



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

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF B-

DATE: JULY 18, 2017

APPEAL OF IMMIGRANT INVESTOR PROGRAM OFFICE DECISION

PETITION: FORM I-526, IMMIGRANT PETITION BY ALIEN ENTREPRENEUR

The Petitioner seeks classification as an immigrant investor. *See* Immigration and Nationality Act (the Act) section 203(b)(5), 8 U.S.C. § 1153(b)(5). This fifth preference classification makes immigrant visas available to foreign nationals who invest the requisite amount of qualifying capital in a new commercial enterprise (NCE) that will benefit the United States economy and create at least 10 full-time positions for qualifying employees. Foreign nationals may invest in a project associated with a United States Citizenship and Immigration Services (USCIS) designated regional center. *See* Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (Appropriations Act) section 610, as amended.

The Chief of the Immigrant Investor Program Office denied the petition, concluding that the record did not establish, as required, that the Petitioner invested the required amount of lawfully derived funds in an NCE.

On appeal, the Petitioner submits additional evidence and asserts that the Chief made factual and legal errors.

Upon *de novo* review, we will dismiss the appeal.

I. LAW

A foreign national may be classified as an immigrant investor if he or she invests the requisite amount of qualifying capital in an NCE, which can be any lawful business that engages in for-profit activities. An immigrant investor may invest the required funds directly in an NCE, or invest through a regional center.¹ Regional centers apply for designation as such with USCIS. Designated regional centers identify and work with new commercial enterprises, which in turn are associated with a specific project, known as the job creating entity (JCE). Regional centers can pool immigrant

¹ A regional center is an "economic unit, public or private, which is involved with the promotion of economic growth, including increased export sales, improved regional productivity, job creation, and increased domestic capital investment." 8 C.F.R. § 204.6(e).

(and other) investor funds for qualifying projects that create jobs directly or indirectly. 8 C.F.R. § 204.6(j)(4)(iii).

The invested capital must not derive, directly or indirectly, from unlawful means. 8 C.F.R. § 204.6(e) (definition of capital). To show the lawful source of the funds, a petitioner must submit evidence such as foreign business and tax records or documentation identifying any other source(s) of capital. 8 C.F.R. § 204.6(j)(3). Bank letters or statements confirming the deposit of funds, by themselves, are insufficient. *Matter of Ho*, 22 I&N Dec. 206, 210-11 (Assoc. Comm'r 1998); *Matter of Izummi*, 22 I&N Dec. 169, 195 (Assoc. Comm'r 1998). The record must trace the path of the funds back to a lawful source. *Izummi*, 22 I&N Dec. at 195.²

II. ANALYSIS

The Petitioner bases her eligibility on an investment in [REDACTED] the NCE, which is affiliated with the [REDACTED] (the Regional Center). She contends that she transferred more than \$500,000³ to an unnamed individual who brought the funds from Iran to the United Arab Emirates (UAE), where three companies wired those funds to the NCE. She has corroborated that she and her spouse own property in Iran that they lease to tenants, they are shareholders of an engineering company, her spouse's employment for [REDACTED] her many bank accounts in Iran, and her sale of gold coins, which was a major source of her investment capital. She asserts that she collected these coins through periodic purchases and gifts. The Chief questioned English language documents from Iran and the UAE, noted discrepancies on the invoice for the sale of the gold coins, and determined that the Petitioner did not trace the funds from Iran to the NCE.

On appeal, the Petitioner maintains that the English versions of certain Iranian and UAE documents are not translations for which foreign language renderings exist; rather, they are themselves the originals. She further notes that she has already explained why the receipt for the gold coins is dated a few days after the transaction and offers a statement from the buyer. Finally, she asserts that it is more likely than not her funds trace to the NCE and that her admission to the limited partnership confirms the NCE's receipt of her capital. In support of her statements, she presents a letter from the NCE clarifying that its account received her funds in September 2013, and has retained them. For the reasons discussed below, while we accept that certain English language exhibits are originals and that the Petitioner has resolved the issue of the date on the receipt for the gold coins, the translation includes a discrepancy in the amount of the sale. Finally, the record does not trace the funds from Iran to the NCE.

² These requirements confirm that the funds utilized are not of suspect origin. *Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1040 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003) (U.S. district court found that a petitioner had not established the lawful source of her funds because she did not designate the nature of all of her employment or submit five years of tax returns).

³ The minimum investment amount in this matter is \$500,000 because the JCE will be primarily doing business in a targeted employment area. 8 C.F.R. § 204.6(f)(2).

