



U.S. Citizenship
and Immigration
Services

March 1, 2017

Wayne Rosen
Leaf Fischer Investment Group – **Designation Terminated**
2999 NE 191 Street, Suite 409
Aventura, FL 33180

NOTICE OF TERMINATION

This letter shall serve as notification that U.S. Citizenship and Immigration Services (“USCIS”) has terminated the designation of Leaf Fischer Investment Group, LLC (the “Regional Center”) as a regional center under the Immigrant Investor Program (the “Program”) pursuant to Title 8 of the Code of Federal Regulations (“8 C.F.R.”) section 204.6(m)(6).

The regulation at 8 C.F.R. § 204.6(m)(6) (*Continued participation requirements for regional centers*) provides:

(i) Regional centers approved for participation in the program must:

- (A) Continue to meet the requirements of section 610(a) of the Appropriations Act.
- (B) Provide USCIS with updated information annually, and/or as otherwise requested by USCIS, to demonstrate that the regional center is continuing to promote economic growth, including increased export sales, improved regional productivity, job creation, and increased domestic capital investment in the approved geographic area, using a form designated for this purpose; and
- (C) Pay the fee provided by 8 CFR 103.7(b)(1)(i)(XX).

(ii) USCIS will issue a notice of intent to terminate the designation of a regional center in the program if:

- (A) A regional center fails to submit the information required in paragraph (m)(6)(i)(B) of this section, or pay the associated fee; or

(B) USCIS determines that the regional center no longer serves the purpose of promoting economic growth, including increased export sales, improved regional productivity, job creation, and increased domestic capital investment.

(iii) A notice of intent to terminate the designation of a regional center will be sent to the regional center and set forth the reasons for termination.

(iv) The regional center will be provided 30 days from receipt of the notice of intent to terminate to rebut the ground or grounds stated in the notice of intent to terminate.

(v) USCIS will notify the regional center of the final decision. If USCIS determines that the regional center's participation in the program should be terminated, USCIS will state the reasons for termination. The regional center may appeal the final termination decision in accordance with 8 CFR 103.3.

(vi) A regional center may elect to withdraw from the program and request a termination of the regional center designation. The regional center must notify USCIS of such election in the form of a letter or as otherwise requested by USCIS. USCIS will notify the regional center of its decision regarding the withdrawal request in writing.

I. Procedural History

On December 3, 2012, USCIS designated and authorized the Regional Center's participation in the Program.

On June 27, 2014, USCIS issued a Notice of Intent to Terminate ("the 2014 NOIT") to the Regional Center for failure to file a Form I-924A for fiscal year 2014. The 2014 NOIT afforded the Regional Center 30 days from receipt of the NOIT to offer evidence in opposition to the grounds alleged in the NOIT. On July 11, 2014, USCIS received a response to the NOIT (the "2014 NOIT Response"), which sufficiently addressed the grounds alleged in the NOIT.

On May 3, 2016, USCIS issued a Notice of Intent to Terminate ("the 2016 NOIT") to the Regional Center for failure to promote economic growth. The 2016 NOIT afforded the Regional Center 30 days from receipt of the NOIT to offer evidence in opposition to the grounds alleged in the NOIT. On June 1, 2016, USCIS received a response to the NOIT (the "2016 NOIT Response"), which did not sufficiently address the grounds alleged in the NOIT.

Accordingly, USCIS has determined that the Regional Center's participation in the Program should be terminated. Pursuant to 8 C.F.R. § 204.6(m)(6)(v) and through this Notice of Termination, USCIS hereby terminates the Regional Center's participation in the Program.

II. Reasons for Termination

USCIS has determined that the Regional Center no longer serves the purpose of promoting economic growth, including increased export sales, improved regional productivity, job creation, or increased domestic capital investment as required by 8 C.F.R. § 204.6(m)(6).

A. Failure to Continue to Serve the Purpose of Promoting Economic Growth

Regional centers are designated for the promotion of economic growth and must continue to meet the requirements of section 610(a) of the Appropriations Act as amended, and promote economic growth in a manner that does not conflict with requirements for classification under section 203(b)(5) of the Immigration and Nationality Act (“INA”), removal of conditions on lawful permanent residence under section 216A of the INA, and implementing regulations following their designation. According to section 610(a) of the Appropriations Act, economic growth includes increased export sales, improved regional productivity, job creation, or increased domestic capital investment. *See also* 8 C.F.R. § 204.6(m)(6)(ii) (“USCIS will issue a notice of intent to terminate the designation of a regional center in the program if. . . USCIS determines that the regional center no longer serves the purpose of promoting economic growth, including increased export sales, improved regional productivity, job creation, and increased domestic capital investment.”).

