U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38241566

Date: SEP. 17, 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 (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, in part, that the petitioner did not document the lawful source of the funds he claimed to have invested into [redacted] (the NCE), which is associated with [redacted][2] The Petitioner subsequently filed a motion to reopen and reconsider, which FOD dismissed on the same grounds. 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) (2019).

---

[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) (2019).

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. According to its business plan, the NCE proposes to pool $50 million from 100 immigrant investors, and to loan these funds to the job-creating entity, [redacted] for the development and construction of a multi-function complex located in [redacted] Georgia.

According to the Petitioner, the sole source of his $500,000 investment was a gift from his father-in-law. He indicates that in August 1999, his father-in-law purchased a residential property in [redacted] China for 33,114.34 Chinese renminbi (RMB) using his accumulated employment earnings. In August 2016, the Petitioner's father-in-law mortgaged that property to obtain a bank loan in the amount of RMB 3.8 million, exchanged those funds for U.S. currency with the assistance of 11 friends and family members, and gifted $551,000 to the Petitioner to invest in the NCE. The record includes a September 2016 gift agreement signed by the Petitioner and his father-in-law, which states there is no expectation of repayment.

The Petitioner has sufficiently documented that his father-in-law purchased the [redacted] property for RMB 33,114.34 in 1999 and remained its registered owner in August 2016. He also provided evidence of the RMB 3.8 million bank loan his father-in-law secured with that property, and the deposit of the loan proceeds to his father-in-law's account at [redacted] Finally, the record documents the path of those funds from his father-in-law's account through the 11 individuals who helped exchange RMB-denominated currency to U.S. dollars, to the Petitioner's [redacted] account, and finally to the NCE's designated escrow account.
In its decisions denying the petition and dismissing the Petitioner's subsequent motion, FOD highlighted a lack of sufficient documentation showing that the Petitioner's father-in-law had retained

[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).

and accumulated sufficient employment earnings to purchase the [redacted] property for RMB 33,114.34 in August 1999.[5] Accordingly, FOD concluded the record did not show that he purchased the property using only lawfully sourced funds.[6]

On appeal, the Petitioner asserts that he has submitted "extensive documentation" supporting his father-in-law's employment history and income. He maintains that overall, the evidence shows his father-in-law's long-term employment and successful career in publishing, such that "a reasonable person" would conclude he had accumulated sufficient lawful income to purchase the [redacted] property.

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 his father-in-law used to purchase the 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. Here, the record does not sufficiently document the Petitioner's father-in-law's claimed earnings and the accumulation of the funds necessary to purchase the [redacted] property.

The testimonial evidence in the record is consistent and indicates that the Petitioner's father-in-law worked as the general manager of a subsidiary of [redacted] between October 1992 and December 1998, and that he earned an annual after-tax salary of RMB 18,000 during this period. This evidence includes declarations from the Petitioner's father-in-law, two former colleagues, and the employer. While these statements are consistent, they lack specificity and detail regarding the source of the authors' knowledge. The father-in-law's former employer did not indicate, for example, that the company maintains salary information from that period in its personnel, tax or accounting records or provide copies of such records. In one of his own declarations, the Petitioner's father-in-law explained that his co-worker [redacted] was able to verify his approximate annual salary because their employer was a state-owned enterprise, for which "salary scales are transparent and tied to specific job titles." However, the record does not contain evidence documenting the applicable salary scales, nor did the letters from the father-in-law's former co-workers, who purported to have direct knowledge of his salary in the 1990s, refer to these salary scales.

In addition, to the extent that the Petitioner was able to provide independent evidence to corroborate his father-in-law's earnings prior to the property purchase, that evidence does not substantiate the claims made in the testimonial evidence.

---

[5] Although the sales agreement for the [redacted] property is dated August 26, 1999, the record includes two receipts from the [redacted] Finance Bureau indicating that the Petitioner's father-in-law paid RMB 1,000 in "Property Purchase Front Money" on May 27, 1998, and RMB 32,114.34 in "Property Purchase Funds" on June 19, 1998.

