U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF M-S- **NOT APPROVED** DATE: OCT. 20, 2016

APPEAL OF IMMIGRANT INVESTOR PROGRAM OFFICE DECISION

PETITION: 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). This fifth preference (EB-5) classification makes immigrant visas available to foreign nationals who invest the requisite amount of qualifying capital in a new commercial enterprise that will benefit the United States economy and create at least 10 full-time positions for qualifying employees.

The Director of the California Service Center denied the petition. The Director found that the Petitioner did not demonstrate the lawful source of his investment funds.[1] Subsequently, the Chief of the Immigrant Investor Program Office granted the Petitioner's motions to reopen and to reconsider, and issued a notice of intent to deny (NOID) the petition.[2] The Chief ultimately denied the petition, concluding that the Petitioner did not establish he placed his capital at risk for the purpose of generating a return. Specifically, the Chief determined that the Petitioner had a unilateral and unconditional right to withdraw his investment from a segregated account that held his funds. Such a financial arrangement, the Chief concluded, did not show that the Petitioner had placed his funds at risk.

The matter is now before us on appeal, in which the Petitioner submits additional evidence and argues that the Chief erroneously denied his petition.

Upon *de novo* review, we will dismiss the appeal.

NOT APPROVED

[1] In this case, the required amount of capital is $500,000 because the investment is in a targeted employment area (TEA). The regulation at 8 C.F.R. § 204.6(f) explains that the minimum investment amount is generally $1,000,000, but may be adjusted down to $500,000 if the investment is in a TEA.

[2] The Chief denied the Petitioner's first motion, concluding that it was untimely filed. The Chief then granted the Petitioner's second motion.

IF, as claimed, some I-526s were approved with the same subscription agreement and account, THEN, IPO would need to revoke them. IF those others have different agreements and arrangements, THEN, this would be a "bait and switch". It is not known which it is.

I. LAW

A. U.S. Citizenship and Immigration Services Deference Policy

In a 2013 policy memorandum, U.S. Citizenship and Immigration Services (USCIS) articulated its policy regarding deference of previous agency determinations in immigrant investor cases. The policy memorandum states:

> As a general matter, USCIS will not reexamine determinations made earlier in the EB-5 process, and the earlier determinations will be presumed to have been properly decided . . . .
>
> [However,] a previously favorable decision may not be relied upon in later proceedings where, for example, the underlying facts upon which a favorable decision was made have materially changed, there is evidence of fraud or misrepresentation in the record of proceeding, or the previously favorable decision is determined to be legally deficient . . . .

USCIS Policy Memorandum PM-602-0083, *EB-5 Adjudications Policy* 23 (May 30, 2013).[3] The memorandum further notes that a "legally deficient" decision is one that "involved an objective mistake of fact or an objective mistake of law evidencing ineligibility for the benefit sought." *Id.* at 24. Accordingly, under USCIS policy, we may reexamine a prior determination that involved an objective mistake of fact or law.

B. Immigrant Investor Classification

A foreign national may be classified as an immigrant investor if he or she invests the requisite amount of qualifying capital in a new commercial enterprise. An immigrant investor may invest the required funds in a new commercial enterprise, and show that at least 10 qualifying employees have been directly hired through that new commercial enterprise as a result. He or she may also invest in a new commercial enterprise associated with a regional center, which is an economic unit involved with the promotion of economic growth through "improved regional productivity, job creation, and increased domestic capital investment." *See* 8 C.F.R. § 204.6(e) (defining "regional center").

Specifically, section 203(b)(5)(A) of the Act provides that a foreign national may seek to enter the United States for the purpose of engaging in a new commercial enterprise:

> (i) in which such alien has invested . . . or, is actively in the process of investing, capital in an amount not less than the amount specified in subparagraph (C), and

[3] Found at https://www.uscis.gov/laws/policy-memoranda.

(ii) which will benefit the United States economy and create full-time employment for not fewer than 10 United States citizens or aliens lawfully admitted for permanent residence or other immigrants lawfully authorized to be employed in the United States (other than the immigrant and the immigrant's spouse, sons, or daughters).

