



**U.S. Citizenship
and Immigration
Services**

TO:

Bruce Cole
C/O Mamtek Regional Center, LLC
101 West Coates Street, Penthouse
Moberly, MO 65270

DATE: APR 11 2012

Re: Mamtek Regional Center

File: RCW1105950169

Unique Identifier: ID1105950169

Notice of Final Termination

This letter shall serve as notification that U.S. Citizenship and Immigration Services (USCIS) has terminated the Mamtek Regional Center's designation as a regional center under the Immigrant Investor Pilot Program pursuant to Title 8 Code of Federal Regulations (8 CFR) 204.6(m)(6).

The regulation at 8 CFR 204.6(m) (6) provides:

Termination of participation of regional centers. To ensure that regional centers continue to meet the requirements of section 610(a) of the Appropriations Act, the Assistant Commissioner for Adjudications shall issue a notice of intent to terminate the participation of a regional center in the pilot program upon a determination 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 notice of intent to terminate shall be made upon notice to the regional center and shall set forth the reasons for termination. The regional center must be provided thirty days from receipt of the notice of intent to terminate to offer evidence in opposition to the ground or grounds alleged in the notice of intent to terminate. If the Assistant Commissioner for Adjudications determines that the regional center's participation in the Pilot Program should be terminated, the Assistant Commissioner for Adjudications shall notify the regional center of the decision and of the reasons for termination. The regional center may appeal the decision within thirty days after the service of notice to the Associate Commissioner for Examinations as provided in 8 CFR 103.3.

On October 28, 2011, USCIS issued the Mamtek Regional Center a Notice of Intent to Terminate affording thirty days to offer evidence in opposition to the grounds alleged in the Notice of Intent to Terminate. As discussed in the notice, a review of the Mamtek Regional Center proposal, the evidence as discussed in the Intent relating to the regional center's defaulting on bond payments and filing for bankruptcy, relating forms I-526 filed by three investors in the relating sucralose plant, and information from various publicly available sources reveals that the Regional Center no longer serves the purpose of promoting economic growth. The specific reasons for termination were thoroughly explained in the October 28, 2011, notice and need not be reiterated at this time.

On November 25, 2011, Bruce Cole, the Managing Member for Mamtek Regional Center, responded to the Notice of Intent to Terminate requesting an extension of 90 days to respond. USCIS granted an extension to until January 20, 2012, to respond to the Notice of Intent to Terminate.

A Form G-28 was originally submitted showing Linda Lau as the regional center's attorney of record. The Notice of Intent to Terminate was initially mailed to that office on October 28, 2011. A notice of withdrawal as attorney of record was received from her office on November 10, 2011. The notice granting the extension to respond was mailed to Bruce Cole as the managing principal member of the regional center.

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On January 3, 2012, USCIS received a letter from Scott J. Goldstein, attorney for UMB Bank, N.A., who along with four other creditors on December 15, 2011, filed an Involuntary Petition under Chapter 7 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Western District of Missouri against Mamtek U.S., Inc. (Mamtek Regional Center is stated as a registered fictitious name of Mamtek and not a separate legal entity). Mr. Goldstein claimed that pursuant to 11 U.S.C. § 362(a)(1), the Bankruptcy case automatically stays all judicial, administrative, or other proceedings against Mamtek that were initiated prior to the petition date, including USCIS's notice of intent to terminate. Thus, Mr. Goldstein stated that USCIS is precluded from proceeding with the termination notice or any other attempt to terminate the designation of Mamtek Regional Center as a regional center under the Immigrant Investor Pilot Program.

On February 1, 2012, USCIS issued a copy of the Notice of Intent to Terminate to Bruce E. Strauss, the court appointed trustee in the involuntary bankruptcy proceedings against Mamtek under Chapter 7 of the bankruptcy code in the Western District of Missouri, requesting response or comment as appropriate by March 2, 2012.

The Trustee sent to USCIS a response, dated March 2, 2012. The Trustee stated that "Mamtek Regional Center, LLC is not, and never has been, a debtor in bankruptcy." Thus, Mr. Goldstein's contention that USCIS is precluded from proceeding with termination proceedings in this case against Mamtek Regional Center is unfounded. Moreover, under 11 U.S.C. 362(b)(4), USCIS is exempt from the automatic stay provisions of the Bankruptcy Code where it is enforcing its police and regulatory power. Accordingly, the existence of bankruptcy proceedings against Mamtek U.S., Inc., does not preclude USCIS from exercising its police or regulatory power in this case to ensure that Mamtek Regional Center has fulfilled and continues to fulfill its statutory and regulatory obligations as a regional center. See 8 C.F.R. 204.6(m)(6).

Regarding the relationship between Mamtek Regional Center and Mamtek U.S., Inc., Mamtek U.S., Inc., is the entity in default. However, the Trustee further notes that Bruce Cole, Managing Member of Mamtek Regional Center, is no longer affiliated with the regional center. Furthermore, the Trustee suggests that the Mamtek Regional Center is still viable and very much interested in proceeding along as a regional center for the designated area, and still has the support of the City of Moberly, etc., who is willing to take control of the Mamtek Regional Center and continue to help it function as a regional center and carry out its duties under the EB-5 program.

