



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

**TO:**

USHoldings Regional Center  
Edward S Oh  
30 Pine House Rd  
Trenton, SC 29847

**DATE:** September 24, 2018

**Application: Form I-924**

**File Number:**

**RCW1201150567RCW1201150567**

**RCID: (formerly ID1201150567)**

**NOTICE OF TERMINATION**

This letter shall serve as notification that U.S. Citizenship and Immigration Services ("USCIS") has terminated the designation of USHoldings Regional Center (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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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](http://www.uscis.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "SM Kendall", with a long horizontal flourish extending to the right.

Sarah M. Kendall  
Chief, Immigrant Investor Program

Enclosure: (1) Form I-290B with instructions  
(2) Notice of Intent to Terminate issued on July 9, 2018

cc: David Derrico  
101 Pineapple Grove Way  
Delray Beach, FL 33444

**NOTICE OF TERMINATION**  
**Termination of Regional Center Designation Under the Immigrant Investor Program**  
**USHoldings Regional Center**

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 January 16, 2013, USCIS designated and authorized the Regional Center's participation in the Program. On July 9, 2018, 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 August 21, 2018, 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 2013, 2014, 2015, 2016 and 2017 do not report any EB-5 capital investment or job creation. In addition, although USCIS designated the Regional Center on January 16, 2013, 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. The Regional Center’s filings do not otherwise indicate that it has conducted activity that serves the purposes of the Program, including the “purpose of concentrating pooled investment” as required by section 610(a) of the Appropriations Act.<sup>1</sup>

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

- Cover Letter, dated August 9, 2018
- Copy of Check# 0146690 \$3,035.00, dated December 8, 2017
- Amended Past Years Applications for FY 2015, 2016, 2017, dated August 9, 2018
- Mr. Edward Oh Passport, expires April 15, 2020
- Mr. Ted Oh Driver's License, expires August 18, 2020
- Certificates of Minority Ownership, expired May 31, 2018, expires May 31, 2019

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<sup>1</sup> USCIS Policy Manual, Volume 6-Immigrants, Part G-Investors.

(b)(4)

- ISO Certifications, Expires September 14, 2018, Expires February 16, 2019
- Congressman Jeff Duncan Letter, dated January 12, 2017
- Plastic News on USFibers' Expansion, dated January 18, 2017
- SC Recycling Ind. Excellence Award By SC Governor Henry McMaster, April 26, 2017
- Capital Investment, 2015-2017
- Export Sales, 2015-2017
- Employment Growth, 2015-2017
- Capital Investment Announcement from the State of SC, dated April 29, 2010

The NOIT Response contains revised I-924A Forms for Fiscal Years 2015, 2016, and 2017, each of which states that Aggregate EB-5 Capital Investment From All Sponsored Projects was [REDACTED] and states the "Aggregate Number of Direct, Indirect, and/or induced Jobs Created for All Sponsored Projects" in Part 5, Line 3 was [REDACTED]

However, the forms also showed "Aggregate Non-EB-5 Capital Investment," (emphasis added) at Part 5, Line 8 in the industry represented by NAICS Code 325220 (Artificial and Synthetic Fibers and Filaments Manufacturing<sup>2</sup>) of [REDACTED] for fiscal year 2015; [REDACTED] for fiscal year 2016, and [REDACTED] for fiscal year 2017, respectively.<sup>3</sup> These amounts correspond to the sums displayed in graphic exhibit titled "Annual Investments."

Also in the revised I-924A Forms, the numbers of Aggregate Number of Direct, Indirect, and/or Induced Jobs Created for Fiscal Years 2015, 2016, and 2017 in Part 5, Line 9 were reported as [REDACTED] respectively. These amounts match the totals in graphic exhibit titled "New Jobs Created." Since these jobs appear to have derived from expenditures unrelated to EB-5 investments, the Regional Center has not established that it has sponsored the creation of jobs *in accordance with the EB-5 Program*.

The NOIT Response also contained a press release stating the expectation that the firm will create [REDACTED] new jobs; however, the statement provided no verifiable detail that would allow USCIS to judge the validity of the claim. The NOIT Response contained no plans, budgets, or estimations for marketing, promotion, or new projects by the Regional Center. No source is given for the graphic exhibits titled "Export Sales" over the years 2015-2017.

Since no Business Plan for any project has been submitted or approved by USCIS, the Regional Center has not established link between investments and EB-5 investments. The revised I-924A Forms explicitly described the spending and job creation as "Non-EB-5," and therefore did not constitute evidence of concentrating pooled investment as EB-5 Regional Centers are required to do by section 610(a) of the

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<sup>2</sup> <https://classcodes.com/lookup/naics-code-325220/>

<sup>3</sup> Line 7 of Part 5 in each of the revised I-924A Forms also showed "Aggregate EB-5 capital Investment as [REDACTED]"

(b)(4)

Appropriations Act.<sup>4</sup> Instead, the evidence suggests that both the Capital Investment and Employment reported in the revised I-924As did not stem from EB-5 investments. Moreover, as stated previously, USCIS has not approved any EB-5 Petitions based on projects sponsored by the Regional Center, and no I-526 Petitions related to the Regional Center have been received by USCIS.

While the Regional Center provided evidence related to its owners or partners who may have been involved in the promotion of economic growth in general, there is no evidence in the record that the Regional Center itself has engaged in the promotion of economic growth *in accordance with the EB-5 Program*. Rather, the Regional Center expressly stated that all of its activity has been related to non-EB-5 investments. The Regional Center did not provide any evidence of its current efforts to promote economic growth in accordance with the EB-5 Program, and it has not provided any evidence showing that it has any future plans to do so.

In the absence of evidence of EB-5 investment leading to 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.

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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<sup>4</sup> USCIS Policy Manual, Volume 6-Immigrants, Part G-Investors, Chapter 3-Regional Center Designation, Reporting, Amendments, and Termination.

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USCIS  
P.O. Box 660168  
Dallas, TX 75266

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

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