The implementing regulation at 8 C.F.R. § 204.6(e) defines "capital" and "invest" and states, in pertinent part:

> Capital means cash, equipment, inventory, other tangible property, cash equivalents, and indebtedness secured by assets owned by the alien entrepreneur, provided the alien entrepreneur is personally and primarily liable and that the assets of the new commercial enterprise upon which the petition is based are not used to secure any of the indebtedness. All capital shall be valued at fair market value in United States dollars. Assets acquired, directly or indirectly, by unlawful means (such as criminal activities) shall not be considered capital for the purposes of section 203(b)(5) of the Act.
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> . . . .
>
> Invest means to contribute capital. A contribution of capital in exchange for a note, bond, convertible debt, obligation, or any other debt arrangement between the alien entrepreneur and the new commercial enterprise does not constitute a contribution of capital for the purposes of this part.

Moreover, the regulation at 8 C.F.R. § 204.6(j)(2) explains that a petitioner must document he or she has placed the required amount of capital at risk for the purpose of generating a return on the capital. Evidence of mere intent to invest, or of prospective investment arrangements entailing no present commitment, will not suffice to demonstrate that the petitioner is actively in the process of investing. The petitioner must show actual commitment of the required amount of capital.

To meet the requirements of investment of capital, USCIS permits a petitioner to hold his or her funds in an escrow account, but provides the following limitations:

> An investor's money may be held in escrow until the investor has obtained conditional lawful permanent resident status if the immediate and irrevocable release of the escrowed funds is contingent only upon approval of the investor's Form I-526 [Immigrant Petition by Alien Entrepreneur] and subsequent visa issuance and admission to the United States as a conditional permanent resident or, in the case of adjustment of status, approval of the investor's Form I-485 [application].

USCIS Policy Memorandum PM-602-0083, *supra*, at 6.

II. PROCEDURAL HISTORY

In August 2011, the Petitioner filed his petition based on an investment through a designated regional center, [redacted] (the Regional Center). The petition identified an investment in a new commercial enterprise, [redacted] (the NCE), associated with the Regional Center. The Reginal Center served as the NCE's general partner. The business plan explained that the NCE would raise $10,000,000 from 20 foreign investors to finance a job creating entity, [redacted] (the JCE), that planned to purchase a fleet of trucks, and operate a distribution operation in [redacted] California

On June 26, 2013, the California Service Center denied the petition, finding that the Petitioner did not demonstrate the lawful source of funds he remitted to the NCE's segregated account. Subsequently, the Chief granted the Petitioner's motions to reopen and reconsider, but issued a NOID, indicating that the Petitioner had not shown he invested or was in the process of actively investing at least $500,000 in the NCE. Specifically, the Petitioner did not establish that he placed the requisite amount of capital at risk. On February 10, 2015, upon reviewing the Petitioner's NOID response, the Chief denied the petition for the reasons stated in the NOID, i.e., the Petitioner did not show that he had placed at least $500,000 at risk.

III. ANALYSIS

The Petitioner has not presented sufficient evidence showing that he made an at-risk investment in the NCE as the NCE's subscription agreement, which the Petitioner executed, included a redemption clause. Entitled "Limited Right to Withdraw Subscription," this provision allowed the Petitioner to withdraw his funds before USCIS adjudicated the petition. This arrangement is insufficient to demonstrate that the Petitioner invested or was in the process of investing the requisite amount of capital in the NCE. *See* USCIS Policy Memorandum PM-602-0083, *supra*, at 6. In addition, under USCIS deference policy, we may reexamine the previous favorable determination that the NCE's immigrant investors had placed their capital at risk because the prior finding involved an objective mistake of fact or law.

A. Investment of Capital

1. Redemption Clause

Under the Act and other controlling legal authority, a petitioner must establish that he invested or was in the process of investing the required amount of capital in a new commercial enterprise. Section 203(b)(5)(A) of the Act; 8 C.F.R. § 204.6(e); 8 C.F.R. § 103.2(b)(1), (12). In addition, the petitioner must demonstrate that at the time of filing, he placed the requisite amount of capital at risk for the purpose of generating a return on the capital. *See Matter of Izummi*, 22 I&N Dec. 169, 175-76 (Assoc. Comm'r 1998) (adopting *Matter of Bardouille*, 18 I&N Dec. 114 (BIA 1981) for the proposition that USCIS cannot "consider facts that come into being only subsequent to the filing of a petition").

