

UNITED STATES DISTRICT COURT

for the

District of Minnesota

UNITED STATES OF AMERICA)

v.)

LIHI ALIZA ELGRABLY)

Case No.

B.ms. 432-FLN

CRIMINAL COMPLAINT

I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief. On or between January 27, 2010 and February 15, 2010, in Hennepin County, in the State and District of Minnesota, defendant

(1) knowingly uttered, used, attempted to use, possessed, obtained, accepted, or received any visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States, knowing it to be forged, counterfeited, altered, or falsely made, or to have been procured by means of any false claim or statement, or to have been otherwise procured by fraud or unlawfully obtained, in violation of Title 18, United States Code, Section 1546;

(2) knowingly and willfully made a materially false, fictitious, or fraudulent statement or representation in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, in violation of Title 18, United States Code, Section 1001; and

(3) filed an application for registration containing statements known to be false, or procured or attempted to procure registration through fraud, in violation of Title 8, United States Code, Section 1306(c).

I further state that I am a Lead Border Patrol Agent and Task Force Officer with Homeland Security Investigations and that this complaint is based on the following facts:

SEE ATTACHED AFFIDAVIT OF STEVEN A. SULLIVAN

Continued on the attached sheet and made a part hereof: Yes No

[Signature of Steven A. Sullivan]
Complainant's signature

Steven A. Sullivan, Lead Border Patrol Agent
Printed name and title

Sworn to before me and signed in my presence.

Date: June 19, 2013

[Signature of Franklin L. Noel]
Judge's signature

City and state: Minneapolis, Minnesota

Franklin L. Noel, United States Magistrate Judge
Printed name and title



STATE OF MINNESOTA)
)
COUNTY OF HENNEPIN)

SS: AFFIDAVIT OF STEVEN A. SULLIVAN

I, Steven A. Sullivan, being of lawful age and duly sworn, depose and state:

- 1) I am a Lead Border Patrol Agent with the United States Border Patrol (USBP), with approximately fifteen years of combined experience as a Border Patrol Agent and as a permanent task force officer with Homeland Security Investigations, St. Paul (HSI).
- 2) I graduated from the United States Border Patrol Academy at the Federal Law Enforcement Training Center (FLETC) in Glynco, Georgia. I hold a bachelor's degree in Political Science from Texas A&M University in College Station, Texas. I am a permanent member of the Department of Homeland Security (DHS) Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI), Document and Benefit Fraud Task Force (DBFTF). In that capacity, I have attended and completed the ICE Immigration and Benefit Fraud Training Program. I have previously investigated persons for violations of 8 U.S.C. § 1324 and 1324a (Unlawful Employment/Alien Smuggling/Illegal Harboring), 8 U.S.C. § 1325 (Marriage Fraud/Illegal Entry), 18 U.S.C. § 1546 (Visa Fraud), 18 U.S.C. § 1028 (Identity Theft), and other federal violations.
- 3) The following information has been related to me by HSI Agents, other persons, or is known to me by my own personal observations. Because this affidavit is being submitted solely for the purpose of establishing probable cause, it does not

contain all the facts and circumstances pertaining to this investigation.

PURPOSE OF AFFIDAVIT

- 4) This affidavit is submitted for the limited purpose of establishing probable cause in support of the attached criminal complaint against, and, arrest warrant, for Lihi Aliza Elgrably for violations of 18 U.S.C. § 1546 (Visa Fraud), 18 U.S.C. § 1001 (False Statement), and 8 U.S.C. § 1306(c) (Fraudulent Statement) and therefore contains only a summary of the relevant facts.

DEFINITIONS

Agency Definitions

- 5) United States Citizenship and Immigration Services (USCIS). USCIS is the government agency that oversees lawful immigration into the United States.

Alien Classes, Categories, and Definitions

- 6) Nonimmigrant - An alien who seeks temporary entry into the United States for a specific purpose. The alien must have a permanent residence abroad (for most classes of admission) and qualify for the nonimmigrant classification sought. Nonimmigrant classifications include foreign government officials, visitors for business and for pleasure, aliens in transit through the United States, students, and others.
- 7) Alien – Someone who is not a citizen or national of the United States.
- 8) Permanent Resident Alien - An alien admitted to the United States as a Lawful Permanent Resident (LPR). LPRs are legally accorded the privilege of residing permanently in the United States.