[6] FOD also found there were unresolved discrepancies regarding the identity of the father-in-law's employer during the 1990s. We note that the record, including supplemental evidence provided on appeal, demonstrates that any inconsistencies are, more likely than not, attributable to differences in the English translations of the company's Chinese name. The Petitioner provided sufficient evidence to demonstrate that the Petitioner's father-in-law worked as the general manager for [redacted] a former wholly owned subsidiary of [redacted] (currently known as [redacted]. that operated between 1992 and 2013.

The record includes translated copies of monthly payroll signature sheets for the years 1999 and 2000 which identify the paying entity as [redacted][7] These reports indicate the Petitioner's father-in-law received total payments of RMB 17,432 in 1999 and RMB 21,420 in 2000. However, these earnings post-date his payment of RMB 33,114.34 to the seller of the [redacted] property in June 1998. The record does not include similar payroll evidence corroborating his father-in-law's claimed earnings for the period 1992 through 1998.[8]

The Petitioner has also provided three "Individual Call Deposit Statements" for an [redacted] account owned by his father-in-law. He claims the statements show his father-in-law's incoming salary deposits for the years 1998, 1999 and 2000. The deposit statement for 1998 shows 13 incoming transfers to this account between January and December, with total deposits of RMB 14,606.75. The statement does not identify the source of the incoming deposits. However, we compared the incoming deposits on the 1999 deposit statement to the 1999 payroll signature sheets from [redacted] and conclude that the monthly bank deposits generally correspond to the monthly "total payable" amounts stated in the company's payroll documents.[9]

Assuming the RMB 14,606.75 deposited into the father-in-law's [redacted] account in 1998 was his salary from [redacted], we note this amount is approximately 18 percent lower than the RMB 18,000 he purportedly earned during that year. For 1999, the total amount payable to the Petitioner's father-in-law, according to his employer's payroll statements, was also less than RMB 18,000, and the total amount deposited to his [redacted] account was just under RMB 16,000. Therefore, to the extent that the Petitioner was able to provide objective evidence of his father-in-law's earnings corresponding to the time of the property purchase, that evidence does not corroborate the testimonial evidence, which indicates he consistently earned an annual, post-tax salary of RMB 18,000 between 1992 and 1998.

The record lacks any corroborating evidence documenting the father-in-law's claimed employment earnings during the period 1992 through 1997. However, based on the payments he received in 1998, 1999 and 2000, the record suggests that he likely received incremental salary increases from year-to-year between 1992 and 1997, and did not earn a salary of RMB 18,000 or higher until 2000. As a result, the testimonial evidence indicating that the Petitioner's father-in-law earned RMB 18,000 in each year between 1992 and 1998 has limited probative value.

---

[7] According to a declaration from the Petitioner's father-in-law submitted in support of the appeal, he remained on the payroll of the parent entity, [redacted] during his tenure working for the subsidiary, [redacted] starting in October 1992. He states that he primarily received income from the parent along with an additional "post allowance" from the subsidiary, which he claims he received in cash. However, this "post allowance" (RMB 300 per month) is a line item on the payroll signature sheets and listed as part of the "total payable" amount he received from the parent entity.

[8] Although the record indicates the Petitioner's father-in-law was employed prior to 1992, the statements in the record specify that he used his retained earnings for the period 1992 to 1998 to purchase the [redacted] property.

[9] The amounts deposited in the father-in-law's [redacted] account in 1999 were consistently lower than those reported on the corresponding payroll sheets, suggesting that the "total payable" amount reported in the payroll documents may have reflected pre-tax income. For example, according to the payroll documents, the "total payable" amounts for the last three months of 1999 were RMB 2489, RMB 1589 and RMB 1589, while the amounts deposited into the father-in-law's [redacted] bank account for October, November and December 1999 were RMB 2280, RMB 1443.65 and RMB 1443.65, respectively.

