

Silicon Valley Executives Charged with H-1B Visa Fraud

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The U.S. Attorney for the Northern District of California [recently announced](#) the indictment of two executives for their alleged participation in a scheme to abuse the H-1B visa program. The indictment alleges the two submitted approximately 85 fraudulent H-1B visa applications and laundered approximately \$1 million proceeds.

Allegations of Visa Fraud

According to the indictment, the defendants, who were high-level executives for a California-based tech company, perpetrated a scheme to abuse the H-1B visa program to generate illegal proceeds for personal gain.

Between 2011 and 2017, the defendants allegedly submitted, through their business, approximately 85 fraudulent H-1B visa applications for temporary nonimmigrant workers. After sponsoring the foreign workers for employment, the defendants would place them in employment positions with other businesses, thereby creating an unfair and illegal advantage over employment staffing firms. After doing so, the defendants collected fees from these employers to cover the cost of the wages and salaries for the foreign workers – profiting nearly \$7 million. Of these proceeds, approximately \$1 million was illegally laundered.

Each defendant was charged with one count of conspiracy to commit visa fraud, in violation of 18 U.S.C. § 371, which carries a maximum five-year imprisonment. Additionally, they were charged with two counts of visa fraud, 18 U.S.C. § 1546(a), with a maximum sentence of ten years imprisonment for each count. Finally, for allegedly laundering the illegal proceeds of the fraudulent practices, one defendant was charged with one count of money laundering, in violation of 18 U.S.C. § 1957, which carries a statutory maximum sentence of ten years imprisonment. Each charge carries a maximum statutory fine of \$250,000.00, or twice the gross gain or loss amount.

The defendants appeared in federal court last week. As with any criminal case, the charges are only allegations, and have not yet been proven in court. The defendants' attorneys said they will fight the charges, [calling the government's accusations](#) “a misuse and misapplication of the complex H-1B visa laws.”

H-1B Specialty Occupation Visas

The H-1B is a temporary, nonimmigrant visa category that allows employers to petition on behalf of highly-educated foreign professionals who work in specialty occupations that require at least a bachelor's degree. To sponsor foreign workers under the program, the employer must submit an application to the U.S. Department of Labor that attests, among other things, to labor conditions and describes the existence, duration, and wages associated with the temporary job.

An employer sponsor must employ the H-1B recipient under the program. This detail appears to be the crux of the issue with the Silicon Valley case, as the allegations indicate the defendants placed the foreign workers with other employers. The defendants vehemently deny this allegation. Their attorney noted that "as long as the employee is paid Silicon Valley wages, the location of the job site does not matter. Moreover, when a job site moved, the company informed the government and filled out the proper paperwork required."

Severe Criminal Penalties for Immigration-Related Violations

The indictment highlights the serious criminal consequences for abuse and fraud of immigration programs, which are illegal under federal law. Additionally, it underscores the continued efforts of the U.S. government to protect from abuse and manipulation the vulnerable foreign workers seeking to enter this country.

The prosecution in this case was the result of a lengthy investigation led by the Document and Benefit Fraud Task Force ("DBFTF"), which is overseen by the Department of Homeland Security. The defendants are due back in federal court in April of this year.

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