A. Translations

The Chief erred in requesting foreign language originals for English language documents that are not translations. The record contains English language letters and MT 103 Messages⁴ from UAE companies – [REDACTED] and [REDACTED] – as well as statements from [REDACTED] and [REDACTED]. With the exception of the letter from [REDACTED] and the MT 103 Messages, these items bear signatures, stamps, or both, of the issuing entity. The MT 103 Messages bear the indicia of being downloaded from an online source. These documents are themselves originals; they are not translations that require the submission of foreign language versions. Accordingly, we withdraw the Chief's findings that these exhibits did not comply with the requirement that translations be accompanied by the foreign language originals. 8 C.F.R. § 103.2(b)(3).

B. Invoice for the Sale of Gold Coins

The Petitioner's explanation and letter from the purchaser of her gold coins resolve the inconsistency regarding the date on the original invoice. The invoice is dated August 12, 2013. The Petitioner's [REDACTED] statement shows an August 7, 2013, deposit that she contends represents, in part, payments she received for the sale of the coins. Before the Chief, she explained that the invoice was dated after the actual sale on "August 7, 2016." On appeal, she affirms that "2016" was a typographical error, and that the sale took place on August 7, 2013. She offers a new letter from the purchaser, who confirms that he prepared the invoice several days after the sale. This new evidence resolves the inconsistency in the dates.

An inconsistency remains, however, with the amount the Petitioner received for the sale of the coins. The translation records the total price for the coins in both the right column and at the bottom. The right column lists the total price as 1.1 billion Toomans. The bottom reads: "Total: 1,100,000,000/- (one billion and one hundred million rials)." According to the Petitioner, 1 Tooman equals 10 Rials. As such, the amount of Toomans should not equal the amount of Rials. The record does not resolve this inconsistency. Thus, the Petitioner has not established whether the price for the coins was 1.1 billion Rials (\$44,359.85) or 11 billion Rials (\$443,598.47),⁵ or sufficiently demonstrated that the sale had financed her investment in the NCE.

C. Path of Funds

Finally, while the letter from the NCE on appeal confirms that the Regional Center did transfer funds to the NCE in the Petitioner's name, she has not documented the complete path of funds as required. *Izummi*, 22 I&N Dec. at 195. The record corroborates a deposit of 14,904,420,000 Rials into the Petitioner's [REDACTED] account in August 2013. A few days later, she withdrew 15 billion Rials.

⁴ MT 103 Messages are documents that memorialize international wire transfers.

⁵ In her response to the Chief's request for evidence, the Petitioner indicated that \$1 was approximately 24,797.20 Rials in 2013.

Later the same month, the Regional Center received \$39,060 from [REDACTED] and \$499,940 from [REDACTED] both businesses are located in [REDACTED] the UAE. In early September 2013, [REDACTED] in [REDACTED] transferred \$978 to the Regional Center. The MT 103 notices and incoming wire email advice notifications contain the originator to beneficiary message: "BUYING GOODS." The record does not trace the funds from the Petitioner's [REDACTED] account to any of the three limited liability companies in [REDACTED] or reflect their ownership and lawful business activities.

The Petitioner's explanation of the break in the path of funds does not resolve the issue. She asserted in her response to the Chief's request for evidence that due to sanctions on Iran, she was unable to directly wire the funds from Iran to the Regional Center. Instead, she "gave the money to a person who had connections to wiring companies outside of Iran (in this case the UAE), and wired the money through that company." She continued in her statement that the individual refused to provide a written confirmation of these events. While we are aware of the inability to wire funds directly from Iran to the United States in 2013, it remains the Petitioner's burden to trace the entire path of funds back to a lawful source. Her unsupported affirmation that an unidentified person brought the money to [REDACTED] and wired it to the Regional Center from there through three companies, whose ownership and legitimate business activities are undocumented, does not meet that burden. Moreover, the Petitioner has not resolved why the MT 103 Messages from these companies indicated that the transactions were for buying goods. In light of the above, the Petitioner has not sufficiently documented the complete path of her investment capital from her account to that of the NCE. *See Izummi*, 22 I&N Dec. at 195.

III. CONCLUSION

The Petitioner has not provided consistent evidence regarding a major source of her investment capital and has not documented the complete path of funds as required.

ORDER: The appeal is dismissed.

Cite as *Matter of B-*, ID# 532206 (AAO July 18, 2017)