For a petitioner's money to be truly at risk, he cannot enter into a partnership knowing that he has a willing buyer in a certain number of years, nor can he be assured that he will receive a certain price. *See Izummi*, 22 I&N Dec. at 186; *see also R.L. Investment Ltd. v. INS*, 86 F. Supp. 2d 1014, 1018 (D. Haw. 2000), *aff'd*, 273 F.3d 874 (9th Cir. 2001). Similarly, while a petitioner may choose to hold his capital in an escrow account pending USCIS' adjudication of his petition and adjustment of status application, for his funds to be considered at risk, he must demonstrate "the immediate and irrevocable release of the escrowed funds is contingent only upon" the approval of his petition and application. USCIS Policy Memorandum PM-602-0083, *supra*, at 6.[4]

In this case, while the Petitioner remitted funds to the NCE's segregated account, the record does not illustrate that he placed the capital at risk at the time he filed his petition in August 2011. The segregated account, while not labeled as such, operated like an escrow account. Specifically, page 2 of the agreement stated that the Petitioner's subscription price would remain in the segregated bank account until the Petitioner became the NCE's limited partner, at which time the funds would be "released to the [NCE's] operating account." In his July 21, 2011, letter, the president and chief executive officer of the Regional Center, indicated that the Petitioner remitted his funds to a "designated escrow account which subsequently had been transferred into a saving account within the escrow account group."

Notwithstanding his remittance to the NCE's segregated account, the Petitioner has not made an at-risk investment because the NCE's subscription agreement included a clause that allowed him to withdraw his funds before USCIS adjudicated his petition. Page 1 of the NCE's subscription agreement noted that as a part of this investment arrangement, the Petitioner must remit to the NCE a $500,000 subscription price and a $30,000 processing fee. Page 3 stated:

> 3. Limited Right to Withdraw Subscription. If the Investor is seeking to obtain permanent resident status in the United States under the EB-5 Program, the Investor has the right to withdraw the Investor's subscription prior to the approval or denial of the Investor's I-526 Petition. If the Investor elects to withdraw, then the Subscription Price and the amount of the Processing Fee deposited into the Segregated Account (i.e., 50% of the Processing Fee) will be refunded to the Investor (without interest).

Under USCIS policy, the investment arrangement, as specified in the NCE's subscription agreement, did not show that the Petitioner invested or was in the process of investing in the NCE. The 2013 policy memorandum permitted investment funds to be held in an escrow account, but required that "the immediate and irrevocable release of the escrowed funds is contingent only upon" USCIS' approval of the petition and adjustment of status application. *See* USCIS Policy Memorandum PM-602-0083,

[4] On appeal, the Petitioner references page 5 of the policy memorandum relating to the return of an investor's investment "after obtaining conditional lawful permanent resident status." This provision, however, does not annul the requirement of "immediate and irrevocable release of the escrowed funds" specified in the policy memo. *See* USCIS Policy Memorandum PM-602-0083, *supra*, at 5-6.

supra, at 6. If, as is the case here, the Petitioner retained the right to withdraw the funds before USCIS adjudicated the petition, he did not meet the requirement of the "immediate and irrevocable release of the escrowed funds." *Id.* Consequently, although he remitted funds to the NCE's segregated account, he did not place the capital at risk for the purpose of generating a return.

On appeal, the Petitioner maintains that while the subscription agreement allowed an investor to withdraw his "subscription," it did not indicate "how, or when, or under what conditions the funds would be returned." He states that as the funds are in the NCE's account, "it is not factually possible for 'the investor to withdraw his money' as alleged in [the Chief's] denial." He offers that in the absence of how he could withdraw his funds under the redemption provision, the Chief erred in finding he had a unilateral and unconditional right to withdraw his investment capital.

