

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Immigrant Investor Program
131 M Street, NE, MS 2235
Washington, DC 20529



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

TO:
North Country EB-5 Regional Center LLC
Tom Rosenfeld
c/o CanAm Enterprises, LLC
Wall Street Plaza
88 Pine St. Suite 2010
New York, NY 10005

DATE: July 7, 2017
Application: Form I-924
A-Number:
File: ID1031910051 / RCW1031910051

NOTICE OF TERMINATION

This letter shall serve as notification that U.S. Citizenship and Immigration Services (“USCIS”) has terminated the designation of North Country EB-5 Regional Center LLC (the “Regional Center”) as a regional center under the Immigrant Investor Program (the “Program”) pursuant to Title 8 of the Code of Federal Regulations (“8 C.F.R.”) section 204.6(m)(6). The reasons for the termination are explained, below:

(SEE ATTACHED)

If the Regional Center disagrees with this decision, or if the Regional Center has additional evidence that shows this decision is incorrect, the Regional Center may file a motion or an appeal to this decision by filing a completed Form I-290B, Notice of Appeal or Motion, along with the appropriate filing fee. A copy is enclosed. The Regional Center may also include a brief or other written statement and additional evidence in support of the motion or appeal. The Form I-290B must be filed within 33 days from the date of this notice. If a motion or appeal is not filed within 33 days, this decision is final.

The Regional Center must send the completed Form I-290B and supporting documentation with the appropriate filing fee to the address indicated below.

If using the U.S. Postal Service:

USCIS
P.O. Box 660168
Dallas, TX 75266

If using USPS Express Main/Courier:

USCIS
Attn: I-290B
2501 S. State Highway 121 Business
Suite 400
Lewisville, TX 75067

For an appeal, the Regional Center may request additional time to submit a brief within 30 calendar days of filing the appeal. Any brief, written statement, or evidence in support of an appeal that is not filed with Form I-290B must be directly sent within 30 days of filing the appeal to:

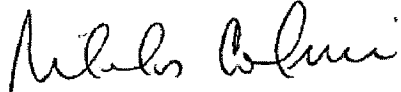
USCIS Administrative Appeals Office
U.S. Citizenship and Immigration Services
20 Massachusetts Avenue, NW, MS 2090

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For more information about the filing requirements for appeals and motions, please see 8 C.F.R. § 103.3 or 103.5, or visit the USCIS website at www.uscis.gov.

Sincerely,



Nicholas Colucci
Chief, Immigrant Investor Program

Enclosure: (1) Form I-290B with instructions
(2) Notice of Intent to Terminate issued on April 27, 2016

cc: North Country Chamber of Commerce
Garry Douglas
7061 Route 9
PO Box 310
Plattsburgh, NY 12901

NOTICE OF TERMINATION
Termination of Regional Center Designation Under the Immigrant Investor Program
North Country EB-5 Regional Center, LLC

The regulation at 8 C.F.R. § 204.6(m)(6) (*Continued participation requirements for regional centers*) provides:

(i) Regional centers approved for participation in the program must:

(A) Continue to meet the requirements of section 610(a) of the Appropriations Act.

(B) Provide USCIS with updated information annually, and/or as otherwise requested by USCIS, to demonstrate that the regional center is continuing to promote economic growth, including increased export sales, improved regional productivity, job creation, and increased domestic capital investment in the approved geographic area, using a form designated for this purpose; and

(C) Pay the fee provided by 8 CFR 103.7(b)(1)(i)(XX).

(ii) USCIS will issue a notice of intent to terminate the designation of a regional center in the program if:

(A) A regional center fails to submit the information required in paragraph (m)(6)(i)(B) of this section, or pay the associated fee; or

(B) USCIS determines 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.

(iii) A notice of intent to terminate the designation of a regional center will be sent to the regional center and set forth the reasons for termination.

(iv) The regional center will be provided 30 days from receipt of the notice of intent to terminate to rebut the ground or grounds stated in the notice of intent to terminate.

(v) USCIS will notify the regional center of the final decision. If USCIS determines that the regional center's participation in the program should be terminated, USCIS will state the reasons for termination. The regional center may appeal the final termination decision in accordance with 8 CFR 103.3.

(vi) A regional center may elect to withdraw from the program and request a termination of the regional center designation. The regional center must notify USCIS of such

election in the form of a letter or as otherwise requested by USCIS. USCIS will notify the regional center of its decision regarding the withdrawal request in writing.

