

U.S. Citizenship and Immigration Services
Immigrant Investor Program
Washington, DC 20529

U.S. Department of Homeland Security



U.S. Citizenship
and Immigration
Services

TO:
Geoffrey Hirson
Powerdyne Regional Center, LLC
(Now Global Future City Regional Center, LLC)
4740 Von Karman Avenue, Suite 100
Newport Beach, CA 92660

DATE: August 2, 2017
Application: Form I-924
File: ID (formerly ID1215250671)
RCW1215250671

NOTICE OF TERMINATION

This letter shall serve as notification that U.S. Citizenship and Immigration Services (“USCIS”) has terminated the designation of Powerdyne Regional Center, LLC (now Global Future City 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

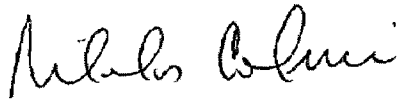
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For an appeal, the Regional Center may request additional time to submit a brief within 30 calendar days of filing the appeal. Any brief, written statement or evidence in support of an appeal that is not filed with Form I-290B must be directly sent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

USCIS Administrative Appeals Office
U.S. Citizenship and Immigration Services
20 Massachusetts Avenue, NW, MS 2090
Washington, DC 20529-2090

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 dated July 15, 2015

cc: Evelyn Haun
David Hirson & Partners, LLP
8 Cheshire Court
Newport Beach, CA 92660

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NOTICE OF TERMINATION
Termination of Regional Center Designation Under the Immigrant Investor Program
Powerdyne Regional Center, LLC (Now Global Future City 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.¹

(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 C.F.R. 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) 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 C.F.R. 103.3.

¹ Section 610 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993, Pub. L. No. 102-395, 106 Stat. 1828 (1992), as amended (hereinafter "Appropriations Act").

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(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 28, 2013, USCIS designated and authorized the Regional Center's participation in the Program. On July 15, 2015, USCIS issued a Notice of Intent to Terminate ("NOIT") to the Regional Center, copy enclosed, 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 August 18, 2015, USCIS received the Regional Center's response to the NOIT (the "NOIT Response"), and a Form I-924 (RCW1522952862) amendment to the Regional Center's designation ("I-924 Amendment").

USCIS has determined that the NOIT response, and additional information received with the I-924 Amendment, did not sufficiently address the grounds alleged in the NOIT; and accordingly, 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.").

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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 indicated in the NOIT, USCIS referenced a lack of activity based upon the Regional Center’s Forms I-924A Supplement to Form I-924 for the two previous fiscal years (2013 & 2014). Specifically, those Form I-924A filings did not report any pending or approved Forms I-526 Immigrant Petition by Alien Entrepreneur (“Form I-526”) filed by petitioners who made or were actively in the process of making investments into new commercial enterprises associated with the Regional Center.

In the NOIT Response, the Regional Center described the planning and development of two projects (“Cabazon Project” and “Santa Margarita Project”). Further, the Form I-924 Amendment requested the addition of new industry categories for the focus of EB-5 capital investment and provided transactional documents relating to the planning of the “Cabazon Project.” The NOIT Response asserted that the lack of activity in the previous years was due to the nature of the projects taking years to develop before they could be brought to market.

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Since submitting its NOIT Response, the Regional Center filed two more Forms I-924A: the first on December 16, 2015 for fiscal year 2015; and the second on December 19, 2016 for fiscal year 2016. Both I-924A filings indicated the Regional Center was planning four new projects in new industry categories: (1) Sycamore Hills (Upland) Property, (2) Arcadia Property, (3) Oceanside Property, and (4) Fontana Property. However, neither Form I-924A filings mention any activity related to the two projects identified in the NOIT Response. Nor did they report any EB-5 capital investment or job creation, or any pending or approved Forms I-526 filed by petitioners who made or were actively in the process of making investments into Regional Center-associated new commercial enterprises. The Regional Center's asserted justifications for the lack of activity in both filings were "the prolonged EB-5 legislation renewal process" and lack of action by USCIS to adjudicate and approve their aforementioned Form I-924 Amendment request.

