



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

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 29910608

Date: FEB. 13, 2025

Appeal of Immigrant Investor Program Office Decision

Form I-526, Immigrant Petition by Alien Entrepreneur

The Petitioner seeks classification as an immigrant investor pursuant to the Immigration and Nationality Act (the Act) Section 203(b)(5), 8 U.S.C. § 1153(b)(5) (2019).¹ This fifth preference (EB-5) classification makes immigrant visas available to aliens who invest the requisite amount of qualifying capital in a new commercial enterprise (NCE) that will benefit the U. S. economy and create at least 10 full-time positions for qualifying employees.

The Chief of the Immigrant Investor Program Office denied the petition, concluding that the Petitioner did not document the lawful source of his \$500,000 investment in [REDACTED] [REDACTED] (the NCE), which is associated with [REDACTED].² The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

An alien may be classified as an immigrant investor if they invest the requisite amount of qualifying capital in an NCE. The petitioner may invest the required funds directly in an NCE or through a regional center, as the Petitioner has done in this case. Regional centers can pool immigrant (and other) investor funds for qualifying projects that create jobs directly or indirectly. 8 C.F.R. § 204.6(j)(4)(iii) (2019).

¹On March 15, 2022, the EB-5 Reform and Integrity Act of 2022 was signed into law, revising general eligibility requirements, substantially reforming and codifying the Regional Center Program in INA 203(b)(5), and adding significant new integrity provisions. <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20221006-EB5ReformAndIntegrityAct.pdf>. As the Petitioner filed his petition in February 2019, the relevant law then in existence governs this appellate adjudication.

²[REDACTED] is an entity that U.S. Citizenship and Immigration Services (USCIS) has designated to participate in the EB-5 program. A regional center is an economic unit involved with the promotion of economic growth, "including . . . improved regional productivity, job creation, and increased domestic capital investment." See 8 C.F.R. 204.6(e)(2019).

An immigrant investor must demonstrate that they have placed their own capital at risk in the NCE. *See Matter of Ho*, 22 I&N Dec. 206, 213 (Assoc. Comm'r 1998); *Matter of Soffici*, 22 I&N Dec. 158, 165 n.3 (Assoc. Comm'r 1998) (stating that “[a] petitioner must . . . establish, pursuant to 8 C.F.R. § 204.6(e), that funds invested are [their] own”). In addition, the investor must show that their invested capital did not derive, directly or indirectly, from unlawful means. 8 C.F.R. § 204.6(e). To show the lawful source of the funds, an investor must submit evidence such as foreign business and tax records or documentation identifying sources of the capital. *See* 8 C.F.R. § 204.6(j)(3). Bank letters or statements corroborating the deposit of funds by themselves are insufficient to demonstrate their lawful source. *Matter of Ho*, 22 I&N Dec. at 210-11; *Matter of Izummi*, 22 I&N Dec. 169, 195 (Assoc. Comm'r 1998). The record must trace the complete path of the funds back to a lawful source.³ *See Borushevskiy v. USCIS*, 664 F. Supp. 3d 117, 129 (D.D.C. 2023), *aff'd*, 2024 WL 2762146 (D.C. Cir. May 30, 2024) (holding that demonstrating a “complete path” of funds is USCIS’ authoritative position recognized by other relevant precedent decisions); *see also Matter of Ho*, 22 I&N Dec. 206, 210-11 (Assoc. Comm'r 1998); *Matter of Izummi*, 22 I&N Dec. 169, 195 (Assoc. Comm'r 1998).

II. ANALYSIS

In this case, the Petitioner claims to have invested \$500,000 in the NCE.⁴ According to the submitted business plan, the NCE seeks to solicit up to \$30,000,000 from up to 60 immigrant investors and will lend the entire amount to an affiliate of [REDACTED] the job-creating entity (JCE). The JCE will use the EB-5 investment capital to develop, construct, and operate a luxury hotel in [REDACTED] North Carolina.

Bank records show that on August 13, 2018, the Petitioner remitted \$535,000⁵ from his [REDACTED] [REDACTED] account ending in 0382 to his attorney’s [REDACTED] account. Subsequently, on November 19, 2018, the Petitioner’s attorney remitted \$535,000 from that account to the NCE’s account at [REDACTED] which issued a letter to the Regional Center’s managing director confirming that the Petitioner had remitted his investment funds on that date.