We do not find the Petitioner's arguments persuasive. The subscription agreement stated that the Petitioner "has the right to withdraw [his] subscription prior to the approval or denial of [his] I-526 petition." The agreement continued in the next sentence that if the Petitioner decides to withdraw, the NCE "will" refund to him the $500,000 subscription price and a portion of his $30,000 processing fee. The referenced language dealt with not only the withdrawal of the subscription, but also the withdrawal of the $500,000 subscription price, which was the Petitioner's investment capital. While the clause did not prescribe "how" or "when" the refund would occur, it stated unambiguously that the refund would occur if the Petitioner decided to withdraw before USCIS adjudicated the petition. The Petitioner has not presented any legal authority showing that the lack of details on how the NCE would meet its obligation annuls its stated contractual responsibility. *See Izummi*, 22 I&N Dec. at 185 (We noted that the potential refusal of a commercial enterprise "to comply with the written contract it executed with [immigrant investors]" raises "questions of good faith."). In short, the Petitioner's right to withdraw his funds illustrated that he did not place his funds at risk.

On appeal, the Petitioner points to a November 2014 statement from [redacted] as evidence that the redemption clause was intended to cover only the refund of the processing fee, not the $500,000 subscription price. The plain language of the provision, however, contradicts this statement. In considering whether the Petitioner had placed his capital at risk, we "must look to the plain language of the documents executed by the [P]etitioner and not to subsequent statements of counsel [or others]." *Izummi*, 22 I&N Dec. at 185.

Moreover, in his statement, [redacted] acknowledged that under the subscription agreement, an investor may elect to withdraw his investment and involvement in the NCE before USCIS adjudicates the petition. [redacted] then claimed that he would "require proof that the investor had terminated the US immigration process by withdrawing the I-526" before he would return the investor's capital. The subscription agreement, however, did not include this requirement. Significantly, an investor's explicit right to withdraw, as stated in both the subscription agreement and in [redacted] statement, demonstrated that neither the Petitioner nor any other of the NCE's immigrant investors had placed capital at risk when remitting funds to the NCE's segregated account. Accordingly, the presence of this redemption clause, although it revealed an intent to invest, did not establish that the Petitioner had

placed his funds at risk for the purpose of generating a return, as required under the Act and relevant regulation. *See* section 203(b)(5)(A) of the Act; 8 C.F.R. § 204.6(e); 8 C.F.R. § 204.6(j)(2).

2. The NCE's Use of the Petitioner's Funds

On appeal, the Petitioner maintains that he meets the "at risk" requirement, because his "capital already had been used in job-creating activities." This statement, however, contradicts terms specified in the NCE's subscription agreement.[5] Page 2 of the subscription agreement provided that the Petitioner's funds, remitted to the NCE's segregated account, "will be released to the [NCE's] operating account as soon as the Investor is admitted as a limited partner of the [NCE]." The agreement explained that the Petitioner could become a limited partner only upon approval of his petition and consent from the Regional Center, which is also the NCE's general partner. The Petitioner acknowledges on appeal that under the subscription agreement, his funds "would be held in a Segregated Account, controlled by the general partner of the [NCE], to be released to the [NCE] upon approval of the I-526 petition." The Petitioner has not offered evidence showing approval of his petition. As such, under the submitted documentation, including the NCE' subscription agreement, the Petitioner is not a limited partner of the NCE, and his $500,000 subscription price remains in the NCE's segregated account.

The Petitioner, however, indicates that the NCE has not followed the terms of the subscription agreement. He offers evidence, including bank statements and invoices, to show that the NCE had used his capital. He argues that while the subscription agreement required his funds be held in a segregated account, the NCE nonetheless had "expended" his capital. He claims that the NCE's expenditure verified he had placed his funds at risk. We disagree. The record shows that the NCE incurred operational expenses, and purchased supplies and equipment. The Petitioner, however, has not demonstrated that the NCE used his funds, i.e., his $500,000. Unlike *Matter of Ho*, 22 I&N Dec. 206 (Assoc. Comm'r 1998), which the Petitioner cites in his appellate brief, the NCE has multiple immigrant investors who remitted funds for investment purposes. The Petitioner has not illustrated that the NCE used his funds held in the segregated account, rather than other funds it may have, including those from other investors, held in the its operating account.

