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identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

File: LOS 214F 1312 Office: LOS ANGELES, CALIFORNIA Date: MAY 19 2003

IN RE: Petitioner: [redacted]

Petition: Petition for Approval of School for Attendance by Nonimmigrant Students under Sections 101(a)(15)(F)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(F)(i)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

PUBLIC COPY

INSTRUCTIONS:
This is the decision in your case. All documents have been returned to the office that 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 CFR § 103.5(a)(1)(i).

If you have new or additional information that 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 Bureau of Citizenship and Immigration Services (Bureau) 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 that originally decided your case along with a fee of $110 as required under 8 CFR § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Petition for Approval of School for Attendance by Nonimmigrant Students (Form I-17) was approved on March 22, 1988 by the District Director, Los Angeles, California. On April 10, 2003, the district director sent a notice of automatic withdrawal of school approval, finding that because the petitioner failed to file a new I-17 petition within 60 days of change of ownership, approval was automatically withdrawn sixty days hence. Counsel for the petitioner filed an appeal of the district director's decision. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The approved 1988 petition listed the owner of the school as Ms. [redacted] (AKA [redacted]. On October 2, 2002, the petitioner filed a SEVIS I-17 petition for continuation of school approval for attendance by nonimmigrant students. The SEVIS I-17 petition lists [redacted] as owner of the school. On January 29, 2003, the district director issued a request for additional evidence requesting additional documentation regarding the ownership of the school and the petitioner replied. The district director issued a warning letter dated March 12, 2003 and served it upon the petitioner. The warning letter alleged that ownership of the petitioner school changed on December 31, 1994 and again on January 25, 1996 but that the petitioner failed to file a new petition within sixty days of that change of ownership as required by 8 C.F.R. § 214.4(a)(2).

8 C.F.R. § 214.4(a)(2) states, in pertinent part:

> If an approved school changes ownership, approval will be automatically withdrawn sixty days after the change of ownership unless the school files a new petition for school approval within sixty days of that change of ownership.

On appeal, the petitioner asserts that ownership did not change until 1999 and that the petitioner provided the Bureau (then the Immigration and Naturalization Service) with a letter notifying the same of the change of ownership.

The district director determined that there was no evidence on the record to show that the petitioner notified the Bureau of the change in ownership, but even if it had notified the Bureau by letter, such notice would not satisfy the requirement that a new petition be filed within sixty days of the change of ownership. The AAO concurs. A letter does not satisfy the requirement that a new petition be filed. *See* 8 C.F.R. § 214.4(a)(2).

On appeal, the petitioner submits copies of three additional Form I-17's that it claims it filed with the Bureau on March 1, 1996, June 21, 1999, and July 3, 2000. The petitioner asserts that all three Forms I-17 were hand delivered to the Bureau. The petitioner further asserts that a representative signed for the 1999 Form I-17 by signing her name and writing her phone number

on the form instructions.

In review, the Form I-17 petition that the petitioner alleges was filed with the Bureau on March 1, 1996 lists [redacted] as its owner. The evidence on the record shows that the petitioner's original owner [redacted] entered into an agreement with King Wong on September 20, 1994 to transfer the ownership of the petitioner. The petitioner should have filed a new Form I-17 within sixty days of the change of ownership. Here, it is claiming that it filed a new Form I-17 on March 1, 1996, more than a year after the change of ownership.

The petitioner asserts, "although the school was sold in 1995, the terms of the sale called for Mrs. [redacted] to retain title of the school until 1999."

The petitioner's arguments are not persuasive. The evidence on the record indicates that the petitioner filed income tax returns showing ownership had changed by tax year 1995. In 1995, the petitioner filed taxes as a partnership establishing the owners as [redacted] owning 95.2383% of capital, and Can Poon, owning 4.7617% of capital. The taxes in subsequent years starting in 1996 through 2001 indicate that [redacted] owns 100% of the school's stock.

In summary, the evidence on the record reflects the following:

The petitioner filed a Petition for Approval of School for Attendance by Nonimmigrant Students (Form I-17) that was approved on March 22, 1988 by the District Director, Los Angeles, California. The approved petition listed the owner of the school as Ms. [redacted]

On September 20, 1994, Ms. [redacted] contracted with King Wong to sell the petitioner to King Wong. The record is unclear as to the exact date title transferred, but it appears that title transferred as of the date the buyer began making payments to the seller on October 1, 1994.

The petitioner did not notify the Bureau of its change in ownership (October 1, 1994) within sixty days of the change as is required by 8 C.F.R. § 214.4(a)(2).

In review, counsel's arguments are not persuasive. The petitioner failed to timely notify the Bureau of a change in ownership; therefore withdrawal of school approval is automatic. 8 C.F.R. § 214.4(a)(2).

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not sustained that burden.

ORDER: The appeal is dismissed.