- 9) Tourism and Visitor Visa, B-1/B-2 - A Tourism and Visitor Visa is a nonimmigrant visa for persons who want to enter the United States temporarily for business (visa category B-1), tourism, pleasure or visiting (visa category B-2), or a combination of both purposes (B-1/B-2). A B-2 Visa holder may be granted a temporary stay in the United States for up to six months upon entry and inspection. The Visitor Visa holder must either depart the United States prior to the date of expiration or apply for and receive an extension to his/her visa. Should the B-2 Visitor Visa holder be denied an extension, he/she must then depart the United States and apply for re-entry for another temporary stay up to six months as a visitor. B-2 visa holders are not authorized to work in the United States.
- 10) A “Conditional Resident” or CR6 refers to the status granted to the spouse of a United States citizen or LPR who applied for lawful permanent residence on the basis of a marriage that was less than two years old at the time the application for lawful permanent residence is approved. The spouse remains a “conditional” permanent resident for two years, commencing at the time conditional permanent residence is granted.

Government Forms

- 11) United States Government form I-485 (Application to Register Permanent Residence or Adjust Status)---used by an alien to apply to adjust status to that of a permanent resident of the United States. This is a registration document per 8 C.F.R. § 264.1(a).
- 12) United States Government form G-325A (Biographical Information)---used by an

alien to provide biographical information. It is filed as instructed with the I-485 registration document.

- 13) United States Government Employment Authorization Document (EAD)---If a person is not a U.S. citizen or LPR, they may fall into one of three categories of persons who are eligible for an EAD if: they have authorization to work in the United States as a result of their nonimmigrant status, have authorization to work for a specific employer as a result of their nonimmigrant status, or may be in an immigration category which requires them to file for permission to work, such as a Conditional Resident.
- 14) United States Government form I-94 (Arrival/Departure Record)---issued to aliens who are admitted to the U.S. who are adjusting status while in the U.S. or extending their stay.

STATUTORY SCHEME:

FRAUD AND MISUSE OF VISAS - 18 U.S.C. § 1546

- 15) A defendant commits fraud or misuse of a visa when (1) the defendant has knowingly used, attempted to use, possessed, obtained or received, (2) an alien registration card or other document prescribed by statute or regulation as evidence of authorized stay or employment in the United States, (3) knowing that document to have been forged, counterfeited, altered, falsely made or procured by means of any false claim or statement.

FALSE STATEMENT - 18 U.S.C. § 1001

- 16) A defendant makes a false statement when (1) the defendant knowingly and

intentionally made the statement or representation, (2) that statement or representation was false or fraudulent, (3) that statement concerned a material fact, (4) that statement or representation was made about a matter within the jurisdiction of a federal agency, and (5) the defendant knew it was untrue when he/she made the statement or representation.

FRAUDULENT STATEMENT - 8 U.S.C. § 1306(c)

- 17) A defendant makes a fraudulent statement when (1) the defendant is an alien, (2) the defendant filed an application for registration, and (3) the defendant knew the statements on the application for registration were false.

BACKGROUND

YA & YA USA, INCORPORATED

- 18) Y and A was legally filed as a Limited Liability Company (LLC) under the laws of Minnesota by Secretary of State Mark Richie on November 24, 2008. The registered agent is Avraham Nadivi at 9851 Harrison Road, #204, Bloomington, MN 55437. This LLC is currently inactive. On September 21, 2009, YA & YA USA INCORPORATED (hereafter known as YA & YA) was legally incorporated in Minnesota by Secretary of State Mark Richie. Avraham Nadivi is listed as the Chief Executive Officer for YA & YA.
- 19) YA & YA is a retail cosmetics and beauty company that sells products within the Mall of America in Bloomington, Minnesota, under the names NATURAL BEAUTY, YA & YA BEAUTY, and HOLLYWOOD HAIR.