The Chief, after issuing a request for evidence (RFE) and reviewing the Petitioner’s response, concluded that he did not meet his burden to show that his investment funds did not derive, directly or indirectly, from unlawful means, because the evidence did not trace the path of funds back to a lawful source. In reaching this conclusion, the Chief emphasized that the Petitioner: (1) did not specify which of his and his spouse’s Albanian bank accounts were used for the wire transfers made to his [REDACTED] [REDACTED] account ending in 0382 in 2017 and 2018; (2) did not submit bank statements for his [REDACTED] [REDACTED] account; and (3) did not submit bank statements for his attorney’s [REDACTED] account.

³ These requirements “serve a valid government interest; i.e. to confirm that the funds utilized in the EB-5 program are not of suspect origin.” *Spencer Enterprises, Inc. v. United States*, 229 F.Supp. 2d 1023, 1040 (E.D. Cal. 2001) (holding that a petitioner had not established the lawful source of her funds because, in part, she did not designate the nature of all of her employment or submit five years of tax returns), *aff'd*, 345 F.3d 683 (9th Cir. 2003).

⁴ The Petitioner indicates that the NCE is in a targeted employment area, and that the required amount of qualifying capital is downwardly adjusted from \$1,000,000 to \$500,000. *See* 8 C.F.R. § 204.6(f)(2) (2019).

⁵ The Petitioner indicates that this amount including his \$500,000 investment and a \$35,000 “syndication price.” The submitted Subscription Agreement and Escrow Agreement, signed by the Petitioner on November 9, 2018, indicate that the syndication price is \$50,000, although the former document indicates a lesser amount may be payable “at the discretion of the General Partner.”

On appeal, the Petitioner submits a brief and supplemental evidence intended to address the issues raised in the Chief's decision. He asserts that he submitted sufficient evidence to demonstrate that his investment funds, more likely than not, derived from a lawful source. Upon review, and for the reasons provided below, we conclude that the Petitioner has not demonstrated, by a preponderance of the evidence, that the funds he invested were not derived, directly or indirectly, from unlawful means. The record, including the additional evidence submitted on appeal, does not trace the path of funds back to a lawful source. *See Matter of Ho*, 22 I&N Dec. at 210-11; *Matter of Izummi*, 22 I&N Dec. at 195.

At the time of filing, the Petitioner submitted a September 14, 2018 "self-declaration of family income," indicating his family's net annual income from all sources is approximately \$356,834. He explained that this income is derived from his employment with [redacted] his spouse's employment with the [redacted] and from his spouse's rental of land to his employer. He submitted employment certificates from his and his spouse's employers confirming their annual salaries, as well as leasing contracts between his spouse and his employer, accompanied by evidence of his spouse's ownership of the leased property.

The initial evidence included wire transfer records showing the transfer of funds from the Petitioner's [redacted] account ending in 7282 to his [redacted] account ending in 0382. Specifically, he documented the following transfers to the [redacted] account: \$30,000 on August 28, 2017; \$40,000 on September 5, 2017; \$552,000 on September 8, 2017; \$54,000 on February 13, 2018; \$57,800 on June 1, 2018; and \$83,000 on August 2, 2018, for a cumulative total of \$816,800.⁶ However, the Petitioner did not provide copies of bank statements for these or any other bank accounts to document the family's accumulation and maintenance of the claimed employment and rental income.

In the RFE, the Chief acknowledged the Petitioner's declaration of income but emphasized that the record did not establish how and when the Petitioner's family accrued and maintained the funds used for the investment. The Chief asked the Petitioner to submit a narrative explanation, with corroborative evidence including bank statements, to demonstrate the accumulation of funds, the source of the funds, and an explanation of how much of the investment funds were derived from each source of income. The Chief also advised the Petitioner to submit the evidence specified at 8 C.F.R. § 204.6(j)(3), including foreign business registration records, income tax returns, and evidence identifying any other source(s) of capital. Finally, the Chief observed that there was a three-month delay between the Petitioner's transfer of \$535,000 to his attorney's [redacted] account in August 2018, and his attorney's remittance of this amount to the NCE's account in November 2018. The Chief asked the Petitioner to "submit sufficient evidence documenting the complete path of funds from the Petitioner to the NCE."

In response to the RFE, the Petitioner submitted 34 exhibits and a narrative explaining the source of funds. He reiterated that the source of funds for his investment in the NCE was accumulated employment and rental income. He provided copies of his and his spouse's Albanian tax returns as well as income summary statements from the [redacted]

⁶ The seventh incoming wire transfer to the [redacted] account was dated August 24, 2018, and therefore post-dated the Petitioner's transfer of the \$535,000 investment funds to his attorney's [redacted] account on August 13, 2018.

