

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No. 14-
 :
 v. :
 : 18 U.S.C. § 371;
 SANDIPKUMAR PATEL : 26 U.S.C. § 7206(1)

I N F O R M A T I O N

The defendant having waived in open court prosecution by Indictment, and any challenges to venue, the Department of Justice, Criminal Division, and the United States Attorney for the District of New Jersey charge:

COUNT ONE

Conspiracy to Defraud the United States

1. At all times relevant to Count One of this Information:

a. Temporary employment-based work visas ("H-1B Visas") were issued by the Department of Homeland Security, U.S. Citizenship and Immigration Services ("USCIS").

b. An H-1B Visa could be issued to a qualified alien job applicant who sought temporary work in the United States in one of several "Specialty Occupations." Network engineer was a Specialty Occupation.

c. In order for an alien to secure an H-1B Visa, a prospective employer first was required to file with the Department of Labor ("DOL") an ETA-9035 Labor Condition Attestation attesting to, among other things, its need for the

qualified Specialty Occupation worker and its ability to pay such worker.

d. Once DOL found that the prospective employer demonstrated its need for a qualified Specialty Occupation worker and approved its ETA-9035 Labor Condition Attestation, the employer would file an I-129 Petition for a Nonimmigrant Alien Worker ("I-129 Petition") with USCIS and the Department of State ("DOS"), requesting that USCIS and DOS issue an H-1B Visa for the qualified Specialty Occupation worker. In the I-129 Petition, the prospective employer: identified the qualified Specialty Occupation worker to be employed; provided information about the person's proposed employment, including job title, work location, and annual compensation; and provided information about the petitioning company, including type of business, number of employees, and company earnings. A job offer letter from the prospective employer addressed to the qualified Specialty Occupation worker was attached to the I-129 Petition.

e. This same process - of first filing an ETA-9035 Labor Condition Attestation with DOL and, on its approval, later filing an I-129 Petition with USCIS and DOS - also could be used to extend an existing H-1B Visa with the same employer or to transfer a qualified Specialty Occupation worker's existing H-1B Visa to a different petitioning employer. An H-1B Visa

generally was valid for three years and renewable for three additional years.

f. The number of I-129 Petitions filed with USCIS each year far exceeded the limited number of H-1B Visas available. As a result, H-1B Visas were valuable to aliens seeking employment in the United States and, despite being a non-immigrant visa, in certain instances, represented the first step in obtaining U.S. citizenship.

The Defendant and his Entities

2. At all times relevant to this Information, Defendant SANDIPKUMAR PATEL was a resident of Edison, New Jersey and was a principal of several corporations including Software Programming and Consulting ("SPC"), purportedly an information-technology and engineering consulting company, based in Edison, New Jersey. In his capacity as the principal of SPC, defendant SANDIPKUMAR PATEL sought H-1B Visas for aliens by claiming that these aliens possessed specialized information technology skills and by claiming that they would work for SPC in the United States.

3. In addition to SPC, defendant SANDIPKUMAR PATEL was the principal of other entities which he used to engage in H-1B fraud, including:

- a. Mercury Staffing, Inc. ("MSI"), a Delaware corporation with offices in New York, New York and Edison, New Jersey, which was an employment staffing business; and

b. Medical Staffing International ("Medical Staffing"), a Delaware corporation with offices in Woodbridge, New Jersey and Edison, New Jersey, which was an employment staffing business.

The Conspiracy to Defraud the United States

4. From in or about May 2001 through in or about May 2009, in Middlesex County, in the District of New Jersey, and elsewhere, defendant

SANDIPKUMAR PATEL

did knowingly and intentionally conspire and agree with others to defraud the United States and its agencies thereof by impeding, impairing, obstructing and defeating the lawful governmental functions of DOS and USCIS to properly ascertain, assess, evaluate and adjudicate legitimate I-129 Petitions.

The Object of the Conspiracy

5. It was the object of the conspiracy to improperly secure employment-based H-1B Visas for individuals seeking to live and work in the United States by submitting materially false and fraudulent I-129 Petitions in exchange for payments of tens of thousands of dollars.