I. Procedural History

On May 16, 2011, USCIS designated and authorized the Regional Center’s participation in the Program. On April 27, 2016, USCIS issued a Notice of Intent to Terminate (“NOIT”) to the Regional Center which afforded the Regional Center 30 days from receipt of the NOIT to offer evidence in opposition to the grounds alleged in the NOIT. On June 1, 2016, USCIS received a response to the NOIT (the “NOIT Response”), which did not sufficiently address the grounds alleged in the NOIT. Accordingly, USCIS has determined that the Regional Center’s participation in the Program should be terminated. Pursuant to 8 C.F.R. § 204.6(m)(6)(v) and through this Notice of Termination, USCIS hereby terminates the Regional Center’s participation in the Program.

II. Reasons for Termination

USCIS has determined that the Regional Center no longer serves the purpose of promoting economic growth, including increased export sales, improved regional productivity, job creation, or increased domestic capital investment as required by 8 C.F.R. § 204.6(m)(6).

A. Failure to Continue to Serve the Purpose of Promoting Economic Growth

Regional centers are designated for the promotion of economic growth and must continue to meet the requirements of section 610(a) of the Appropriations Act as amended, and promote economic growth in a manner that does not conflict with requirements for classification under section 203(b)(5) of the Immigration and Nationality Act (“INA”), removal of conditions on lawful permanent residence under section 216A of the INA, and implementing regulations following their designation. According to section 610(a) of the Appropriations Act, economic growth includes increased export sales, improved regional productivity, job creation, or increased domestic capital investment. *See also* 8 C.F.R. § 204.6(m)(6)(ii) (“USCIS will issue a notice of intent to terminate the designation of a regional center in the program if . . . USCIS determines 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 reasons why a regional center may no longer serve the purpose of promoting economic growth are varied and “extend beyond inactivity on the part of a regional center.” 75 FR 58962. For example, depending on the facts, a regional center that takes actions that undermine investors’ ability to comply with EB-5 statutory and regulatory requirements such that investors cannot obtain EB-5 classification through investment in the regional center may no longer serve the purpose of promoting economic growth. *See* Section 610(a)-(b) of the Appropriations Act (stating that one purpose of a regional center is to concentrate pooled investment in defined economic zones and accomplishing such pooled investment by setting aside visas for aliens classified under INA 203(b)(5)). Likewise, a regional center that fails to

engage in proper monitoring and oversight of the capital investment activities and jobs created or maintained under the sponsorship of the regional center may no longer serve the purpose of promoting economic growth in compliance with the Program and its authorities.

When derogatory information arises (such as evidence of inaction, mismanagement, theft, or fraud by the regional center or related entities), USCIS weighs all relevant factors in the totality of the circumstances to determine whether the regional center is continuing to serve the purpose of promoting economic growth. Such factors may include the seriousness of the derogatory information, the degree of regional center involvement in the activities described in the derogatory information, any resulting damage or risk imposed on investors and the economy, as well as any mitigating, corrective, or restorative actions taken or forthcoming to redress the situation.

USCIS has considered all evidence in the record including evidence provided in response to the NOIT “for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence,” in determining whether the Regional Center’s continued participation is justified under the regulations by a preponderance of the evidence. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). For the reasons set forth below, USCIS has determined by a preponderance of the evidence that the Regional Center no longer serves the purpose of promoting economic growth in compliance with the Program.

1. Lack of Regional Center Activity

As noted in the NOIT, the Regional Center’s Form I-924A filings for fiscal years 2011, 2012, 2013, 2014, and 2015¹ do not report any EB-5 capital investment or job creation. In addition, although USCIS designated the Regional Center on May 16, 2011, the Form I-924A filings do not report any pending or approved Forms I-526 filed by petitioners who have made or are actively in the process of making investments associated with the Regional Center.

In the NOIT Response, the Regional Center provided the following evidence:

- Letter from Tom Rosenfeld, principal of the Regional Center, dated May 24, 2016; and
- Updated Marketing and Status Report, prepared by Garry Douglas, President of the Regional Center, dated May 10, 2016.

In his letter, Mr. Rosenfeld substantially quotes or paraphrases information included in the Updated Marketing and Status Report prepared by Mr. Douglas.

¹ The Regional Center filed a Form I-924A for fiscal year 2016 on December 12, 2016 (receipt number RCW1634754706), so it was not included in the NOIT issued on April 27, 2016. USCIS notes that the filing for fiscal year 2016 also shows no EB-5 capital investment or job creation and no pending or approved Forms I-526 filed by petitioners who have made or are actively in the process of making investments associated with the Regional Center.

