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U.S. Department of Homeland Security
Bureau of Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
U.L.L.B. 3rd Floor
Washington, D.C. 20536

[Redacted]

MAR 17 2003

File: LOS 214F 1568 Office: LOS ANGELES, CALIFORNIA Date:

IN RE: Petitioner: [Redacted]
Petition: Petition for Approval of School for Attendance by Nonimmigrant Students under Sections
101(a)(15)(F)(i) and (M)(i) of the Immigration and Nationality Act, 8 U.S.C. §§ 1101(a)(15)(F)(i) and (M)(i)

ON BEHALF OF PETITIONER:

[Redacted]

PUBLIC COPY

INSTRUCTIONS:

This is the decision 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.

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 CFR § 103.5(a)(1)(i).

If you have new or additional information that 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 Bureau of Citizenship and Immigration Services (Bureau) 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 that originally decided your case along with a fee of \$110 as required under 8 CFR § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Petition for Approval of School for Attendance by Nonimmigrant Students (Form I-17) was approved on May 16, 1997 by the District Director, Los Angeles, California. The approved petition listed the owner of the school as [REDACTED]

Two officers of the Immigration and Naturalization Service¹ visited the petitioner on September 17, 2002 and learned that the petitioner had changed its name. The district director issued a warning letter dated October 11, 2002 and served it upon the petitioner. The warning letter alleged that the petitioner: failed to notify the Bureau of material changes to the school's name, failed to report a change in ownership, failed to operate as a bona fide institution of learning, and that the petitioner failed to maintain the licensing necessary to qualify graduates and to maintain accreditation, as required by the regulations. The district director notified the petitioner that it had 30 days to submit a new Form I-17 with the requested documentation. The petitioner responded by submitting a new Form I-17 with documentation on November 13, 2002. On December 6, 2002, the district director sent a notice of automatic withdrawal of school approval, finding that because the petitioner failed to file a new I-17 petition within 60 days of change of ownership (August 14, 1998), approval was automatically withdrawn sixty days hence (October 14, 1998). Counsel for the petitioner filed an appeal of the district director's decision dated December 6, 2002. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

On appeal, counsel for the petitioner makes four arguments. First, he asserts that the district director failed to exhaust all avenues of redress prior to commencing the withdrawal proceedings. Second, counsel argues that the warning letter dated October 11, 2002 did not fully comply with the notice requirements of 8 C.F.R. § 214.4. Third, he argues that the findings in the automatic withdrawal of school approval were not supported by the facts. Fourth, he argues that the automatic withdrawal of school approval was not in full compliance with a Bureau policy memorandum.²

8 C.F.R. § 214.4(a)(2) states, in pertinent part:

If an approved school changes ownership, approval will be automatically withdrawn sixty days after the change of ownership unless the school files a new petition for school approval within sixty days of that change of ownership.

Counsel for the petitioner confused the regulations regarding withdrawal of approval upon notice and those for automatic withdrawal of approval. There is no requirement that the district director exhaust all avenues of redress prior to

¹ Now known as the Bureau of Citizenship and Immigration Services (Bureau).

² Memorandum from James A. Puleo, Acting INS Executive Associate Commissioner, CO214f-P, CO214m-P, dated August 9, 1993, reproduced in 70 *Interpreter Releases* 1459 (70:42, November 1, 1993).

commencing withdrawal proceedings. Although the district director put the petitioner on notice by issuing a warning, he was not obliged to comply with the notice requirements of 8 C.F.R. § 214.4(b). The district director issued a notice of automatic withdrawal, rather than a withdrawal on notice. Similarly, the memorandum cited by counsel for the petitioner is inapplicable to the instant case because that memorandum relates to withdrawals on notice.

Counsel for the petitioner argues that the findings in the notice of automatic withdrawal are not supported by the evidence.

The evidence on the record reflects the following:

The petitioner filed a Petition for Approval of School for Attendance by Nonimmigrant Students (Form I-17) that was approved on May 16, 1997 by the District Director, Los Angeles, California. The approved petition listed the owner of the school as [REDACTED] the name of the school as the [REDACTED] and the school's address as [REDACTED] Los Angeles, California.

On July 15, 1998, the petitioner contracted with the [REDACTED] to sell the petitioner to [REDACTED]

On October 22, 1998, the petitioner informed the Bureau in writing of a change of address and change in designated school officials.

On September 17, 2002, two officers of the Bureau visited the petitioner and were presented with a business card upon contacting an employee of the school. The business card listed the name of the school as International Christian University Reformed Presbyterian Seminary.

The petitioner notified the Bureau of its change in ownership on November 13, 2002.

The petitioner did not notify the Bureau of its change in ownership within sixty days of the change as is required by 8 C.F.R. § 214.4(a)(2).

In review, counsel's arguments are not persuasive. The petitioner failed to timely notify the Bureau of a change in ownership; therefore withdrawal of school approval is automatic. 8 C.F.R. § 214.4(a)(2).

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. Here, the petitioner has not sustained that burden.

ORDER: The appeal is dismissed.