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ATTY. MICHAEL GURFINKEL

Returning petitions to USCIS for revocation

for (i.e. the Consul may have uncovered fraud, a secret marriage, the petitioner has died, the alien does not appear qualified for the visa, etc.)

By law, since it was US Citizenship and Immigration Services (USCIS) that approved the petition, the Consul does not have the authority to revoke the petition. Instead, the Consul must return the petition to USCIS for revocation. The procedure for the Embassy to return petitions to USCIS for revocation includes the following:

The Consuls must use Form DS-3096 as the "cover sheet," indicating the type of petition,

and checking a box on the form, listing the reason the Consul believes the alien is not entitled to the visa.

The Consul must also prepare a memorandum or "comprehensive report" to the USCIS, explaining in detail the reasons why the beneficiary appears not to be entitled to the requested status.

The report, "must be comprehensive, clearly showing factual and concrete reasons for revocation. The report must be well reasoned and analytical rather than conclusory. Observation made [by the consular officer] cannot be conclusive, speculative, equivocal, or irrelevant." In other words, in returning a petition for revocation, the consul must have specific, detailed facts, as opposed to a mere hunch or "gut feeling" about the alien.

The Consul must send the pe-

tion, Form DS-3096, and the comprehensive memorandum to the NVC's Fraud Prevention Manager. The NVC will then send the documentation to the USCIS office that approved the petition.

The Embassy is to "retain a copy of the petition, the supporting documents and the memorandum."

Unfortunately, when a consul returns a petition to USCIS for revocation, it could sometimes take a year or more for USCIS to act on the case. Typically, the procedure is that once USCIS finally reviews the case, they send a Notice to the petitioner or beneficiary, giving them a chance to respond, or offer proof of the alien's eligibility. But again, this could take a year or more before that happens.

But there are other provisions of the Foreign Affairs Manual that state that Consuls should

re-consider a previous refusal, if the applicant provides, within one year of the refusal, additional persuasive evidence demonstrating entitlement to the benefit. Moreover, because the Embassy is to retain a copy of the petition and supporting documentation, the Consul would still have the case and the file available to him, if grounds exist for reconsideration.

That is why it is so important that if you are not entitled to a particular benefit, or no longer entitled to that benefit, you should not apply. But if you believe you are eligible, and were refused because of some miscommunications, misunderstandings, or your inability to properly prove or document your eligibility for the visa, I would strongly suggest that you seek the advice of a reputable attorney, who can evaluate your situation and advise you on the

best course of action, whether it is seeking reconsideration from the Consul, or waiting to respond to a future notice from USCIS.

Michael J. Gurfinkel is licensed, and an active member of the State Bar of California and New York. All immigration services are provided by, or under the supervision of, an active member of the State Bar of California. Each case is different. The information contained herein (including testimonials, "Success Stories", endorsements and re-enactments) is of a general nature, and is not intended to apply to any particular case, and does not constitute a prediction, warranty, guarantee or legal advice regarding the outcome of your legal matter. No attorney-client relationship is, or shall be, established with any reader. WEBSITE: www.gurfinkel.com Call Toll free to schedule a consultation for anywhere in the US: (866) - GURFINKEL Four offices to serve you: LOS ANGELES · SAN FRANCISCO · NEW YORK · PHILIPPINES (Advertising Supplement)

Economy responding well to Bangko Sentral actions

by DES FERRIOLS
Philstar.com

MANILA—Bangko Sentral ng Pilipinas (BSP) officials said last April 8 that the country's economy is responding well to the monetary actions taken so far by the Monetary Board.

Although it would normally take at least 12 months for monetary policy actions to filter through the financial system and into the real economy, the BSP said the effects of last year's monetary policy actions are already being felt.

Since the onset of the global recession, the BSP has allowed over P500 billion in liquidity to flood into the economy to prevent credit from drying up amid fears of rising defaults.

But in a recent statement, the World Bank said stimulus packages should be withdrawn as soon as the impact has been felt, warning that failure to unwind aggressive measures would ultimately cause inflation.

According to BSP Deputy Governor Diwa Guinigundo, however, this was already under consideration by the MB as it continues to weigh its options amid slowing growth, falling inflation rate and the possibility of wage and transport fare adjustments.

World Bank chief economist for East Asia Ivaldo Izvorski had suggested that stimulus packages should be pulled out once their impact has been felt to prevent a spike in inflation.

"He is talking of exit strategy and that is essential as a forward-looking policy," Guinigundo said, when asked to comment on the WB's suggestion.

Guinigundo agreed that excessive money supply could lead to higher inflation. "Assuming all other things are equal," he cautioned.

According to Guinigundo, monetary officials had the elbow room to manoeuvre monetary policy when the Monetary Board meets especially since the inflation rate was coming down from a high of over 12 percent in the third quarter last year.

The market is widely expecting the BSP to remain neutral on its monetary policy stance when the MB meets to discuss policy after the Lent. Although usually reluctant to touch its policy rates, the BSP has so far eased its rates back to early 2008 levels after a tightening cycle that added 150 beeps to its overnight rates.

The most recent rate cut brought the policy rate closer to the historical low of 4.125 percent but the BSP's recent pronouncements indicated no clear direction on what it might do next.

There have been suggestions that the BSP might actually shut down its special deposit accounts as part of its economic stimulus measures but the BSP has all but ruled this out, saying that the facility would remain open as long as needed by the market. ■

RP courting P3B in halal investments

MANILA, Philippines—The country has arranged separate discussions with Kuwait and Brunei on about P3 billion worth of investment opportunities in the domestic halal sector, particularly in Mindanao, the Agriculture Department said in a statement.

The department said Mindanao has a comparative edge over other countries in the region because it was free of the foot-and-mouth disease (FMD) and the avian influenza (AD) or bird flu virus.

Agriculture Undersecretary Jesus Emmanuel Paras said the DA was offering foreign investors at least two big-ticket halal investment project proposals in Mindanao: The Halal Economic Zone in Davao City and a Halal model poultry farm in Cagayan de Oro City.

"The proposed Halal Economic Zone, which will cost at least P2.2 billion, is the centerpiece of the halal investment portfolio being offered to overseas investors by the Arroyo administration," Paras said in a recent forum.

To be located in Davao City, the zone is expected to generate 24,000 new jobs for Muslim Filipinos, and boost the Philippines' export earnings by at least \$200 million per year, he said.

The other investment proposal packaged by the department, said Paras, is a P840-million project involving the establishment of a halal model poultry farm complete with research laboratories, abattoirs and other modern facilities. (Inquirer.net)

BUSINESS

Quote of the Week

"There are those who mismanage and then there are those who probably managed conservatively, except they were affected by the global financial crisis. They just have to figure out whether their failings right now are caused largely by mismanagement or by the global financial crisis. So there are the good guys and the bad guys."

—Atty. Blas Viterbo,
Speaking for Sen. Manuel Roxas II
to BusinessMirror about the RP pre-need industry crisis

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