Assuming *arguendo* that the NCE did use the Petitioner's $500,000, this act would violate the explicit terms of the subscription agreement. Regardless, this act would not demonstrate that the Petitioner had placed the requisite amount of capital at risk. As discussed, under page 3 of the subscription agreement, the Petitioner had the right to withdraw his $500,000 before USCIS adjudicated the petition. In addition, page 5 of the subscription agreement, "Denial of Petition," required the NCE to return the Petitioner's $500,000 subscription price and a portion of his processing fee upon USCIS' denial of the petition "for any reason." Under the terms of the subscription agreement, the Petitioner had a right to the return of his money before USCIS adjudicated his petition, as well as after USCIS denied his petition. In other words, even had the NCE used his funds, it would now be obligated to return his

[5] In his decision, the Chief questioned [redacted] credibility based on inconsistencies between his statements and the subscription agreement. We have not, however, relied on an adverse credibility finding to adjudicate this appeal.

subscription price and a portion of his processing fee, as USCIS had denied his petition.[6] Under such a financial arrangement, the Petitioner has not shown that his funds were ever at risk.

3. Implied Waiver of the Redemption Clause

On appeal, the Petitioner maintains that in light of the proceeding's procedural history, he "had long ago implicitly waived his right to withdraw the subscription." The Petitioner must demonstrate his eligibility for the classification at the time he filed the petition, which was in August 2011. *See* 8 C.F.R. § 103.2(b)(1), (12). The subscription agreement, which the Petitioner presented in his initial filing, included language that allowed him to withdraw his investment capital before USCIS adjudicated the petition. The subscription agreement also contained a provision allowing him to withdraw his funds after USCIS denied his petition. At the time he filed the petition, both provisions were, and they continued to be, in the subscription agreement. The Petitioner has not shown that he can meet the at-risk requirement through a post-filing waiver, either implied or express, of the otherwise explicit clause.

The Petitioner has not documented that he had fully committed his funds and placed them at risk as of the date of filing. Rather, in an attempt to conform to statutory and regulatory requirements, after the Chief identified the clause as a deficiency, the Petitioner argues that he has implicitly waived his redemption right. This suggested implied waiver is not probative of eligibility on the date of filing. *See Izummi*, 22 I&N Dec. at 175, 183, n. 15 (precluding a material change in a redemption provision – buy option exercisable after seven years instead of three years – in an effort to make an apparently deficient petition conform to USCIS requirements). We cannot consider facts, such as whether the Petitioner has waived a provision in the subscription agreement, that come into being only subsequent to the filing of a petition. *Id.* at 175-76 (citing *Bardouille*, 18 I&N Dec. at 114). Consequently, the purported waiver does not cure the impermissible redemption provision, or illustrate the Petitioner's eligibility.

B. USCIS Deference Policy

According to the business plan, the NCE aimed to raise $10,000,000 from up to 20 foreign national investors to finance the JCE's operation. The Petitioner indicated that USCIS approved petitions from other immigrant investors of the NCE. He argues that under USCIS deference policy, we should therefore defer to the favorable determinations and not reexamine whether his investment arrangement meets the statutory and regulatory requirements. As noted, however, the 2013 policy memorandum provides that USCIS does not afford deference to prior "legally deficient" determinations that involve "an objective mistake of fact or an objective mistake of law evidencing ineligibility for the benefit sought." *See* USCIS Policy Memorandum PM-602-0083, *supra*, at 24.

[6] To the extent that the Petitioner argues USCIS has not denied the petition, as he is appealing the Chief's denial, under page 3 of the subscription agreement, "Limited Right to Withdraw Subscription," he would have the right to withdraw his investment funds. This right, as explained, does not demonstrate that he has placed his funds at risk. *See* USCIS Policy Memorandum PM-602-0083, *supra*, at 6.

As discussed in detail above, USCIS' prior determinations involved an objective mistake of fact or law, and thus were legally deficient. Specifically, the subscription agreement, which all immigrant investors executed to initiate their investment in the NCE, included an impermissible redemption clause. Under the plain language of this provision, each investor has a unilateral and unconditional right to withdraw his or her funds before USCIS adjudicates the petition. The presence of this section illustrates that the investors have not placed their investment capital at risk at the time they executed the subscription agreement, or at the time they submitted their Form I-526 petition.

