the submitted evidence presents an incomplete and insufficient picture of the source and accumulation of the funds the Petitioner used to purchase the [redacted] property. That property secured the loan that enabled the Petitioner's mother to make an RMB 3,950,000 gift to him to use as his investment. Therefore, the source of funds used to purchase the property is a relevant inquiry, and the Petitioner has the burden to demonstrate that the funds he used to purchase the property did derived from lawful sources. While we acknowledge the passage of time since the possible creation of certain relevant documents, we conclude that without additional corroborating evidence, the record lacks sufficient evidence confirming that the Petitioner's purchase of the [redacted] property was fully financed by his lawful employment earnings, as claimed. *See Matter of Ho*, 22 I&N Dec. at 210-11; *Matter of Izummi*, 22 I&N Dec. at 195; *see also Mo v. USCIS*, 2024 WL 804267, *6 (D.D.C. Feb. 27, 2024) (noting that USCIS did not err in requesting proof of household expenditure from 20 years ago).

C. Source of funds related to third-party transactions

While not addressed in FOD's decision, the record contains additional evidentiary deficiencies related to the source of funds used for the Petitioner's claimed investment in the NCE which he would need to address in any future proceedings.

[10] These included a RMB 40,000 withdrawal on November 17 and an RMB 5,000 withdrawal on November 19, 2009.

Specifically, Petitioner has not submitted sufficient evidence relating to the three [redacted] bank accounts used to consolidate the funds that his friends and family members exchanged from RMB to USD currency and transferred out of mainland China in November 2016. The Petitioner submitted "Historical Transfer Remittance Records" for [redacted] accounts ending in [redacted], and [redacted] which belong to the Petitioner, his spouse, and his mother-in-law respectively. All three accounts received transfers of USD-denominated funds between November 11 and November 25, 2016. Ultimately, all these funds were deposited in the Petitioner's [redacted] account ending in [redacted] and then transferred to the NCE on November 29, 2016.

While the Petitioner has submitted sufficient evidence to trace these funds back to the proceeds of the pawn brokerage loan obtained by his mother and gifted to him, the record does not contain bank statements for any of these accounts and therefore does not establish that the loan proceeds were the sole source of the funds transferred to the NCE's account. In the NOID, FOD requested additional evidence related to these [redacted] accounts, including "at least three months of complete bank statements" preceding the currency exchange transactions, noting that the Petitioner should identify the sources of any other funds held in the accounts ending in [redacted] and [redacted] Although the Petitioner responded to the NOID, he did not address this request, and the record remains deficient in this regard. The submitted Historical Transfer Remittance Records for the month of November 2016 are not complete bank statements and do not show whether there was a balance in one or more of the accounts at the time the Petitioner's friends and family members transferred the USD-denominated funds from China.

For all the reasons discussed above, the Petitioner has not established that the funds he invested in the NCE were obtained through lawful means.[11]

III. CONCLUSION

It is the Petitioner's burden to demonstrate his eligibility for the immigrant investor classification, which includes establishing the lawful source of the funds used for his purported 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 met this burden.

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] In its decision, FOD addressed additional evidentiary deficiencies related to the Petitioner's source of funds not discussed in this decision, including whether the record adequately supported the Petitioner's claim that, by June 2017, he had repaid the pawn brokerage loan his mother secured with the [redacted] property. Because the Petitioner, for the reasons already discussed, did not establish his eligibility for EB-5 classification, we decline to address these additional issues. *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). Instead, we reserve any additional issues related to the source of funds for future consideration should the need arise.

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