The Manner and Means of the Conspiracy to Defraud

6. It was part of the scheme and artifice to defraud that members of the conspiracy prepared and submitted, and caused to be prepared and submitted, to DOS and USCIS, I-129 Petitions

containing false statements and material misrepresentations in order to secure H-1B Visas authorizing at least 12 individuals to work in a Specialty Occupation for a designated employer.

7. It was further part of the scheme and artifice to defraud that the defendant SANDIPKUMAR PATEL and his co-conspirators engaged in a practice which made it appear that the alien H-1B Visa recipients actually performed work and were paid for that work by the Specialty Occupation employer, as required under the terms of their H-1B Visas. This practice entailed placing the alien H-1B Visa recipients on Specialty Occupation employer payrolls and issuing them fabricated paychecks, despite the fact that no work was performed for the Specialty Occupation employer.

8. It was further part of the scheme and artifice to defraud that the alien H-1B Visa recipients returned the proceeds of the fabricated paychecks to defendant SANDIPKUMAR PATEL and his co-conspirators by several means, including in the form of cash or personal check. In addition to the payroll amount, defendant SANDIPKUMAR PATEL charged the alien H-1B Visa recipients a certain amount over and above the amount of the payroll check to cover purported employment and income taxes.

9. It was further part of the scheme and artifice to defraud that defendant SANDIPKUMAR PATEL and his co-conspirators submitted fabricated Specialty Occupation employer paystubs as

evidence of Specialty Occupation employment to DOL and USCIS in support of applications for H-1B Visa renewal. In addition to being fabricated, the paystubs submitted to DOL and USCIS were often inflated from the payroll amounts to reflect the representations made in previous visa applications.

10. It was further part of the scheme and artifice to defraud that defendant SANDIPKUMAR PATEL caused those who received fraudulently obtained H-1B Visas to pay him thousands of dollars to petition government agencies on their behalf and to utilize the fake payroll practice in order for the alien recipients to obtain H1-B Visas to which they were not otherwise entitled.

Overt Acts

11. In furtherance of the conspiracy and to effect the object thereof, defendant SANDIPKUMAR PATEL along with his co-conspirators committed and caused to be committed the following overt acts, among others, within the District of New Jersey, and elsewhere:

a. Prior to May 2001, defendant SANDIPKUMAR PATEL filed and caused to be filed an I-129 Petition on behalf of an individual with the initials "R.P.", a prospective alien H-1B Visa recipient, containing false statements and material misrepresentations in order to obtain an H-1B Visa for R.P. Among the misrepresentations was that R.P. would work for SPC as a network engineer. In or about May 2001, R.P.'s H-1B Visa was

granted based on defendant SANDIPKUMAR PATEL's petition on his behalf and R.P. traveled to the United States in September 2001. Defendant SANDIPKUMAR PATEL charged R.P. \$15,000 for his efforts in acquiring this H-1B Visa.

b. In or about September 2001, defendant SANDIPKUMAR PATEL told R.P. that he would receive a salary of about \$3,000 a month all of which R.P. would have to return to defendant SANDIPKUMAR PATEL plus approximately \$1,060 per month to cover defendant SANDIPKUMAR PATEL's employment and income taxes. R.P. would typically pay defendant SANDIPKUMAR PATEL using checks from a personal checking account.

c. In or about August 2003, defendant SANDIPKUMAR PATEL and his co-conspirators filed and caused to be filed an I-129 Petition on behalf of R.P., containing false statements and material misrepresentations in order to renew R.P.'s H-1B Visa. Defendant SANDIPKUMAR PATEL charged another \$15,000 for filing the renewal petition.

d. In or about June 2006, defendant SANDIPKUMAR PATEL and his co-conspirators filed and caused to be filed an I-129 Petition on behalf of R.P., containing false statements and material misrepresentations in order to continue R.P.'s H-1B Visa status. Defendant SANDIPKUMAR PATEL charged \$4,500 for filing this petition.

e. In or about November 2008, defendant SANDIPKUMAR PATEL and his co-conspirators filed and caused to be filed an I-129 Petition on behalf of R.P., containing false statements and material misrepresentations in order to renew R.P.'s H-1B Visa. Defendant SANDIPKUMAR PATEL charged \$3,500 for filing this petition.

f. On or about April 27, 2009, R.P. deposited two purported payroll checks dated March 13, 2009 and March 31, 2009, each in the amount of \$1,521.81. On or about May 19, 2009, two checks in the amounts of \$2,020.00 and \$2,000.00 respectively, drawn from R.P.'s checking account and made out to cash, were deposited into defendant SANDIPKUMAR PATEL's co-conspirators' checking account.

