

**July 6, 2023**

**Dear Investors,**

***We have been asked to post the following letter on our website by another investor who has still not obtained approval of his I-826 petition. We are doing so as a courtesy and are neither endorsing or suggesting that you participate in the course of action suggested in the letter.***

**Michael I. Goldberg, Receiver**

### **Notice to Phase VIII-Burke Mountain Investors Regarding Upcoming Mandamus Action**

Dear Fellow Investors,

Michael Sklaire with the help of Laura Foote Reiff, both of Greenberg Traurig, will be filing a mandamus lawsuit on our behalf with the goal of compelling USCIS to issue long overdue policy guidance regarding good faith investors related to the EB-5 Reform and Integrity Act passed by Congress in 2022 (RIA).

It directly affects our ability to resolve our shared circumstance. The guidance is critical as it provides direction to USCIS officers and will affect how Burke cases are reviewed.

We would like to request participation in and financial support of this legal action from a greater number of investors still seeking relief. A positive outcome would benefit investors of all stages: the language of the mandamus decision from the judge will affect both 526 and 829 investors.

At this time, there are 12 investors committed to a shared payment of \$30,000 to complete the Mandamus action—filing, negotiation, and settlement. One 526 investor has agreed to serve as the lead plaintiff. Our assembled group of both 526 and 829 investors is particularly mindful of the needs of 526 investors as plans for the resort's sale progress. Time is of the essence.

Reiff is uniquely qualified to represent us at this juncture. <https://www.gtlaw.com/en/professionals/r/reiff-laura-foote>. She has maintained steady communication with USCIS, Homeland Security and SEC officials as the agencies struggle to implement the RIA. *(Reiff successfully challenged USCIS's interpretation of the new legislation that would nullify designated regional centers, requiring all to secure re-designation, and has been negotiating the settlement.)* Since October 2022, she has highlighted Burke Mountain as a case worthy of note and brought attention to the specific complications of investments like ours that the new law overlooks. Please also see the link re: Michael Sklaire. [Michael R. Sklaire | Professionals | Greenberg Traurig LLP \(gtlaw.com\)](#)

Legislative and administrative remedies have been sought—with various federal and Vermont government offices— to no avail since late last year. Throughout the negotiations process, USCIS policy guidance regarding good faith investors has been deemed vital by multiple agencies to adjudicate our cases differently. Precise information promised by USCIS to be delivered during Stakeholder Engagement calls in March 2023, and then April, has failed to materialize.

Desire for an amicable settlement has been signaled by key representatives from multiple offices—the SEC, the USCIS Litigation Department, and even the Department of Justice—but continuing, unreasonable delays have made clear that the overwhelming bureaucratic dysfunction creating an impasse demands at least a plausible threat of legal action to overcome it. There is no other adequate remedy available.

We hope what has been briefly outlined seems sensible and encourages greater involvement from the investor group. For those interested, further details can be shared by Laura Reiff at [reiff@gtlaw.com](mailto:reiff@gtlaw.com).

Please join us.