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United States Courts
Southern District of Texas
FILED
JUN 15 2005
Michael N. Milby, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA	§	
	§	
v.	§	
	§	
HIN KHAI ("PAPA") PHU,	§	CRIM. No. CR-H-05-254
KIU TAI ("MAMA") PHU,	§	
ALAN PHU,	§	
and	§	
LISA PHU,	§	
Defendants.	§	

INDICTMENT

THE GRAND JURY CHARGES THAT:

COUNT ONE
(Conspiracy)

A. INTRODUCTION

At all times relevant to this Indictment:

1. **Defendant Hin Khai ("Papa") Phu** and his son, **Defendant Alan Phu**, owned and operated three restaurants under the "Chinese Wok" trade name.

2. **Defendant Papa Phu** operated the Chinese Wok Buffet located at 5158 Aldine Mail Road in Houston.

3. **Defendant Kiu Tai ("Mama") Phu**, Papa Phu's wife, operated the Chinese Wok Cafe located at 4050 Aldine Mail Road, which was near the Chinese Wok Buffet operated by her husband.

4. **Defendant Alan Phu** and his wife, **Defendant Lisa Phu**, operated the Chinese Wok Cafe located at 109 Magnolia Street in League City.

5. **Defendants Alan and Lisa Phu** resided at 615 Shawnee Street in Houston, which was next door to **Defendants Papa and Mama Phu**.

6. **Defendants Alan and Lisa Phu** maintained a dormitory-style room in their residence where they housed illegal aliens who worked at the three restaurants.

7. "*Coyotes*" were persons paid to smuggle illegal aliens into the United States by methods that avoided lawful detection and inspection at official points of entry.

B. THE CONSPIRACY AND ITS OBJECTS

8. From on or about December 12, 1998 until on or about August 3, 2001, in the Houston Division of the Southern District of Texas and elsewhere,

HIN KHAI ("PAPA") PHU,
KIU TAI ("MAMA") PHU,
ALAN PHU,
and
LISA PHU,

defendants herein, did knowingly combine, conspire, confederate, and agree with each other and others known and unknown to the Grand Jury to commit offenses against the United States, namely:

a. bringing aliens into the United States, for the purpose of commercial advantage or private financial gain, in reckless disregard of the fact that the aliens had not received prior official authorization to come to, enter, or reside in the United States, in violation of Title 8, United States Code, Section 1324(a)(2)(B)(ii), and Title 18, United States Code, Section 2;

b. encouraging and inducing aliens to enter the United States in violation of law, for the purpose of commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the aliens' entry would be in violation of law, in violation of Title 8, United States Code, Section 1324(a)(1)(A)(iv), and Title 8, United States Code, Section 1324(a)(1)(A)(v)(II); and

c. harboring, concealing, and sheltering from detection aliens who entered or remained in the United States in violation of law, for the purpose of commercial advantage or private financial gain, said conduct tending to substantially facilitate the aliens' remaining in the United States, knowing or acting in reckless disregard of the fact that the aliens entered or remained in the United States in violation of the law, in violation of Title 8, United States Code, Section 1324(a)(1)(A)(iii), and Title 8, United States Code, Section 1324(a)(1)(A)(v)(II).

C. THE MANNER AND MEANS OF THE CONSPIRACY

It was part of the conspiracy that:

9. **Defendant Alan Phu**, both personally and through agents, would and did make telephone calls to Mexico to locate men willing to enter the United States illegally in order to work in the Phu family restaurants.

10. **Defendant Alan Phu**, both personally and through agents, would and did make known to prospective employees and *coyotes* the fact that he and his father would pay smuggling fees incurred by Mexican workers who came illegally to the United States to work in his family's restaurants.

11. **Defendant Alan Phu**, both personally and through agents, would and did make known to prospective employees that they would be required to repay him and his family for the smuggling fees that he and his family would advance to enable them to be smuggled into the United States.

12. **Defendant Alan Phu**, both personally and through agents, would and did make known to prospective employees that they would repay him and his family for the smuggling fees out of their cash earnings at the Phu family restaurants.

13. **Defendant Alan Phu**, both directly and through agents, would and did talk to *coyotes* before prospective workers were smuggled and transported from Mexico to Houston, in order to negotiate the smuggling fees and to guarantee the *coyotes* that they would be paid immediately upon delivery of the workers.

14. **Defendant Alan Phu**, both directly and through agents, would and did give directions to *coyotes* by telephone so that they could drive the smuggled workers to drop-off points once they arrived in Houston.

15. **Defendant Alan Phu** would and did pay smuggling fees in cash to the *coyotes* at the time that they delivered smuggled workers to the Chinese Wok restaurants.