The record similarly lacks independent evidence documenting the Petitioner's father-in-law's claimed maintenance and accumulation of savings, such as bank statements showing his retention of funds over the course of his employment. On appeal, the Petitioner provides a new statement from his father-in-law, who clarifies that he paid for the property purchase in cash, and notes that in the 1990s, cash was the primary payment system in China. He states that he typically withdrew his salary from the bank each month, used cash for purchases, and kept any leftover cash in his home.

However, as discussed, the record does not sufficiently document the father-in-law's actual net earnings during the relevant period, and the evidence submitted suggested that his total earnings during this period were, more likely than not, lower than claimed in the record.[10] The declaration from his father-in-law likewise does not state how much he was able to save from his monthly pay, on average. The record also lacks any information regarding the household's expenses or any other sources of household income between 1992 and 1998 and does not otherwise support the Petitioner's claim that his father-in-law had sufficient lawful earnings, after expenses, to finance a cash purchase of a property for RMB 33,114.34 as of June 1998.

On appeal, the Petitioner references recent district court decisions holding that the regulation requiring a petitioner to show that invested funds were obtained through lawful means does not require tracing of funds beyond their immediate source. *See Battineni v. Mayorkas*, 752 F.Supp.3d 195 (D.D.C. 2024); *Zhou v. Noem*, No. 19-2650, 2025 WL 416152 (D.D.C. Feb. 6, 2025). He asserts that he is not required to provide his father-in-law's full financial history since he demonstrated that the immediate source of the funds used for his investment was the gift from his father-in-law.

However, other district court decisions have found that petitioners must show the complete path of funds. *See Truong v. USCIS*, No. 21-316 (RC), 2023 WL 4234658, at *5 (D.D.C. Jun. 28, 2023); *Nguyen v. USCIS*, 637 F.Supp.3d 822 (C.D. Cal. 2022). In contrast to the precedential authority of the case law of a U.S. circuit court, we are not bound to follow the published decision of a U.S. district court in cases arising within the same district. *See Matter of K-S-*, 20 I&N Dec. 715 (BIA 1993). Further, the D.C. Circuit Court has affirmed a district court decision that held USCIS' complete path interpretation of the regulations is its authoritative position as explained in the precedential decisions. *Borushevskyi v. USCIS*, 664 F.Supp.3d 117, 126-29 (D.D.C. 2023), *aff'd*, No. 23-5116, 2024 WL 2762146 (D.C. Cir. May 30, 2024); *see also Nguyen v. USCIS*, 637 F.Supp.3d 822, 835 (C.D. Cal. 2022) (affirming USCIS's denial of the petition where the petitioner's transfer of funds to a currency exchange "caus[ed] a clear break in the source, custody, and ownership of [the petitioner's] funds" and therefore there was insufficient 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.

The plain language of 8 C.F.R. § 204.6(e) and (j)(3) supports FOD's requirement that petitioners identify the source of funds, which is demonstrated through documentation evidencing the complete path of the funds. *See Truong v. USCIS*, 2023 WL 4234658, at *5. Moreover, the record must trace the path of the funds back to a lawful source. *Matter of Ho*, 22 I&N Dec. at 210-11; *Matter of Izummi*,

[10] The father-in-law's total claimed salary earnings between October 1992 and June 1998 would have been approximately RMB 103,500, if he earned RM 18,000 annually as claimed.

22 I&N Dec. 169, 195 (Assoc. Comm'r 1998); *see also Matter of Soffici*, 22 I&N Dec. 158, 165 (Assoc. Comm'r 1998) (stating documentation of the source of funds "is relevant to the question of whether the funds have been lawfully obtained, which is a requirement under 8 C.F.R. § 204.6(j)(3)").

Here, for the reasons discussed, the submitted evidence presents an incomplete and insufficient picture of the source and accumulation of the funds used by the Petitioner's father-in-law to purchase the [redacted] property. That property secured the loan that enabled the father-in-law to make a $551,000 gift to the Petitioner 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 his father-in-law used to purchase that property did not derive from an unlawful source.

Finally, the Petitioner asserts that the passage of time since his father-in-law's employment with [redacted] and purchase of the [redacted] property meant that he no longer had bank, tax and other records and other documentation to support his assertions. 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 father-in-law'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).

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

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