



U.S. Citizenship  
and Immigration  
Services

(b)(6)

[Redacted]

DATE: **MAR 18 2014**

Office: EL PASO

[Redacted]

IN RE: Obligor:  
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

ON BEHALF OF OBLIGOR:

[Redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The delivery bond in this matter was declared breached by the Field Office Director, Detention and Removal, El Paso, Texas, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The record indicates that on February 16, 2011, the obligor posted a \$7,500 bond conditioned for the delivery of the above referenced alien. A Notice to Deliver Alien (Form I-340) dated June 26, 2013, was sent 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 9:00 a.m. on July 25, 2013, at [REDACTED]. The obligor failed to present the alien, and the alien failed to appear as required. On August 5, 2013, the field office director informed the obligor that the delivery bond had been breached.

On appeal, counsel argues that the breach is invalid because ICE failed to comply with the *Amwest v. Reno* Settlement Agreement and the legacy Immigration and Naturalization Service implementing memorandum with respect to the requisite notice and questionnaire to be sent to both the obligor and co-obligor.<sup>1</sup>

The Form I-352 provides that the obligor and co-obligor are jointly and severally liable for the obligations imposed by the bond contract. As such, ICE may pursue a breach of bond against one or both of the contracting parties. *See Restatement (Third) of Suretyship and Guaranty* § 50 (1996). Consequently, the record clearly establishes that the notice was properly served on either the obligor or the co-obligor in compliance with 8 C.F.R. § 103.5a(a)(2)(iv). Reference in this decision to the obligor is equally applicable to the co-obligor and vice versa.

Delivery bonds are violated if the obligor fails to cause the bonded alien to be produced or to produce himself/herself to an immigration officer or immigration judge, as specified in the appearance notice, upon each and every written request until removal proceedings are finally terminated, or until the alien is actually accepted by ICE for detention or removal. *Matter of Smith*, 16 I&N Dec. 146 (Reg. Comm. 1977).

The regulations provide that an obligor shall be released from liability where there has been "substantial performance" of all conditions imposed by the terms of the bond. 8 C.F.R. § 103.6(c)(3). A bond is breached when there has been a substantial violation of the stipulated conditions of the bond. 8 C.F.R. § 103.6(e).

8 C.F.R. § 103.8(a)(2) provides that personal service may be effected by any of the following:

- (i) Delivery of a copy personally;

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<sup>1</sup> On April 6, 2005, the Headquarters Office of Detention and Removal Operations issued a memorandum entitled *Declarations of Breach of Delivery Bonds*. This memorandum confirms that the terms of the Amwest I and Amwest II Settlement Agreements are binding only on those companies who were parties to the agreements. The obligor was not a party to Amwest I or Amwest II Settlement Agreements.

- (ii) Delivery of a copy at a person's dwelling house or usual place of abode by leaving it with some person of suitable age and discretion;
- (iii) Delivery of a copy at the office of an attorney or other person including a corporation, by leaving it with a person in charge;
- (iv) Mailing a copy by certified or registered mail, return receipt requested, addressed to a person at his last known address.
- (v) If so requested by a party, advising the party by electronic mail and posting the decision to the party's USCIS account.

Counsel's claim on appeal is without merit. The evidence of record indicates that the Notice to Deliver Alien was sent to the obligor and co-obligor via certified mail on June 26, 2013 and June 27, 2013, respectively. This notice demanded that the obligor and/or co-obligor produce the bonded alien on July 25, 2013. The PS Form 3811, Domestic Return Receipt, shows it was signed by a [REDACTED], and a representative of [REDACTED] Inc., on July 1, 2013. Consequently, the record clearly establishes that the notice was properly served on the obligor in compliance with 8 C.F.R. § 103.5a(a)(2)(iv).

It is clear from the language used in the bond agreement that the obligor shall cause the alien to be produced or the alien shall produce herself to an ICE officer upon each and every request of such officer until removal proceedings are either finally terminated or the alien is accepted by ICE for detention or removal.

It must be noted that delivery bonds are exacted to ensure that aliens will be produced when and where required by ICE for hearings or removal. Such bonds are necessary in order for ICE to function in an orderly manner. The courts have long considered the confusion which would result if aliens could be surrendered at any time or place it suited the alien's or the surety's convenience. *Matter of L-*, 3 I&N Dec. 862 (C.O. 1950).

After a careful review of the record, it is concluded that the conditions of the bond have been substantially violated, and the collateral has been forfeited. The decision of the field office director will not be disturbed.

**ORDER:** The appeal is dismissed.