The Updated Marketing and Status Report, prepared by Garry Douglas (the “report”), states that the Regional Center “remains in an active marketing mode” and has interacted with prospective project developers. The report lists five “specific project prospects,” and three “other prospects,” including

- [REDACTED] (an infrastructure and port development project);
- [REDACTED] (an assisted living center project);
- (b)(4) [REDACTED] a resort development project);
- Energy projects (including renewable wind energy projects);
- [REDACTED] (an aerospace project);
- [REDACTED] (a redevelopment of an unused manufacturing space project);
- [REDACTED] (a food supplement manufacturing project); and
- [REDACTED] (a multi-use recreational and business complex project).

However, the record does not include any evidence to support the assertions that the Regional Center is actually engaged in any negotiations or dealings with the prospective project developers. Additionally, the report itself does not provide sufficient detail to determine what—if any—actual activity has been undertaken by the Regional Center. The descriptions of all of the proposed projects indicate that the Regional Center is engaging in “active discussions” or “informational discussions” with only a few indications of any substantive progress (described, below).

(b)(4)

[REDACTED]
[REDACTED] The project is described as in “active discussions” but there is no indication that the Regional Center has entered into any agreements with the project developers, done any due diligence regarding the project, or attracted any investors for the project.

(b)(4)

The report states that “[d]iscussions are actively underway” with [REDACTED] in regard to a proposed assisted living and memory care facility in Plattsburgh, New York. The report indicates that the developers “have undertaken a recently completed feasibility assessment” and that the Regional Center has plans to discuss their role with the developers “in the coming months.” The Regional Center did not provide any evidence to support their assertions or to show what, if any, activity has resulted from their anticipated discussions.

Mr. Douglas stated in the report that the Regional Center anticipates “being able to engage in the long awaited exploration of how our EB-5 Regional Center can play a crucial role in the elements” of the

(b)(4)

[REDACTED] The information provided indicates that the Regional Center has engaged in mere discussions with the developers of the project and that it had plans to meet with the

developers in June 2016. Again, the Regional Center did not provide any evidence to support its assertions that it has actually engaged with the developers of this project or that any activity has resulted from their discussions.

(b)(4) The report indicates that the Regional Center is “actively engaged” with a company called [REDACTED] regarding the development of a wind farm in New York and has had a “preliminary, (b)(4) informational discussion” concerning a project called [REDACTED]. The information related to these energy projects mentions that the Regional Center’s prospective partners have “indicated strong interest” in EB-5 financing for their projects, but there is no evidence that the Regional Center has actually secured any agreements with these partners or that there is any resulting economic growth from these interests.

According to the report, the Regional Center is somehow involved with a [REDACTED] (b)(4) in New York, but the project’s size and character have yet to be determined in even a preliminary way by the State of New York. The Regional Center is relying on action by the state before it is “possible to assess and define the long anticipated role of [the Regional Center] in connection with [the capital expenses of the project].” Again, the Regional Center did not provide any evidence to show that it is engaged in any discussions or consideration with the State of New York or any other stakeholders in the [REDACTED]

(b)(4) For the three “other active prospects” listed in the report, including [REDACTED] (b)(4) [REDACTED] the Regional Center indicated that it is in “periodic contact” with developers and that the projects are only in the most preliminary idea stages. The Regional Center did not provide any substantive information regarding their involvement in any of these projects.

For all of the prospective projects listed, the Regional Center did not provide any substantive, credible evidence that describes the various projects, whether the projects are in any way viable, or that Regional Center is actually engaged with the prospective partners. The report indicates that the Regional Center is engaged in “continuous marketing activities,” citing its website and outreach activities, but there is no evidence to show that these marketing activities have resulted in the promotion of economic growth.

Further, the Regional Center did not give any indication that it has attracted any EB-5 investors or that it has any plans to do so in the immediate future.

In the absence of evidence of increased export sales, improved regional productivity, job creation, or increased domestic capital investment, USCIS concludes that the Regional Center no longer serves the purpose of promoting economic growth.

III. Conclusion

For the reasons described above and set forth in the NOIT and pursuant to 8 C.F.R. 204.6(m)(6), USCIS has determined that the Regional Center no longer serves the purpose of promoting economic growth and hereby terminates the Regional Center’s participation in the Program.

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