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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

APR 1 9 2004

AT 8:30
WILLIAM T. WALSH, CLERK ^M

UNITED STATES OF AMERICA : CRIMINAL COMPLAINT
v. :
NAYAN PATEL, : Mag No. 04-6065
a/k/a "Nayan Bhagat"

I, Daun A. White, a Senior Special Agent with United States Department of Homeland Security, Bureau of Immigration and Customs Enforcement (hereinafter, "ICE"), being duly sworn, state the following is true and correct to the best of my knowledge and belief.

Count One

From in or about February of 2001 through in or about December of 2003, in South Plainfield, in Middlesex County, in the District of New Jersey and elsewhere, defendant NAYAN PATEL, a/k/a "Nayan Bhagat," knowing and in reckless disregard of the fact that an alien had not received prior official authorization to come to, enter, and reside in the United States, did knowingly and willfully bring and attempt to bring to the United States such an alien for the purpose of NAYAN PATEL's commercial advantage and private financial gain.

In violation of Title 8, United States Code, Section 1324(a)(2)(A) and (B)(ii), and Title 18, United States Code, Section 2.

Count Two

In or about June of 2002, in South Plainfield, in Middlesex County, in the District of New Jersey and elsewhere, defendant NAYAN PATEL, a/k/a "Nayan Bhagat," did knowingly make under oath and under penalty of perjury knowingly subscribe as true, false statements with respect to material facts in applications, affidavits and other documents required by the immigration laws and regulations prescribed thereunder, and did knowingly present such applications, affidavits and other documents which contained such false statements and which failed to contain any reasonable basis in law and fact.

In violation of Title 18, United States Code, Sections 1546(a) and 2.

I further state that I am a Special Agent with Immigration

and Customs Enforcement, and that this complaint is based on the following facts:

SEE ATTACHMENT A

continued on the attached pages and made a part hereof.



Daun A. White, Special Agent
Immigration and Customs Enforcement

Sworn to before me and subscribed in my presence,

April 19, 2004, at Newark, New Jersey

HONORABLE RONALD J. HEDGES
United States Magistrate Judge



Signature of Judicial Officer

Attachment A

I, Daun A. White, a Special Agent with the Bureau of Immigration and Customs Enforcement (hereinafter "ICE"), am aware of the following facts as a result of an investigation and after having spoken with other individuals:

1. Under Section 101(a)(15)(H)(i)(B) of the Immigration and Nationality Act,¹ an employer may petition the United States Department of State for a visa (hereinafter, an "H1B Visa") to authorize an alien to enter the United States and work at a particular position for a three-year period. Under the H1B Visa program, the employer must certify under penalty of perjury, among other things, that a) the position to be filled is a "speciality position", i.e., a position that requires theoretical and practical application of a body of highly specialized knowledge and the attainment of a bachelor's or higher degree; b) the employer has been unable to fill the "speciality position" with a United States citizen; c) the alien is qualified for the "speciality position;" and d) that the alien will be paid a particular salary.
2. Once the alien receives an H1B Visa from the Department of State and arrives in the United States, the alien must report to work to his or her employer, who is in turn responsible for the alien's presence in the United States. If the alien reports to work and the employer terminates the relationship, the employer must report this termination and/or lack of employment to the Bureau of Citizenship and Immigration Services (hereinafter, the "CIS") and the employer must arrange for the removal of the alien from the United States. If the alien does not report to the employer for work, the employer is responsible to report this fact to the CIS.
3. At all times relevant to this Complaint, NAYAN PATEL was the CEO of Comps Technology, Incorporated (hereinafter "Comps Technology"), the offices of which were located in South Plainfield, New Jersey.
4. From in or about February of 2001 through in or about December of 2003, defendant NAYAN PATEL, through his company, Comps Technology submitted more than 100 fraudulent H1B applications stating that Comps Technology would employ each alien in a computer-related position and that each alien would receive a particular salary, which ranged from

¹Title 8, United States Code, Section 1001(a)(15)(H)(i)(B).

approximately \$37,000 per year to approximately \$45,000 per year.

5. At the time defendant NAYAN PATEL submitted the H1B Visa applications described in paragraph 4, he knew that the applications were fraudulent in that: a) Comps Technology did not have computer-related work for the aliens to perform; b) contracts that Comps Technology submitted to the CIS to demonstrate computer-related outsourcing work that the aliens were to perform were fraudulent; and c) Comps Technology would not pay the alien any salary upon that alien's arrival in the United States.
6. More specifically, in approximately February 2001, a cooperating witness (hereinafter "CW1"), an Indian citizen certified in Industrial Electronics who had previously worked as a software engineer for three years in India, attended a seminar conducted by NAYAN PATEL in India for computer work with Comps Technology in the United States. Subsequently, NAYAN PATEL offered CW1 a computer-related position with Comps Technology at an annual salary of \$37,000. NAYAN PATEL informed CW1 that this offer was contingent upon CW1 paying NAYAN PATEL a fee of approximately 600,000 Indian rupees (at that time, the equivalent of approximately \$13,000 in United States currency) and CW1's subsequently obtaining an H1B Visa.
7. In approximately August of 2001, CW1 paid NAYAN PATEL the fee described in paragraph 6 and NAYAN PATEL submitted an H1B Visa application on behalf of CW1, which fraudulently stated that CW1 would be employed by Comps Technology performing computer-related services and paid an annual salary of approximately \$37,000. In support of this H1B Visa application, on or about June 24, 2002, NAYAN PATEL submitted five fraudulent contracts that ostensibly demonstrated that Comps Technology was under contract to provide computer-related services to five separate companies. Each of these five contracts was fraudulent, as none of these five companies ever signed a contract with Comps Technology to receive computer-related services from Comps Technology, and several of the companies had never even heard of Comps Technology.
8. In or about August of 2002, CW1 obtained the H1B Visa to work for Comps Technology and entered the United States at Newark International Airport. NAYAN PATEL and an associate picked up CW1 Newark International Airport and drove CW1 to Patel's residence. CW1 thereafter lived in an apartment adjacent to NAYAN PATEL's residence for a period of approximately six to eight months.

9. CW1 reported for work at Comps Technology every day for approximately one month, but was never assigned any work, nor was CW1 paid the promised salary.
10. In November of 2002, NAYAN PATEL told CW1, in substance and in part, that CW1 must pay NAYAN PATEL a "tax" of \$650 per month in order to maintain the validity of his H1B Visa. CW1 paid this "tax" to NAYAN PATEL for approximately three months until approximately February of 2003, after which CW1 was no longer able to continue to pay NAYAN PATEL.
11. In or about August of 2002, CW1 received an offer of employment from a computer-related firm, and CW1 asked NAYAN PATEL for the paperwork necessary to transfer the H1B Visa to that company. NAYAN PATEL told CW1, in substance and in part, that he would give CW1 fraudulent W-2 forms and pay stubs, which would falsely document that CW1 had worked for Comps Technology, contingent upon CW1 paying NAYAN PATEL \$2,450, the "tax" that CW1 had not paid NAYAN PATEL for the previous 7 months. When CW1 refused to make that payment, NAYAN PATEL stated that if CW1 approached law enforcement or immigration officials, NAYAN PATEL would get numerous witnesses to sign affidavits falsely stating that CW1 never reported for work to Comps Technology.