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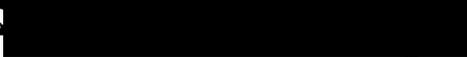
U.S. Citizenship  
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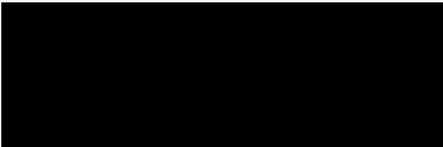
FILE:  Office: LOS ANGELES Date:

IN RE: Obligor:   
Bonded Alien: 

JUN 11 2004

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

ON BEHALF OF OBLIGOR:



**INSTRUCTIONS:**

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

  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The delivery bond in this matter was declared breached by the Field Office Director, Detention and Removal, Los Angeles, California, and is now before the Administrative Appeals Office on appeal. The appeal will be sustained.

The record indicates that on March 22, 2002, the obligor posted a \$5,000 bond conditioned for the delivery of the above referenced alien. A Notice to Deliver Alien (Form I-340) dated April 2, 2003, was sent to the co-obligor via certified mail, return receipt requested. The notice demanded the bonded alien's surrender into the custody of an officer of Immigration and Customs Enforcement (ICE) at 8:15 a.m. on May 6, 2003, at [REDACTED]. [REDACTED] the obligor failed to present the alien, and the alien failed to appear as required. On August 29, 2003, the field office director informed the co-obligor that the delivery bond had been breached.

On appeal, counsel states that according to the EOIR hotline, the alien's case is currently pending, and therefore that was no final order of removal when the field office director issued the Form I-340. Counsel argues that ICE is in violation of Exhibit G of the Amwest/Reno Settlement Agreement entered into on June 22, 1995 by the Immigration and Naturalization Service (legacy INS) and Far West Surety Insurance Company requiring the director to state a correct purpose on the Form I-340.

ICE records show that removal proceedings were held in absentia on February 21, 2003, and the alien was ordered removed from the United States. On March 10, 2003, the alien filed a motion to reopen and rescind the in absentia order. On March 19, 2003, ICE filed a memorandum in opposition to the alien's motion to reopen. Citizenship and Immigration Services records reflect that an individual hearing is scheduled before the immigration court on September 9, 2004.

The filing of a motion to reopen an in absentia order stays the deportation of the alien pending decision on the motion. 8 C.F.R. § 1003.23(b)(i)(v); 8 C.F.R. § 1003.23 (b)(4)(iii)(C).

Exhibit G of the Amwest/Reno Settlement Agreement requires the Form I-340 to state the correct purpose for which the alien is to be produced. Form I-340 called the alien in for deportation when a stay order was in place. This statement of purpose is incorrect, and therefore does not meet the requirement of the Settlement Agreement.

Based on the provisions of the Settlement Agreement and the fact that the Form I-340 did not state a correct purpose, the appeal will be sustained. The field office director's decision declaring the bond breached will be rescinded and the bond will be continued in full force and effect.

**ORDER:** The appeal is sustained. The field office director's decision declaring the bond breached is rescinded and the bond is continued in full force and effect.