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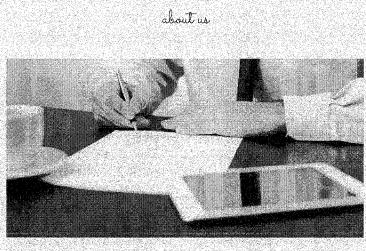
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US law defends the legitimate rights of EB-5 investors

The US EB-5 investment immigration process is complicated. Investors in mainland China face more than 10 years of scheduling, causing their children to overage, leading to the loss of meaning for American immigrants. However, the risk of the project has made the investment unrecoverable. So what rights do these investors have?



Hong Kong Zhendong Legal Services Consulting Co., Ltd. helps investors defend their rights

From 2017, we will help EB-5 investors and US professional lawyers to cooperate to recover investment funds.

In December 2017, Investor Z recovered \$500,000 in investment from the EB-5 project promoted by the Chinese intermediary company "Overseas Immigrants" in just seven days.



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August 8, 2018

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For those who don't know what EB-5 is (or just vaguely see it as a dark plan involving President Trump's son-in-law), the word "EB-5" is just a visa name to enter the US – like "H1 -B". Under the EB-5 program, foreigners can create a green card and access to citizenship by investing in new US businesses to create a certain amount of employment. Each major city in the United States has one or more "regional centers" that are sponsors of the EB-5 program.

Once upon a time, very few US companies used EB-5. When the program was created, USCIS limits the number of permanent residency approvals each year. This numerical limit is not a problem, as EB-5 is primarily used to invest in a small group of investors in small-scale businesses. No one dreams of using it to build large projects.

But then there was a financial crisis.

The loan has dried up. The developers started panicking. They are fighting for money. If they want to build a hotel or a mail, they won't be able to get secondary financing. Of course, they can get a senior loan from Bank of America, and perhaps a second-tier loan, but these banks insist on a full-value guarantee of real estate and fixed equipment. But where do the sub-funds they need come from? If the project requires \$500 million, but the value of land and fixtures is only \$300 million, who will provide the remaining \$200 million in risk financing? No American bank wants to borrow this money because it basically has no guarantees because the ranking is very low.

Decommissioning the small EB-5 fund into a large Delaware company with hundreds of Chinese investors has become a solution. These huge EB-5 funds hold hundreds of millions of dollars and are then loaned to developers looking for risk financing. In a shameless interest transaction, the developer itself often sets up and fully controls the EB-5 fund, full of funds from China, and then lends the money to his other company as risky fourth and fifth. Loan loan. In this way, most EB-5 funds are only toys for US developers and their promoters; once funds are entered, Americans will reject Chinese participation or disclosure.

EB-5 funds are sold in China through "intermediaries" (ie, unlicensed brokers) who use luxury sweepstakes and free buffets to promote luxury campaigns and false guarantees of American dreams and profits from Chinese investors. Americans associated with the project usually come to China to promote the project, and marketing is effective (this is why Trump's son-in-law is in trouble). Although the Chinese almost could not read the contents of the document, the Chinese still registered thousands of people. They didn't even know what they signed, they were just told that at the end of the rainbow was a gold rush with profits and citizenship, so they signed everything in front of them, even if they couldn't read English. They trust the American system. They cannot imagine that American law would make them bankrupt without any remedy or citizenship.

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Let us compare the EB-5 theory with the reality of EB-5.

In theory, EB-5 works as follows: (1) Chinese investors each invest \$550,000 for projects sponsored by regional centers and temporarily approved by USCIS - usually resorts, hotels, shopping centers or apartments; (2) Investors' funds are divided into "administrative expenses" of US\$50,000 and "investment funds" of US\$500,000, and investors receive Delaware limited partnership rights; (3) Delaware Limited Partnership finally recruits Hundreds of Chinese investors hold hundreds of millions of dollars and call themselves "EB-5 funds"; (4) This huge pool of funds is hosted and then loaned to the development company under the loan agreement, which makes EB-5 The fund becomes the lowest-end lender of the project; (5) After the project is completed, it is expected to generate sufficient returns to repay the loan; (6) After the loan is repaid, the EB-5 fund will refund the interest to the Chinese investor and then dissolve it; In the above circumstances, investors have been working with immigration attorneys of the project. They have now successfully applied for permanent residency to USCIS. The reason for the final approval is that the project has produced enough work. Then the investor becomes a US citizen.

In theory, everyone is successful. A city has a new hotel or hospital or mall. Americans have found a good job. The developer receives subfinancing to complete the construction project. Immigration lawyers got a group of customers. Chinese investors have legal rights to live in the United States.

实际上,参与这个项目的每个美国人都小心翼翼地避免直接告诉中国人,并指出由于中国投资者数量的增加不能被每年的10,000 EB-5签证配额所吸收, 我写这篇文章时,我在北京。我刚刚遇到投资者,他们指指天,并告诉我他们的家庭的钱,绿卡和梦想在天空中 。也就是说,无处可去。他们不知道什 感到无路可走,他们找到我们。数百名中国投资者联系了我们的团队,请求帮助他们从困境中解脱出来。他们身后有数千人。他们只想要退钱。他们自觉 美国证券交易委员会应该检查这一切。但事实上,他们只针对明显的欺诈案件采取行动。在芝加哥,一个EB-5基金是Potemkin村的发展标志,开发商没 贪婪是一种强大的动力。如果开发商获得数亿美元的外国资金,这些外国资金来自无法监控投资的无名和无面的个人,并且开发商知道这些资金十年或更 (1)洗钱和转移限额。 EB-5投资者通常需要支付550,000美元才能投资EB-5基金。这本身违反了中国法律,中国规定每人每年只能将5万美元的资金转 (2) 无牌经纪人。中国的"中介"和美国基金(以及他们的律师)在中国销售美元计价的证券,但他们在美国经常没有执牌经纪人,并且在中国也没有获得 (3) 非认可投资者。每个项目的文件都要求中国投资者证明他是"经认可的投资者",以便基金有资格作为规则D下的私募,却不被视为公开发行。但事实 (4) 未注册投资公司。 EB-5基金通常拥有超过100人,这触发了要求注册为投资公司的要求,并且它触发了要求注册投资顾问建议基金的要求。但EB-: (5)10b-5证券欺诈。 EB-5基金进行了透缉和转换,他们来到中国并在路演期间亲自作出承诺,后来在发行备忘录中被否定。例如,他们经常向中国人 (6)滥用规则S.一些开发商试图隐藏在规则S背后,规则S涵盖了向非居民离岸出售的证券。但EB-5投资的全部意义在于将投资者带到美国,这与S规则f (7) 违反信托义务。下一点会令人震惊。在许多情况下,也许大多数情况下,EB-5基金都是由向其提供贷款的开发商控制的。我会再说一遍,让你印象, (8)不可踏免的利益冲突。在大多数EB-5结构中,中国人的EB-5基金是开发项目的贷款方,但中国人没有独立的律师,没有独立的评估师,没有权力进

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Douglas Litowitz Douglas is a law professor and securities attorney in Chicago who has lived and worked in Asia. He can be contacted by Doug and Zoe Ma at Litowitz@gmail.com , who is responsible for due diligence and handling complaints from Chinese investors. She can be reached at zoexma@vahoo.com .

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