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FINAL RULE ON E-2 CNMI NON-IMMIGRANT INVESTOR STATUS

The Philippine Consulate General in Saipan and Mr. David Gullick, District Director of the US Customs and Immigrations Services (USCIS) has discussed in a meeting the Final Rules on E-2 Commonwealth of the Northern Mariana Islands (CNMI) Non-Immigrant Investor Status and other matters.

There is a new USCIS policy memorandum allowing aliens to obtain a non-immigrant status in the CNMI without having to leave the island. The Memo would affect mostly those seeking R status (temporary religious workers/spouses/children) and H1B, H2B and H3 status and other categories.

The USCIS can make exemptions for individuals in CNMI with CNMI permits or parole authorization. Immigration officials may consider those qualified as lawfully present in the CNMI for purposes of obtaining an initial grant of status. Even if an application is denied, worker may still apply for the conditional worker category under the transitional worker program. This move will hopefully encourage aliens and their employers to seek proper federal immigration status for themselves and their employees.

On the request for the processing of advanced parole applications, Mr. Gullick gave his assurance that applications for advance parole are usually granted unless worker has no status under CNMI permit system or US Immigration category, and that their agency also allows workers to leave the country in emergency cases pending the release of the advance parole document.

For the legal status of workers with pending labor cases Mr. Gullick stated that workers, who have expired CNMI entry permits but have pending labor cases prior to the transition, have no status to remain in CNMI; thus their "unlawful presence" status. Even those covered by list of workers published by the Office of the CNMI Attorney General as eligible to obtain conditional umbrella permits are considered as having no status.

The possibility of granting parole documents to Filipino workers with emergency health conditions in transit via Guam for repatriation to Philippines may be granted upon the Philippine Consulate's requests for these cases according to Mr. Gullick.

The USCIS position bolsters the position of the offices of the Immigration and Customs Enforcement (ICE) and the US Department of Justice on the matter and presents a very gri picture for those workers who relied on their pending cases for obtaining continued legal status in the CNMI.

For the information and guidance of all concerned.