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U.S. Department of Justice
Immigration and Naturalization Service

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



23 AUG 2002

FILE: [Redacted] Office: Houston

Date:

IN RE: Obligor: [Redacted]
Bonded Alien [Redacted]

IMMIGRATION BOND: Bond Conditioned for the Delivery of an Alien under Section 103
of the Immigration and Nationality Act, 8 U.S.C. 1103

IN BEHALF OF OBLIGOR:



Public Copy

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, Director
Administrative Appeals Office

DISCUSSION: The delivery bond in this matter was declared breached by the District Director, Houston, Texas, and a subsequent appeal was sustained by the Associate Commissioner for Examinations on appeal. The matter will be reopened by the Associate Commissioner on a Service motion pursuant to 8 C.F.R. 103.5(a)(5)(ii).

The record indicates that on September 5, 2000, the obligor posted a \$2,000 bond conditioned for the delivery of the above referenced alien. A Notice to Deliver Alien (Form I-340) dated March 21, 2001, was sent to the obligor via certified mail, return receipt requested. The notice demanded the bonded alien's surrender into the custody of an officer of the Immigration and Naturalization Service (the Service) for removal at 10:00 a.m. on April 11, 2001, at 126 Northpoint Drive, Houston, TX 77060. The obligor failed to present the alien, and the alien failed to appear as required. On April 12, 2001, the district director informed the obligor that the delivery bond had been breached.

The Associate Commissioner sustained the obligor's appeal, finding that the District Director had failed to establish that the Notice to Deliver Alien was properly served on the obligor as the Form 3811, certified mail receipt for said notice was not in the record of proceeding. However, this document was inadvertently omitted from the record of proceeding prepared for review by the Associate Commissioner. The record now includes the Form 3811 showing that the Form I-340 was received by the obligor on March 27, 2001.

Based on the documentation in the record, the Associate Commissioner reopens the matter, withdraws the order of November 14, 2001, and proposes to affirm the district director's decision declaring the bond breached.

Pursuant to 8 C.F.R. 103.5(a)(5)(ii), the obligor is granted 30 days from the date of this notice, in which to submit a brief in response to this notice.