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U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536



File: [Redacted]

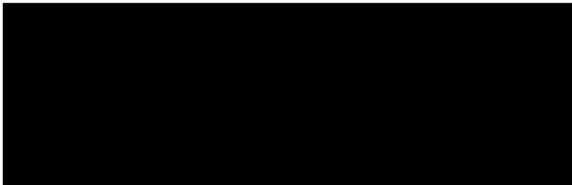
Office: Texas Service Center

Date: APR 04 2001

IN RE: Petitioner: [Redacted]

Petition: Immigrant Petition by Alien Entrepreneur Pursuant to § 203(b)(5) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(5)

IN BEHALF OF PETITIONER:



**INSTRUCTIONS:**

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Robert P. Wiemann, Acting Director  
Administrative Appeals Office

**DISCUSSION:** The preference immigrant visa petition was initially approved by the Director, Texas Service Center. Subsequently, the petitioner adjusted her status in the United States to that of a permanent resident. On the basis of new information received and on further review of the record, the director determined that the petitioner was not eligible for the benefit sought. Accordingly, the director served the petitioner with notice of intent to revoke the approval of the visa petition, and his reasons therefore, and ultimately revoked the approval of the petition on July 15, 1999. The matter is now before the Associate Commissioner for Examinations on appeal. The decision of the director will be withdrawn.

Section 205 of the Immigration and Nationality Act (the Act), 8 U.S.C. 1155, provides:

*The Attorney General may, at any time, for what he deems to be good and sufficient cause, revoke the approval of any petition approved by him under section 204. Such revocation shall be effective as of the date of approval of any such petition. In no case, however, shall such revocation have effect unless there is mailed to the petitioner's last known address a notice of the revocation and unless notice of the revocation is communicated through the Secretary of State to the beneficiary of the petition before such beneficiary commences his journey to the United States.*

(Emphasis added.)

In Matter of Vilos, 12 I&N Dec. 61 (BIA 1967), the Board of Immigration Appeals held that once an individual had adjusted status to that of a permanent resident, a withdrawal or revocation of the underlying visa petition will not effect the resident's status. Thus, the Board held that the language in section 205 of the Act essentially applies to adjusting status within the United States as well as entering the United States on an immigrant visa.

In light of the above, the director's revocation has no effect on the petitioner's status in the United States. Therefore, any discussion of the merits of the director's decision is moot. Should the director believe the petition was erroneously approved, the appropriate remedy is rescission proceedings as discussed in section 246 of the Act.

**ORDER:** The appeal is sustained. The decision of the director is withdrawn.