The reasons why a regional center may no longer serve the purpose of promoting economic growth are varied and “extend beyond inactivity on the part of a regional center.” 75 FR 58962. For example, depending on the facts, a regional center that takes actions that undermine investors’ ability to comply with EB-5 statutory and regulatory requirements such that investors cannot obtain EB-5 classification through investment in the regional center may no longer serve the purpose of promoting economic growth. *See* Section 610(a)-(b) of the Appropriations Act (stating that one purpose of a regional center is to concentrate pooled investment in defined economic zones and accomplishing such pooled investment by setting aside visas for aliens classified under INA 203(b)(5)). Likewise, a regional center that fails to engage in proper monitoring and oversight of the capital investment activities and jobs created or maintained under the sponsorship of the regional center may no longer serve the purpose of promoting economic growth in compliance with the Program and its authorities.

When derogatory information arises (such as evidence of inaction, mismanagement, theft, or fraud by the regional center or related entities), USCIS weighs all relevant factors in the totality of the circumstances to determine whether the regional center is continuing to serve the purpose of promoting economic growth. Such factors may include the seriousness of the derogatory information, the degree of regional center involvement in the activities described in the derogatory information, any resulting damage or risk imposed on investors and the economy, as well as any mitigating, corrective, or restorative actions taken or forthcoming to redress the situation.

USCIS has considered all evidence in the record, including evidence provided in response to the NOIT, “for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence,” in determining whether the Regional Center’s continued participation is justified under the regulations by a preponderance of the evidence. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO

2010). For the reasons set forth below, USCIS has determined by a preponderance of the evidence that the Regional Center no longer serves the purpose of promoting economic growth in compliance with the Program.

1. Lack of Regional Center Activity

As noted in the NOIT, the Regional Center's Form I-924A filings for fiscal years 2013, 2014, and 2015 do not report any EB-5 capital investment or job creation. In addition, although USCIS designated the Regional Center on December 3, 2012, the Form I-924A filings do not report any pending or approved Forms I-526 filed by petitioners who have made or are actively in the process of making investments associated with the Regional Center.

As noted in the 2016 NOIT, the Forms I-924A do not demonstrate that the Regional Center has promoted economic growth through increased export sales, improved regional productivity, job creation, or increased domestic capital investment.

In the 2016 NOIT Response, the Regional Center submitted:

- The Regional Center Designation letter, dated December 3, 2012;
- The Regional Center Business Plan;
- The Confidential Private Offering Subscription documents for Fisherman's Cove Marathon, LP ("Fisherman's Cove");
- An Analysis of the Economic Impacts of the Construction and Operation of the Marriott Residence Inn in the City of Marathon, the Florida Keys, by Dr. Manuel S. Santos of the University of Miami;
- Regional Study on the Economic Impact of the Marriot Residence Inn of Marathon, by Dr. Manuel S. Santos of the University of Miami;
- Court documents related to the lawsuit between the Regional Center and HTG Crystal Cove Resort, LLLP;
- A letter, dated August 3, 2015, from HTG Crystal Cove Resort, LLLP, to Maralyn D. Lead and Luciana Zamith Fischer;
- A business plan for RegenLink LLC;
- Offering documents related to Grove Marina Sushi, LLC, including offering memorandum, subscription agreement, limited liability company agreement, and investor questionnaires;
- Offering documents related to Community Care Centers Fund, LLC, including a business plan, operating agreement, subscription agreement, and offering memorandum; and
- Business plan for American Harvest, LLC.

According to the cover letter submitted with the 2016 NOIT Response, Wayne Rosen took over ownership of the Regional Center in December 2015. The cover letter also indicates that the Regional Center is currently sponsoring and promoting four current EB-5 projects: RegenLink LLC; American Harvest, LLC; Grove Marina Sushi, LLC; and Community Care Centers.

Upon review, the record and the 2016 NOIT Response fails to demonstrate that the Regional Center is actively engaged in promoting economic growth. Although the Regional Center claims it is actively sponsoring four current EB-5 projects, the record contains no evidence to support that claim.

In the cover letter, the Regional Center claims it is actively promoting the RegenLink project. According to its business plan, RegenLink intends to solicit EB-5 funds to open ten outpatient clinics in Florida that would provide outpatient stem cell treatment. The RegenLink business plan, though still in a draft form, appears to be soliciting direct investment rather than through a regional center's sponsorship and does not refer to a regional center. The record contains no evidence, such as a sponsorship or other agreement, demonstrating an association between the Regional Center and RegenLink.