[REDACTED] This evidence provides the Petitioner's total gross income declared for the years 2013 through 2022, and his spouse's total gross income declared for the years 2014 through 2022. The Petitioner also provided a detailed account of rental payments remitted to his spouse's bank accounts since 2014. In addition, the RFE response included charts detailing annual net income after taxes for both the Petitioner and his spouse. The Petitioner asserted that between 2013 and 2018, his family earned 101,067,506 Albanian lek (ALL), or approximately \$867,607, from salaries and rental income.

The Petitioner explained that this income was accumulated in individual and joint accounts at seven different banks in Albania. He also specified that the funds used for his EB-5 investment were ultimately transferred to his U.S. dollar (USD) account at [REDACTED] (ending in 7282), and then remitted from this account to his [REDACTED] account ending in 0382. He submitted a bank statement for the [REDACTED] account ending in 7282 that shows outgoing wires of \$30,000, \$40,000, \$40,000, \$552,000, \$54,000, \$57,800, and \$278,400 made between August 17, 2017, and July 31, 2018. The cumulative total of funds transferred to the [REDACTED] account was \$1,052,200.

The bank statement for the Petitioner's [REDACTED] account ending in 7282 shows that the account was opened December 31, 2013 and had a \$0 balance until July 31, 2017. The initial credit to the account was a \$200,000 cash deposit from funds "withdrawn from [REDACTED] bank." Other deposits to the account included: a \$40,250.45 transfer on August 4, 2017; a \$422,661.87 transfer on September 11, 2017; a \$54,305.56 transfer on January 29, 2018; a \$57,285.97 transfer on May 29, 2018; a \$278,398.51 transfer on July 31, 2018, and a \$82,970 transfer on August 3, 2018.

The Petitioner's RFE response also included bank statements for two [REDACTED] Accounts (ending in 3159 and 1987); two [REDACTED] accounts (ending in 9795 and 1965); a U.S. dollar [REDACTED] account (ending in 8321); another [REDACTED] account (ending in 1462); and a [REDACTED] account (ending in 1462).⁷ These accounts showed deposits identified as incoming salary and rental payments dating back to 2013 and 2014. However, the Petitioner did explain or trace the path of funds in these other Albanian accounts to his [REDACTED] account ended in 7282.

In addition, as noted in the Chief's decision, the Petitioner's response to the RFE did not include bank statements for the Petitioner's [REDACTED] account ending in 8232, or for his attorney's [REDACTED] account. Without this evidence, the Chief was not able to determine whether the funds, once transferred to these accounts, were commingled with other funds from unknown or unidentified sources.

Finally, we note that the Petitioner indicated that the funds used for his investment were derived entirely from his and his spouse's accumulated net salary and rental income of \$867,607 between the years 2013 and 2018. However, he did not state what portion of his after-tax income was used to pay for the family's living expenses during this period. Further, the record showed that the Petitioner transferred \$1,052,200 to his [REDACTED] account prior to remitting his \$535,000 investment to the NCE through his attorney's account. This amount exceeds his claimed accumulated net earnings

⁷ The Petitioner provided statements for two additional bank accounts (a [REDACTED] account ending in 7900 and a [REDACTED] account ending in 0694) that were opened after the Petitioner transferred the \$535,000 to his attorney's [REDACTED] account and are therefore not part of the path of funds for his investment.

by more than \$184,500. Therefore, the record did not demonstrate that the \$535,000 remitted to the NCE through his attorney's [redacted] account was derived solely from accumulated salary and rental income as claimed.

On appeal, the Petitioner provides an explanation, with supporting evidence, for the path and source of funds for all seven deposits made to his [redacted] account ending in 7282 between August 28, 2017 and July 31, 2018. However, he now states that the majority of the funds transferred to that account (\$701,060.38) was derived from: (1) an ALL 30,000,000 [redacted] treasury bond, held by his spouse, with a maturity date of September 7, 2017; (2) an ALL 20,000,000 [redacted] treasury bond, held by the Petitioner, with a maturity date of September 7, 2017; and (3) an ALL [redacted] [redacted] 30,000,000 treasury bond, held by the Petitioner, with a maturity date of July 26, 2018.⁸ He explains that these funds were deposited in his [redacted] account ending in 1462 and exchanged for USD upon transfer to his [redacted] account ending in 7282.