16. **Defendants Alan and Lisa Phu** would and did lodge up to six of the illegal employees at a time in a dormitory-style room in their residence, which was located at 615 Shawnee Street in Houston.

17. **Defendants Papa and Alan Phu** would and did give their smuggled employees detailed rules with respect to their accommodations, including the following: the workers were required to live in one bedroom that contained three bunk beds; they could not use the house telephone; their use of the kitchen was limited; they were forbidden access to any rooms in the house besides the kitchen, their bedroom, and the bathroom; they were forbidden to leave the house at will; and they were forbidden to speak to the police.

18. **Defendants Papa and Alan Phu** would and did inform their smuggled employees that they were in the United States illegally, and they ordered them that, should they be caught by the police, they were not to tell the authorities where they lived.

19. **Defendants** would and did require their illegal employees to work 11 to 12 hours a

day, six days a week. On their days off, the illegal workers were required to clean the residences of **Defendants** and to perform yard-work.

20. **Defendants** would and did pay each illegal employee approximately $400 in cash two times a month, which averaged approximately $2.77 per hour. From that amount, **Defendants** required each employee to return approximately $100 to $300 from each payment in order to reduce the outstanding balance of the employee's smuggling fee.

21. **Defendant Mama Phu** distributed the workers' salaries to them on payday.

22. **Defendant Lisa Phu** maintained a ledger containing each illegal employee's debt and repayment schedule.

23. **Defendants Papa and Alan Phu** would and did conceal their use of illegal employees in the Phu family restaurants by filing with the Texas Workforce Commission false employer's quarterly reports that omitted the names of those workers.

D. OVERT ACTS

24. For the purpose of accomplishing the objects of the conspiracy, the following overt acts, among others, were committed in the Southern District of Texas and elsewhere:

(a) From approximately February 2000 through August 2001, **Defendant Papa Phu**, both directly and through agents, paid Alberto Vasquez-Parra his salary, less deductions for smuggling fees.

(b) From approximately September 1999 through November 2000, **Defendant Papa Phu**, both directly and through agents, paid Aurelio Novella-Paredes his salary, less deductions for smuggling fees.

(c) From approximately December 2000 through July 2001, **Defendant Papa Phu**, both directly and through agents, paid Jorge Alberto Nunez-Garcia his salary, less deductions for smuggling fees.

(d) From approximately February 2000 through August 2001, **Defendant Papa**

Phu frequently drove Alberto Vasquez-Parra to work at a Phu family restaurant from the dormitory room where he slept in **Defendants Alan and Lisa Phu's** residence.

(e) From approximately September 1999 through November 2000, **Defendant Papa Phu** frequently drove Aurelio Novella-Paredes to work at a Phu family restaurant from the dormitory room where he slept in **Defendants Alan and Lisa Phu's** residence.

(f) From approximately January 2001 through July 2001, **Defendant Papa Phu** frequently drove Enrique Gonzalez-Rodriguez to work at a Phu family restaurant from the dormitory room where he slept in **Defendants Alan and Lisa Phu's** residence.

(g) From approximately July 2000 through November 2000, **Defendant Papa Phu** frequently drove Jacobo Guerrero-Bernal to work at a Phu family restaurant from the dormitory room where he slept in **Defendants Alan and Lisa Phu's** residence.

(h) From approximately December 1998 through October 2000, **Defendant Papa Phu** frequently drove Javier Villalpando-Salazar to work at a Phu family restaurant from the dormitory room where he slept in **Defendants Alan and Lisa Phu's** residence.

(i) From approximately December 2000 through July 2001, **Defendant Papa Phu** frequently drove Jorge Alberto Nunez-Garcia to work at a Phu family restaurant from the dormitory room where he slept in **Defendants Alan and Lisa Phu's** residence.

(j) From approximately January 2001 through July 2001, **Defendant Papa Phu** frequently drove Tomas (Manuel) Torres-Rodriguez to work at a Phu family restaurant from the dormitory room where he slept in **Defendants Alan and Lisa Phu's** residence.

(k) During the time that Alberto Vasquez-Parra, Nazario Villalpando-Reyna, and Tomas (Manuel) Torres-Rodriguez worked at Phu family restaurants, that is, from approximately February 2000 until approximately August 3, 2001, **Defendant Papa Phu** instructed them, in order to avoid detection, not to use the phone and not to go outside, both because they did not have papers and could be arrested and deported, and because **Defendants Papa Phu and Alan Phu** would get in trouble.

