

COMMUNITY JOURNAL

YOUR IMMIGRATION SOLUTION



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The consequences of filing an Ineligible Application

“Immigration law is one of the most complicated areas of law and even minor mistakes can result in severe consequences to the immigrant and his family.”

OVER the past couple of years, the United States Immigration and Citizenship Services (USCIS) stepped up enforcement and political prosecution of immigrants. As such, individuals and families need to be prepared and well represented whenever they apply for an immigration benefit or attend an interview with the USCIS. Although it may be tempting to try to save money by filing an application for adjustment of status by oneself or by choosing a non lawyer, the price of losing the case is now much higher than the costs of hiring a good attorney. Aliens whose application for adjustment of status is denied may be facing much more than just a disappointment; they now face possible deportation.

Immigration law is one of the most complicated areas of law and even minor mistakes can result in severe consequences to the immigrant and his family. All too often an alien will file an application for adjustment of status for which the alien is either not eligible or the application was not filed correctly. For example, they may not have entered lawfully, may be out of status, or may be a crewman and not qualify under Section 245(i) of the Immigration and Nationality Act (a provision that allows certain aliens to apply for adjustment of status if they pay a penalty.) They may have a criminal bar or may have a previous order of removal that they do not know about. They may have filed the application on their own, or they may have even filed the application with the assistance of an attorney unfamiliar with the complexities of immigration law. In the past, USCIS would simply deny the application and the alien would leave the United States on their own or continue to remain with family in hopes of future relief or file a new application when qualified. Now, not only will USCIS deny the alien's application, but it will also issue the alien a Notice to Appear (NTA), placing him or her in removal proceedings before an Immigration Judge. Sometimes, the alien may even be detained at the adjustment of status interview.

This stepped up enforcement policy of USCIS can leave persons with a few, albeit limited, options once the application has been filed. The first option an individual would want to consider is the possibility of renewing his adjustment of status application in Immigration Court. Sometimes USCIS wrongly denies an application. Fortunately,

federal regulations provide an opportunity for the Immigration Court to review USCIS's decision. However, this option will require the assistance of an immigration attorney to fully brief the Court and can often involve novel legal issues or challenges to the immigration service's policies.

Unfortunately, some persons are simply ineligible for adjustment of status and should never have filed an application in the first place. In this case, the alien still has options before the Court and should think twice before accepting voluntary departure. Although accepting voluntary departure avoids the consequences of a removal order (a 10 year bar from returning to the United States), many immigrants still face other grounds of inadmissibility when they seek to reunite with their families. A common ground of inadmissibility that is not solved by voluntary departure is the 10-year bar for unlawful presence. For example, an immigrant who was unlawfully present in the United States for over 1 year and voluntarily departs still faces a ten-year bar from returning to the United States. Although the immigrant would not need to waive any bar resulting from a voluntary departure order, he or she will need to file a waiver for the unlawful presence bar. Because the consequences of failing to depart are so severe, and the benefits of returning are so limited, the privilege of voluntary departure is not for everyone.

It is never too late to obtain the advice of an attorney. Of course the best preparation you can have is to make sure your application will be approved before filing it with USCIS. Do not place your life and your family's future in the hands of an inexperienced attorney. In life it may be good to take risks but in immigration it is not. You and your family's future depend on it.

Atty. Reeves has represented clients in numerous landmark immigration cases that have set new policies regarding INS action and immigrants' rights. His offices are located in Pasadena, San Francisco, Las Vegas and Makati City.

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The analysis and suggestions offered in this column do not create a lawyer-client relationship and are not a substitute for the personalized representation that is essential to every case.

(Advertising Supplement)

The Voice of FilAmerica

Political empowerment is still a treasure that eludes us as a community here in America. While we are the second largest Asian American community in the United States, we have yet to harvest the power that comes from our numbers. The Voice of FilAmerica features elected and appointed officials—regardless of political affiliation—in the different US states who are of Filipino ancestry. As your Filipino American community newspaper, the Asian Journal recognizes the fact that we all have a responsibility towards bringing political empowerment to fruition, especially for our future generations. It is our hope to have our voices heard all over America.

Kevin Acebo

Former Los Angeles Deputy Mayor
Legislative and Intergovernmental Affairs



by CYNTHIA DE CASTRO
AJPress

IN 2005, Mayor Antonio Villaraigosa announced that in continuing to build a results-orientated administration inclusive of the best and brightest, he has chosen key senior people with a breadth and depth of experience and talent and a commitment to innovative, results-oriented and ethical work. One of these is Filipino-American Kevin Acebo whom he appointed Deputy Mayor for Legislative and Intergovernmental Affairs.

“In selecting my team, I looked for people who brought with them a passion for public service, the highest ethical standards and a commitment to improving the quality of life for all Angelenos,” said Mayor Villaraigosa.

For over 20 years Kevin Acebo has worked in the areas of public policy, public affairs and politics. Since 2004, Acebo launched KMA Strategies, Inc., a political-communications strategy and business development firm with clients including the California Democratic Party and Bedrock Strategies, Inc.

From 2000 to 2004, Acebo has worked as the Statewide

Political Director for the California Democratic Party responsible for developing the Party's strategic year-around political agenda that includes generating and implementing issue-oriented media events, interfacing with the state's Democratic elected leadership and allied interest groups including organized labor, the environmental, senior and disabled movements, community-based organizations, the faith community, women's organizations and communities of color. During general election cycles, Acebo would assume the duties of Director of the California Coordinated Campaign, the Democratic Party's statewide campaign organization.

From 1994 to 2000, Acebo served as Assistant Chief of Staff to Los Angeles County Supervisor Zev Yaroslavsky. While working for Supervisor Yaroslavsky, Acebo's primary policy and budget responsibilities included oversight of the nation's largest criminal justice system and elections operation, the state's largest in-home supportive services authority serving over 100,000 seniors and caregivers, the County's labor unions and local, state and federal intergovernmental issues.

From 1989 to 1994, Acebo owned KMA Associates, a political campaign and public affairs consulting firm. His clients included: Los Angeles City Councilman Zev Yaroslavsky, Assembly Members Terry Friedman, Barbara Friedman, Congressman Xavier Becerra and Mel Levine, and Monrovia Mayor Lara Larramendi Blakeley.

From 1981 to 1989, Acebo worked for Assembly Speaker Willie L. Brown, Jr., as a principal Legislative Consultant developing district-based legislation and communications initiatives for Members of the Assembly Democratic Caucus. In 1979

Acebo worked as a Research Assistant for the White House Commission on the Review of the Federal Impact Aid Program and the Office for Civil Rights within the Department

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