In considering this response, and the existing information from within the record, USCIS observes that the Development Agreement between the City of Moberly was made with Mamtek U.S., Inc., for the sucralose project. Part 3, Page 3, of the Form I-924 application states that Mamtek Regional Center is a single member LLC with Mamtek, U.S., Inc. as its sole member. Page 3 of the Business Plan for Mamtek U.S., Inc., states that Mamtek US, Inc. is the operating company of the proposed Mamtek Regional Center. The Registration of Fictitious Name, filed with the State of Missouri and dated January 28, 2011, shows that Mamtek U.S., Inc. is the 100% owner of Mamtek Regional Center. The evidence supports a finding that a default on bonds by Mamtek U.S., Inc. would have the same effect as if Mamtek Regional Center had defaulted on the bonds. In any event, USCIS has not received a rebuttal from the sole managing member of the Mamtek Regional Center (Mr. Cole), and has been advised by the Trustee that Mr. Cole in fact no longer has any affiliation with the Regional Center. In addition, the Trustee indicates that Mamtek Regional Center is no longer overseeing the projects and investments that Mamtek Regional Center outlined in its request for regional center designation. Under the circumstances, there can be no doubt that Mamtek Regional Center has ceased to operate in a manner consistent with the expectations of the regional center program. Thus, regardless of whether bankruptcy proceedings are currently pending against Mamtek U.S., Inc., the Mamtek Regional Center has ceased to operate and is otherwise not fulfilling its statutory and regulatory duty to promote economic growth through job creation, increased domestic capital investment, or by any other means. See 8 C.F.R. § 204.6(m)(3), (6).

In a further review of the information provided with the original application for regional center designation, Mr. Cole did not indicate a unique distinction with the bonds issuance between Mamtek US, Inc. and Mamtek Regional Center in its urgency for approval of the request for regional center designation. Other than to contest the proposed action, the request for extension by Mr. Cole did not supply any new evidence other than the request for an extension to respond, and the claim that new evidence to overcome the intent would be provided if the extension were granted. Also, other than a written response to the contrary, the response from the Trustee also did not present countervailing evidence to overcome the Notice of Intent to Terminate.

The regional center has not provided countervailing evidence that would overcome the grounds presented in the intent to terminate notice. The record as it is presently constituted does not demonstrate that the Mamtek Regional Center has or will serve the purpose of promoting economic growth in keeping with the provisions of Section 610 of the Departments of Commerce, Justice and State, the Judiciary, and Related Agencies Appropriations Act of 1993, Pub. L. 102-395, as amended. The regional center must be a viable economic entity in keeping with the program requirements to facilitate economic growth, but the managing officials and/or company of record has not responded to the derogatory evidence outlined in USCIS's Notice of Intent to Terminate on the issue that the Mamtek Regional Center has ceased to fulfill its statutory and regulatory obligations to promote growth. As discussed in the Notice of Intent to Terminate, the construction of the sucralose plant, a key component and focus of the Mamtek Regional Center is now controlled by a new company, and guided by the watchful eye of the City of Moberly. Mamtek Regional Center can no longer attribute to itself the investments or jobs related to this facility. Moreover, USCIS continues to observe that no substantive response has been received that addresses the sucralose plant, the proposed pharmaceutical manufacturing facility, the chemical waste recovery facility, nor any of the other projects discussed as relating to the Mamtek Regional Center. Accordingly, the projects that Mamtek Regional Center outlined as part of its request for regional center designation are defunct or have been taken over by another going concern. Thus, for the reasons stated in the Notice of Intent to Terminate, Mamtek Regional Center's designation as an approved regional center under the Immigrant Investor Pilot Program is terminated.

USCIS notes that the response from the Trustee suggests that the good City of Moberly is prepared to assume operation of the Mamtek Regional Center. USCIS observes that it is without authority to unilaterally convey the regional center to the City of Moberly, and that since the Mamtek Regional Center does not appear to be the subject of the Chapter 7 Bankruptcy proceeding, it is evident that the bankruptcy court would have no authority to convey management authority to the City of Moberly. However, USCIS notes that this termination does not preclude any separate, future application or attempt to institute a similarly situated regional center. USCIS notes that any private or public entity may seek designation of a regional center, since regional center designations are not mutually exclusive, so long as the particular regional center proposal satisfies program requirements.

If you desire to appeal this decision to terminate the Mamtek Regional Center designation under the Pilot Program pursuant to 8 CFR 103.3(a)(2), you may do so. Your notice of appeal must be filed with this office at the address at the top of this page within 33 days of the date of this notice. Your appeal must be filed on Form I-290B. A fee of \$630.00 is required, payable to U. S. Citizenship and Immigration Services with a check or money order from a bank or other institution located in the United States. If no appeal is filed within the time allowed, this decision will be the final decision in this matter.

In support of your appeal, you may submit a brief or other written statement for consideration by the reviewing authority. You may, if necessary, request additional time to submit a brief. Any brief, written statement, or other evidence not filed with Form I-290B, or any request for additional time for the submission of a brief or other material must be sent directly to:

U. S. Citizenship and Immigration Services
Administrative Appeals Office MS 2090
Washington, D.C. 20529-2090.

Any request for additional time for the submission of a brief or other statement must be made directly to the Administrative Appeals Office (AAO), and must be accompanied by a written explanation for the need for additional time. An extension of time to file the appeal may not be granted. **The appeal may not be filed directly with the AAO. The appeal must be filed at the address at the top of this page.**

Sincerely,



Rosemary Langley Melville
Director
California Service Center

Enclosure: (1) Form I-290B
(2) Notice of Intent to Terminate issued on October 28, 2011.

CC: U.S. Trustee, Bruce E. Strauss – Mamtek US Inc.
c/o Merrick, Baker, and Strauss, P.C.
400 Peck's Plaza
1044 Main
Kansas City, MO 64105

Attention: Mr. Victor F. Weber, Esq.