Summary of Regional Center I-924A Filings Received to Date				
Powerdyne Regional Center, LLC (Now Global Future City Regional Center, LLC)				
Fiscal Year	Receipt No.	Date Received	Aggregate EB-5 Capital Investment	Aggregate Direct/ Indirect Job Creation
2013	RCW1331751280	11/12/2013		
2014	RCW1432451991	11/19/2014		
2015	RCW1535253737	12/16/2015		
2016	RCW1635554848	12/19/2016		

(b)(4)

Additionally, both the NOIT Response and the I-924 Amendment touted the new involvement of a Mr. Ning (Sam) Liu as the new President and Director of the Regional Center.² A letter from the Regional Center's attorney Ms. Evelyn Hahn, provided in support of the Regional Center's I-924 Amendment, notes that rather than rely on migration agents in China for overseas marketing, the Regional Center "plans to use the international contacts of Mr. Ning Liu."³ A Declaration of Ning Liu provided "in response to USCIS' Notice of Intent to Terminate the regional center designation" describes his background and "extensive connection with Chinese business networks which will greatly help in attracting EB-5 investments from overseas Chinese investors and entrepreneurs."⁴ Mr. Liu's declaration goes on to state that he is "confident that [he] will be able to use [his] own personal connections and networks to find enough investors to initiate [the Regional Center's] EB-5 development projects."⁵

² NOIT Response and I-924 Amendment Request, Part 3, Question D.

³ NOIT Response and I-924 Amendment Request, Evelyn Hahn Letter, August 13, 2015, p.3.

⁴ I-924 Amendment Request, Exhibit 10, Declaration from Mr. Ning Liu, pp 1-2.

⁵ *Id.* p. 2.

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Belying the Regional Center's reliance on Mr. Liu's involvement to promote and attract capital investment activity, subsequent public filings of the Regional Center's parent company with the U.S. Securities and Exchange Commission indicate that Mr. Liu has been detained by Chinese law enforcement authorities since August of 2016.⁶ Effective October 21, 2016, Mr. Liu resigned as Chief Executive Officer, President, and Chairman of the Board of Directors "as well as from all other positions held with the Company's wholly-owned subsidiaries . . ." which includes the Regional Center.⁷ Global Future City Holdings Inc.'s Form 10-K Annual Report to the U.S. Securities Exchange Commission for the fiscal year ended December 31, 2016, noted that Mr. Liu remained in detention in China pending the appeal of his March 2, 2017 conviction "for violations of the P[eople's] R[epublic of] C[hina]'s multi-level marketing regulations."⁸ These developments undermine the credibility and probative value of the Regional Center's assertions in the NOIT Response and the I-924 Amendment that Mr. Liu will assist the Regional Center to further its promotion of economic growth. Additionally, contrary to the Regional Center's goals for aspirational projects, identified in the NOIT Response and I-924 Amendment, the FY2016 Form 10-K goes on to state that Global Future City Holdings, Inc. was "never able to find an EB-5 investment project that met [its] internal criteria and, given the difficulties caused by Mr. Liu's alleged actions, [its] investment in the Regional Center became significantly impaired. Consequently, we have abandoned this line of business and are pursuing a buyer for the Regional Center."

At best, the Regional Center asserted in the NOIT Response that it has been planning several potential projects over the years. However, it appears that none of the projects ever progressed beyond theoretical ideas. The Regional Center provided no evidence to demonstrate that these projects represent actual investment opportunities for EB-5 investors or that the Regional Center was undertaking activity to pursue progress towards that end. The Regional Center's Form I-924A filings for fiscal years 2013, 2014, 2015, and 2016, have not reported any EB-5 capital investment activity, job creation, or promotion of economic growth in its approved geographic area. Although USCIS designated the Regional Center on May 28, 2013, no petitioners claiming association with the Regional Center have ever filed a Form I-526, Immigrant Petition by Alien Entrepreneur. Accordingly, over the past four years, the Regional Center has not demonstrated its ability to follow through with any planned projects to generate capital investments that attract EB-5 investors, create jobs, or promote economic growth. Further, the credibility and probative value of the evidence the Regional Center provided, of its intent to promote economic growth, chiefly in the NOIT Response and I-924 Amendment, is undermined by the subsequent contradictory public filings of the Regional Center's parent company.

⁶ Form 8-K, Current Report to the U.S. Securities and Exchange Commission by Global Future City Holdings, Inc., 31 August 2016, Item 8.01. USCIS may verify information submitted by the Regional Center to establish its eligibility for regional center designation at any time to ensure compliance with applicable laws and authorities, pursuant to authority granted by 8 U.S.C. sections 1103, 1155, and 1357; and the Appropriations Act.

⁷ Form 8-K, Current Report to the U.S. Securities and Exchange Commission by Global Future City Holdings, Inc., 21 October 2016, Item 5.02.

⁸ Form 10-K, Annual Report to the U.S. Securities and Exchange Commission by Global Future City Holdings, Inc., 17 April, 2017, Item 1.

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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.

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.

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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

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