FACTS SETTING FORTH PROBABLE CAUSE:

VISA FRAUD AND FALSE/FRAUDULENT STATEMENTS

Based on the facts set forth below, I submit that there is probable cause to believe the following:

- 20) On about August 1, 2008, Lihi Elgrably entered the United States as a B-2 visitor for pleasure from Israel. According to the I-94, Elgrably was authorized to remain in the United States until January 28, 2009. On February 2, 2009, Elgrably applied for and was granted an extension to stay in the United States as a B-2 until July 27, 2009. On February 15, 2010, an immigration petition was filed on behalf of Elgrably by her U.S. citizen spouse. As a result, on May 3, 2010, Elgrably was issued an EAD, legally allowing Elgrably to work in the United States as a Conditional Resident. From August 1, 2008 to May 2, 2010, Elgrably was not authorized to engage in work in the United States.
- 21) On about February 11, 2009, a Mall of America employee identification badge application was filled-out under the name Lihi Elgrably in order to obtain a Mall of America security badge. The application paperwork listed Elgrably's place of work as NATURAL BEAUTY. HSI investigators have obtained a copy of the Mall of America employee ID badge which includes a photograph of Elgrably and an expiration date of 12/20/2011.
- 22) On about May 24, 2009, Elgrably was identified by Mall of America security and interviewed. The security interview report stated that Elgrably was found in the back corridors without a Mall of America employee ID badge. Elgrably told mall

security that she had left her badge at home.

- 23) HSI obtained the employment history records for Elgrably while she was working for YA & YA as stored in the point of sale database. Payroll records dated from June 24, 2009 to October 30, 2012, indicate Elgrably was employed by YA & YA. From August 1, 2008 to May 2, 2010, Elgrably was not authorized to engage in work in the United States.
- 24) MNDEED does not have any records for Elgrably working or receiving benefits within the state of Minnesota while an employee of YA & YA.
- 25) On about January 27, 2010, forms I-485 (Application to Register Permanent Residence or Adjust Status) and supplemental form G325A (Biographical Information) were filled-out and signed under the name Lihi Elgrably with a date of birth in 1986. On form I-485, in the section titled, "Current Occupation," Elgrably listed "NA," representing that she was not employed at the time form I-485 was filled-out and signed. On form G325A, in the section titled, "Applicant's employment last five years," the word "Unemployed" is listed as Elgrably's "Occupation." Further, Elgrably lists dates of unemployment as "08/2008 to Present," indicating that Elgrably was not employed from August 2008 to January 27, 2010, when forms I-485 and G325A were signed.

CONCLUSION

Based on my knowledge and understanding of the laws and regulations of the United States:

- 26) Elgrably committed visa fraud in violation of 18 U.S.C. § 1546 when she filled-

out and submitted required forms I-485 and G325A to USCIS, which contained false or misleading statements that were made under penalty of perjury. Elgrably knowingly and intentionally did not disclose on forms I-485 and G325A that she was employed by YA & YA because this admission may have negatively influenced USCIS concerning her request for immigration benefits or adjustment from a nonimmigrant visa holder to that of an immigrant visa holder.

- 27) Elgrably made a false statement in violation of 18 U.S.C. § 1001 when she knowingly and intentionally made false or misleading statements to USCIS on United States immigration documents regarding her employment history. Elgrably knew these statements were untrue because she had been employed prior to her filling-out and signing these government documents. These statements were material in nature in that had Elgrably disclosed her employment with YA & YA it would have revealed violations of her status as a B-2 Visitor Visa holder to USCIS. The admission of illegal employment may have caused USCIS to deny immigration benefits or adjustments.
- 28) Elgrably made a fraudulent statement in violation of 8 U.S.C. § 1306(c), when, as an alien, she made statements on forms I-485 and G-325A known to be false regarding her employment history when registering as an alien with USCIS. Elgrably knew these statements were untrue because she had been employed prior to the filling-out, signing, and submitting these forms to USCIS.

All statements contained in this affidavit are true and correct to the best of my knowledge.



Steven A. Sullivan
Lead Border Patrol Agent, Task Force Officer
Homeland Security Investigations

Sworn to before me and subscribed in my presence on this 19th day of June, 2013, at Minneapolis, Minnesota.

6/19/13



The Honorable Franklin L. Noel
United States Magistrate Judge