Similarly, the Regional Center claims it is actively promoting American Harvest, LLC, which is seeking to open a chain of restaurants. The business plan provided for American Harvest appears to indicate that the business is seeking direct investment from EB-5 investors and not working through the regional center program. The business plan contains no reference to the Regional Center. The record lacks evidence, such as a sponsorship or other agreement, demonstrating an association between the Regional Center and American Harvest.

In the cover letter, the Regional Center claims it is actively promoting Grove Marina Sushi, LLC, which is seeking EB-5 investments to open a sushi restaurant in Miami, Florida. In support of this claim, the Regional Center provided an offering memorandum, a subscription agreement, a limited liability company agreement, and investor questionnaires.

However, the offering documentation contradicts the Regional Center's claimed affiliation with Grove Marina Sushi. According to the offering memorandum, Grove Marina Sushi engaged with a different regional center, EB5 Visa Fund, LLC. None of the offering documents refer to the Regional Center. The record lacks evidence, such as a sponsorship or other agreement, demonstrating an association between the Regional Center and Grove Marina Sushi. Additionally, no evidence was provided to explain the discrepancy between the Regional Center's claims and the evidence it provided.

Finally, the Regional Center claims it is actively promoting Community Care Centers Fund, LLC, which is seeking EB-5 funds to complete three health care centers in underserved communities. In support of this claim, the Regional Center provided a business plan, an operating agreement, a subscription agreement, and an offering memorandum.

The offering documents do not support the Regional Center's claimed affiliation with Community Care Centers Fund. The offering memorandum provided indicates that Community Care Centers Fund has also engaged EB5 Visa Fund, a different regional center. None of the offering documents refer to the Regional Center. The record lacks evidence, such as a sponsorship or other agreement, demonstrating an association between the Regional Center and Community Care Centers Fund. Additionally, no evidence was provided to explain the discrepancy between the Regional Center's claims and the evidence it provided.

The Regional Center has claimed that it is promoting economic growth by sponsoring and promoting four current projects. However, the Regional Center has failed to demonstrate that it is affiliated with any of the projects it claims. Additionally, the evidence submitted for Grove Marina Sushi and Community Care Centers expressly contradicts the Regional Centers claims by referencing affiliation with the EB5 Visa Fund regional center. The Regional Center has submitted no documentation or evidence to support its claimed relationships or explain the discrepancies in the record.

In the absence of evidence of increased export sales, improved regional productivity, job creation, or increased domestic capital investment, USCIS concludes that the Regional Center no longer serves the purpose of promoting economic growth.

III. Conclusion

For the reasons described above and set forth in the NOIT and pursuant to 8 C.F.R. 204.6(m)(6), USCIS has determined that the Regional Center no longer serves the purpose of promoting economic growth and hereby terminates the Regional Center's participation in the Program.

If the Regional Center disagrees with this decision, or if the Regional Center has additional evidence that shows this decision is incorrect, the Regional Center may file a motion or an appeal to this decision by filing a completed Form I-290B, Notice of Appeal or Motion, along with the appropriate filing fee. A copy is enclosed. The Regional Center may also include a brief or other written statement and additional evidence in support of the motion or appeal. The Form I-290B must be filed within 33 days from the date of this notice. If a motion or appeal is not filed within 33 days, this decision is final.

The Regional Center must send the completed Form I-290B and supporting documentation with the appropriate filing fee to the address indicated below.

If using the U.S. Postal Service:

USCIS
P.O. Box 660168
Dallas, TX 75266

If using USPS Express Main/Courier:

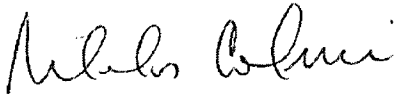
USCIS
Attn: I-290B
2501 S. State Highway 121 Business
Suite 400
Lewisville, TX 75067

For an appeal, the Regional Center may request additional time to submit a brief within 30 calendar days of filing the appeal. Any brief, written statement, or evidence in support of an appeal that is not filed with Form I-290B must be directly sent within 30 days of filing the appeal to:

USCIS Administrative Appeals Office
U.S. Citizenship and Immigration Services
20 Massachusetts Avenue, NW, MS 2090
Washington, DC 20529-2090

For more information about the filing requirements for appeals and motions, please see 8 C.F.R. § 103.3 or 103.5, or visit the USCIS website at www.uscis.gov.

Sincerely,



Nicholas Colucci
Chief, Immigrant Investor Program

Enclosure: (1) Form I-290B with instructions
(2) Notice of Intent to Terminate issued on May 3, 2016

cc: Ronald R. Fieldstone
Arnstein & Lehr, LLP
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Miami, FL 33131