As discussed, the Petitioner previously claimed that his investment funds were derived solely from salary and rental income accumulated between 2013 and 2018. He did not mention the treasury bonds in either of his prior explanations regarding the source of his funds.⁹ While the Petitioner has now explained and demonstrated the path of funds from three redeemed treasury bonds to his [redacted] Account ending in 7282, and provides evidence of his and his spouse's ownership of the treasury bonds, he has not demonstrated when those bonds were acquired or established the source of the funds used to acquire them.¹⁰

The Petitioner has now explained the source of funds for all monies deposited to his [redacted] account ending in 7282 between August 2017 and July 31, 2018. However, based on the lack of supporting explanation and documentation regarding the funds used to acquire the three treasury bonds which account for over \$700,000 of the funds deposited in that account, the record is insufficient to document the path of the Petitioner's purported EB-5 investment, tracing the path of the funds back to a lawful source. See *Matter of Ho*, 22 I&N Dec. at 210-11; *Matter of Izummi*, 22 I&N Dec. at 195.

The Petitioner's evidence on appeal also does not sufficiently document the source of a \$200,000 cash deposit made to the [redacted] account ending in 7282 on July 31, 2017. The record reflects that this amount was withdrawn from his [redacted] account ending in 9809 and traces some of the funds to

⁸ The Petitioner also indicates that the funds transferred to his [redacted] account ending in 3282 included \$5,723.63 in interest derived from two of these treasury bonds.

⁹ The table of contents accompanying the Petitioner's RFE response identified Exhibit 27 as a [redacted] Treasury Bond Statement" and Exhibit 28 as [redacted] Statement." However, the Petitioner did not mention this evidence or explain its significance in his narrative explanation of the path and source of the funds used for his EB-5 investment. The document described as a "Treasury Bond Statement" was issued on March 13, 2023 and appears to indicate that the Petitioner previously held four treasury bonds that were redeemed at maturity in July 2016 (ALL 30,000,000), July 2017 (ALL 30,000,000), September 2017 (ALL 20,000,000), and July 2018 (ALL 30,000,000). The bank statement submitted as Exhibit 28 appears to have been opened in 2010 and shows payroll deposits for the Petitioner for the period from November 2010 through the end of 2016.

¹⁰ The Petitioner submits a [redacted] Department of Monetary Operations "Client Card" for his Treasury Bills Office account ending in 2006. This statement shows this account was opened in August 2008 and had a \$0 balance as of July 2016. This statement does not appear to relate to any of the three treasury bonds included in the Petitioner's investment funds.

rental payments remitted by the Petitioner's employer and interest earned on the treasury bonds. However, he indicates that \$90,801.42 of the \$200,000 cash deposit was derived from "income" deposited in cash into his [] account ending in 9795 in three separate transactions on July 1, 2016, February 1, 2017 and February 2, 2017, and amounting to ALL 12,500,000. While these cash deposits are annotated on the bank statement as "income from family savings," no further explanation for the source of these funds has been provided.

Based on the reasons we have discussed, the Petitioner has not sufficiently established that the funds he invested in the NCE did not derive, directly or indirectly, from unlawful means. *See* 8 C.F.R. § 204.6(e). The record, including evidence he offers on appeal, does not sufficiently document the complete path of his purported EB-5 investment and trace it back to a lawful source. *See Borushevskiy v. USCIS*, 664 F. Supp. 3d at 129, *aff'd*, 2024 WL 2762146 (D.C. Cir. May 30, 2024); *Matter of Ho*, 22 I&N Dec. at 210-11; *Matter of Izummi*, 22 I&N Dec. at 195.

III. CONCLUSION

The Petitioner has not established, by a preponderance of the evidence, his eligibility for the requested classification. Specifically, he has not demonstrated the lawful source of his purported EB-5 investment. *See* 8 C.F.R. § 204.6(e); *Matter of Ho*, 22 I&N Dec. at 210-11; *Matter of Izummi*, 22 I&N Dec. at 195. As the identified reasons are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining arguments concerning his eligibility.¹¹ *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

It is the Petitioner's burden to demonstrate his eligibility for the EB-5 classification, which includes establishing the lawful source of his purported EB-5 investment. Here, the Petitioner has met that burden.

ORDER: The appeal is dismissed.

¹¹ The Chief address other evidentiary deficiencies as grounds for denial of the petition. Specifically, the Chief emphasized that the Petitioner did not provide copies of bank statements for his [] account ending in 0382 or for his attorney's [] bank account, and therefore did not demonstrate that the \$535,000 in investment funds that was indirectly transferred to the NCE's account through these two accounts was not commingled with other monies from unidentified sources. While the Petitioner addresses these issues on appeal and submits supplemental evidence related to these accounts, we will reserve discussion of these issues for future consideration if the need arises.