On appeal, the Petitioner maintains that the Chief's conclusion that he had not placed his funds at risk was a subjective evaluation, and thus he should have afforded deference to prior favorable determinations on the same issue. We disagree. The presence of an impermissible redemption clause is a factual issue. The favorable finding in light of the provision involved either an objective mistake of fact, i.e., USCIS did not realize the presence of the section, or an objective mistake of law, i.e., USCIS had erroneously determined that the NCE's investors had placed funds at risk, when they had not under the Act and relevant regulation. In light of this objective mistake of fact or law, we will not afford deference to prior "at risk" findings.

C. The Chief's NOID

On appeal, citing USCIS Policy Memorandum PM- 602-0085, *Requests for Evidence and Notices of Intent to Deny* 2 (June 3, 2013),[7] the Petitioner maintains that the Chief erred in issuing him a NOID. He states that the Chief should have instead issued a request for evidence (RFE), and allowed him to provide "significant additional business documentation verifying [the NCE]'s expenditure of the funds." The Petitioner has not shown that the Chief erred.

First, the policy memorandum reiterates that "[u]nder 8 CFR 103.2(b)(8), USCIS has the discretion to issue RFEs and NOIDs in appropriate circumstances." The regulation at 8 C.F.R. § 103.2(b)(8)(iii) specifically provides that "[i]f all required initial evidence has been submitted but the evidence submitted does not establish eligibility, USCIS may . . . notify the applicant or petitioner of its intent to deny the benefit request and the basis for the proposed denial, and require that the applicant or petitioner submit a response within a specified period of time as determined by USCIS." While the policy memorandum discusses circumstances under which USCIS should issue a NOID, it does not mandate the issuance of a NOID, including in the instant case where the California Service Center had previously issued a RFE.

Second, while the Chief requested the Petitioner to respond to the NOID within 33 days (including 3 extra days because the Chief served the NOID by mail), the Petitioner has had ample time to supplement the record to establish his eligibility. For example, in addition to his NOID response, the Petitioner also presented documentation on appeal in April 2015, many months after the Chief issued the NOID in October 2014. We have reviewed the entire record, including documents offered on

[7] Found at https://www.uscis.gov/laws/policy-memoranda.

appeal, in our adjudication. In short, the Petitioner has not shown that the Chief violated either the regulation or USCIS policy. In addition, USCIS has afforded the Petitioner multiple opportunities to supplement the record. Consequently, the Petitioner has not established that the Chief erred or abused his discretion when he issued the NOID.

D. Other Issues Raised on Appeal

The Petitioner notes his dissatisfaction with USCIS processing time. He also states that the adjudication of his petition had been "highly irregular," and suggests that news reporting on the Regional Center had unfairly influenced USCIS' decision. Our processing time varies from case to case, depending on the complexity of each individual matter. Without more, processing time, even if it is lengthy, does not illustrate an error. In addition, the Petitioner has not presented evidence, specifically relating to his case, showing that USCIS had acted inappropriately in its adjudication of the petition, or his subsequent appeal of the denial. Speculations and uncorroborated statements do not satisfy the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Assoc. Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)). Ultimately, in the context of an EB-5 petition, an immigrant investor must establish his eligibility at the time of filing, and he must remain eligible until he receives lawful permanent resident status. *See* 8 C.F.R. § 103.2(b)(1); *Izummi*, 22 I&N Dec. at 175-76. As explained in detail above, the Petitioner has not established his eligibility.

IV. CONCLUSION

For the reasons discussed above, the Petitioner has not established that he invested or was in the process of investing at least $500,000 in the NCE. Specifically, at the time he filed his petition, the subscription agreement included an impermissible redemption clause that gave him the right to withdraw his investment at any time before USCIS adjudicated his petition. This financial arrangement did not demonstrate that he placed or was in the process of placing the requisite amount of capital at risk in the NCE.

The Petitioner has not established that he placed his funds at risk in the NCE. Accordingly, he has not met his burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013).

ORDER: The appeal is dismissed.

Cite as *Matter of M-S-*, ID# 73462 (AAO Oct. 20, 2016)

REVIEWED
By Joseph P. Whalen at 1:27 pm, Nov 08, 2016