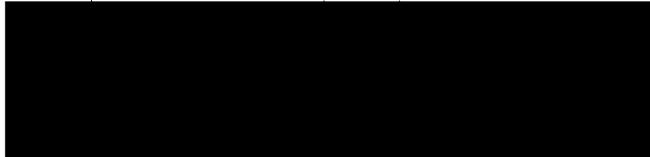




U.S. Department of Justice  
Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536



File: WAC-98-116-53308 Office: California Service Center

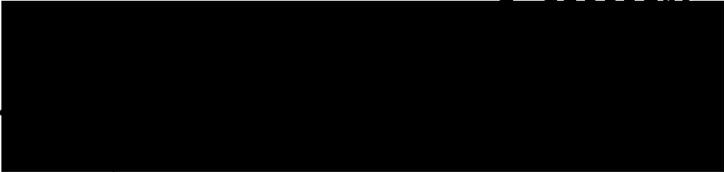
Date: AUG 4 2000

IN RE: Petitioner:



Petition: Immigrant Petition by Alien Entrepreneur Pursuant to § 203(b)(5) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(5), and § 610 of the Appropriations Act of 1993.

IN BEHALF OF PETITIONER:



Public Copy

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Terrence M. O'Reilly, Director  
Administrative Appeals Office

**DISCUSSION:** The immigrant visa petition was denied by the Director, California Service Center, who certified the decision to the Associate Commissioner for Examinations for review. The decision of the director will be affirmed.

The petitioner seeks classification as an alien entrepreneur pursuant to § 203(b)(5) of the Immigration and Nationality Act (the "Act"), 8 U.S.C. 1153(b)(5), and § 610 of the Appropriations Act of 1993.

The petitioner is a native and citizen of Japan. The petitioner filed Form I-526, Immigrant Petition by Alien Entrepreneur, indicating that the petition was based on an investment in a new business in a targeted employment area eligible for downward adjustment of the minimum capital investment to \$500,000 and indicated that the new business was in a "regional center" eligible for participation in the Immigrant Investor Pilot Program. The petitioner contended that he is one investor in a plan to recruit 40 investors, in [REDACTED] a [REDACTED]

The expressed purpose of the partnership is to develop a highrise condominium tower with each partner subsequently owning one unit as a residence or as an investment. The general partner of the partnership was stated as [REDACTED]

[REDACTED] a Delaware corporation. The petitioner claimed that he is in the process of investing \$500,000 into the partnership. The investment is in the form of a \$125,000 initial payment with a promissory note for the balance of \$375,000.

The director denied the petition in a decision dated January 5, 1999, and certified that decision to the Associate Commissioner pursuant to 8 C.F.R. 103.4(a). In the denial, the director found that the petitioner failed to submit sufficient documentation to establish that his investment would result in the requisite employment creation and failed to submit sufficient documentation to establish the source of his investment capital as required. Relying on Matter of Izumii, I.D. 3360 (Assoc. Comm., Examinations, July 13, 1998), the director also found that the structure of the petitioner's investment agreement contained provisions for a redemption agreement and an escrow arrangement that were disqualifying.

The director advised the petitioner that the decision was certified for review and afforded the petitioner thirty days in which to submit additional documentation to the reviewing authority. As of this date, no further response has been received from the petitioner.

Based on a review of the record as presently constituted, there is no error of law or fact evident in the director's decision. The director's decision therefore shall be affirmed.

**ORDER:** The decision dated January 5, 1999, is affirmed. The petition is denied.