In violation of Title 18, United States Code, Section 371.

COUNT TWO
Subscribing to a False Tax Return

1. Paragraphs 1 through 11 of Count One of this Information are hereby realleged and incorporated as if set forth in full herein.

2. In addition to engaging in the H-1B fraud and the payroll scheme, defendant SANDIPKUMAR PATEL deducted the fake payroll amounts on the tax returns of his entities, amounts which had been returned to him by the alien H-1B Visa recipients, as described in Count One.

False Tax Filings

3. Defendant SANDIPKUMAR PATEL improperly deducted payroll payments on the tax returns on his various entities, including SPC, MSI and Medical Staffing, resulting in the under-reporting of the income to him from those entities on his individual income tax returns filed for the calendar years 2006, 2007, 2008 and 2009. In this fashion, defendant SANDIPKUMAR PATEL overstated the payroll expenses on the tax returns for his various entities by more than \$1,430,850.00 for the calendar years 2006, 2007, 2008 and 2009, upon which an additional tax of approximately \$423,542.00 was due and owing to the United States on his individual tax returns. Specifically:

a. The individual income tax return defendant SANDIPKUMAR PATEL filed for the calendar year 2006 ("the 2006 Tax Return") did not include approximately \$316,925.00 in additional income due to improper payroll deductions taken by defendant SANDIPKUMAR PATEL on tax returns of his various entities in 2006. Upon this income, an additional tax of approximately \$110,621.00 was due and owing to the United States.

b. The individual income tax return defendant SANDIPKUMAR PATEL filed for the calendar year 2007 ("the 2007 Tax Return") did not include approximately \$450,225.00 in additional income due to improper payroll deductions taken by defendant SANDIPKUMAR PATEL on tax returns of his various entities in

2007. Upon this income, an additional tax of approximately \$153,225.00 was due and owing to the United States.

c. The individual income tax return defendant SANDIPKUMAR PATEL filed for the calendar year 2008 did not include approximately \$415,600.00 in additional income due to improper payroll deductions taken by defendant SANDIPKUMAR PATEL on tax returns of his various entities in 2008. Upon this income, an additional tax of approximately \$94,738.00 was due and owing to the United States.

d. The individual income tax return defendant SANDIPKUMAR PATEL filed for the calendar year 2009 did not include approximately \$248,100.00 in additional income due to improper payroll deductions taken by defendant SANDIPKUMAR PATEL on tax returns of his various entities in 2009. Upon this income, an additional tax of approximately \$64,958.00 was due and owing to the United States.

4. On or about October 13, 2008, defendant SANDIPKUMAR PATEL signed, filed, and caused to be filed with the IRS the 2007 Tax Return.

5. The 2007 Tax Return was signed by defendant SANDIPKUMAR PATEL and contained a written declaration that it was signed under penalties of perjury.

6. As set forth above in paragraph 3.a, of Count Two of this Information, the 2007 Tax Return was not true and correct as to

every material matter, in that the return failed to report a significant portion of the income that defendant SANDIPKUMAR PATEL received by virtue of the improper payroll deductions during the calendar year 2007, upon which a substantial additional tax was due and owing.

7. On or about October 13, 2008, in Middlesex County, in the District of New Jersey, and elsewhere, defendant

SANDIPKUMAR PATEL

did knowingly and willfully make and subscribe a 2007 U.S. Individual Income Tax Return, Form 1040, as described in paragraph 3.b of Count Two of this Information, which he did not believe to be true and correct as to every material matter, as described in paragraph 3.b of Count Two of this Information.

In violation of Title 26, United States Code, Section 7206(1).



PAUL J. FISHMAN
United States Attorney

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