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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals MS2090  
Washington, D.C. 20529-2090



U.S. Citizenship and Immigration Services

**PUBLIC COPY**

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NOV 23 2010

FILE: [Redacted] Office: HOUSTON Date:

IN RE: Obligor: [Redacted]  
Bonded Alien: [Redacted]

IMMIGRATION BOND: Bond Conditioned for Voluntary Departure under § 240B of the Immigration and Nationality Act, 8 U.S.C. § 1229c

IN BEHALF OF OBLIGOR:

[Redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

*Mari Plunson*  
S Perry Rhew  
Chief, Administrative Appeals Office

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

The record indicates that on May 14, 2009, an immigration judge (IJ) issued an order granting the alien voluntary departure in lieu of removal on or before August 12, 2009. On May 18, 2009, the obligor posted a \$500.00 bond conditioned for the voluntary departure of the above referenced alien. On September 1, 2009, the field office director concluded that the bond had been breached.

On appeal, counsel asserts, “[p]ursuant to Form I-352’s general terms and conditions, as well as the *Amwest v. Reno* Settlement and its accompany Memorandum, the Agency is required to provide notice of a demand to produce an alien to the Agency to the obligors, Financial Casualty an AAA Bonding on the bond.” Counsel asserts that the director failed to send a Form I-340 to the obligors.

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.

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. Accordingly, as the obligor was not a party to Amwest I or Amwest II Settlement Agreements, counsel’s claim is without merit.

Further, the service of a Form I-340, Notice to Deliver Alien, is not required in voluntary departure bond proceedings.

The regulation at 8 C.F.R. § 1240.26(c)(3) provides that in order for the voluntary departure bond to be cancelled, the alien must provide proof of departure to the field office director. No satisfactory evidence has been introduced into the record to establish the alien made a timely departure.

Voluntary departure bonds are exacted to ensure that aliens will depart when required in lieu of removal. Such bonds are necessary in order for Immigration and Customs Enforcement to function in an orderly manner. *After a careful review of the record, it is concluded that the alien failed to depart by the stipulated time, 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.