(l) In approximately July 2000, **Defendant Papa Phu**, speaking through **Defendant Alan Phu**, asked Aurelio Novella-Paredes to make phone calls to Mexico to solicit more workers for the Phu family restaurants.

(m) In approximately July 2000, **Defendant Alan Phu** placed a call to Mexico in which Aurelio Novella-Paredes spoke on behalf of the Phu family, offering employment to Jacobo Guerrero-Bernal and a man named Martin Paredes and representing that **Defendant Alan Phu** would pay their smuggling fees.

(n) In approximately January 2001, **Defendant Alan Phu** called Javier Villalpando-Salazar in Mexico, seeking workers to fill two jobs in the Phu family restaurants. As a result of this call, Enrique Gonzalez-Rodriguez and Tomas (Manuel) Torres-Rodriguez gave **Defendant Alan Phu's** phone number to the *coyote* who transported them to Houston, Texas and who received payment from **Defendant Alan Phu** when he delivered them to **Defendant Alan Phu**.

(o) In approximately April or May 2001, **Defendant Alan Phu** called Javier Villalpando-Salazar in Mexico, seeking workers to replace Javier himself and one Fernando Villalpando. As a result of that call, Nazario Villalpando-Reyna was smuggled to Houston where he entered the Phu family's employment.

(p) In approximately late July 2000, **Defendant Alan Phu** paid Jacobo Guerrero-Bernal's smuggling fee of $1,500.

(q) On approximately May 7, 2001, **Defendant Alan Phu** paid Nazario Villalpando-Reyna's smuggling fee of $1,300.

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

COUNTS TWO THROUGH SIX
(Aiding and abetting the bringing of aliens to the United States for commercial advantage or private financial gain)

1. The Grand Jury adopts, realleges, and incorporates herein the allegations in paragraphs 1 through 7 of Count One as if set out fully herein.

2. On or about the dates set forth below, in the Southern District of Texas and elsewhere,

HIN KHAI ("PAPA") PHU
and
ALAN PHU,

defendants herein, for the purpose of commercial advantage and private financial gain, aided and abetted each other and others known and unknown to the Grand Jury to bring the aliens named below to the United States, knowing and in reckless disregard of the fact that the aliens had not received prior official authorization to come to, enter, and reside in the United States.

COUNT	ALIEN BROUGHT TO U.S.	APPROXIMATE ARRIVAL DATE
TWO	Enrique Gonzalez-Rodriguez	January 12, 2001
THREE	Jacobo Guerrero-Bernal	Late July 2000
FOUR	Jorge Alberto Nunez-Garcia	December 2000
FIVE	Nazario Villalpando-Reyna	May 7, 2001
SIX	Tomas (Manuel) Torres-Rodriguez	January 12, 2001

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

COUNTS SEVEN THROUGH ELEVEN
(Inducing aliens to enter the United States for commercial advantage or private financial gain)

1. The Grand Jury adopts, realleges, and incorporates herein the allegations in paragraphs 1 through 7 of Count One as if set out fully herein.

2. On or about the dates set forth below, in the Southern District of Texas and elsewhere,

HIN KHAI ("PAPA") PHU
and
ALAN PHU,

defendants herein, aiding and abetting each other, and for the purpose of commercial advantage and private financial gain, encouraged and induced the aliens named below to enter the United States in violation of law, knowing and in reckless disregard of the fact that the aliens' entry would be in violation of the law.

COUNT	ALIEN INDUCED TO ENTER U.S.	APPROXIMATE ARRIVAL DATE
SEVEN	Enrique Gonzalez-Rodriguez	January 12, 2001
EIGHT	Jacobo Guerrero-Bernal	Late July 2000
NINE	Jorge Alberto Nunez-Garcia	December 2000
TEN	Nazario Villalpando-Reyna	May 7, 2001
ELEVEN	Tomas (Manuel) Torres-Rodriguez	January 12, 2001

In violation of Title 8, United States Code, Section 1324(a)(1)(A)(iv), and Title 8, United States Code, Section 1324(a)(1)(A)(v)(II).

COUNTS TWELVE THROUGH NINETEEN
(Harboring and concealing aliens
for commercial advantage or private financial gain)

1. The Grand Jury adopts, realleges, and incorporates herein the allegations in paragraphs 1 through 7 of Count One as if set out fully herein.

2. On or about the dates set forth below, in the Southern District of Texas,

HIN KHAI ("PAPA") PHU,
KIU TAI ("MAMA") PHU,
ALAN PHU,
and
LISA PHU,

defendants herein, aiding and abetting each other, and for the purpose of commercial advantage and private financial gain, harbored, concealed, and sheltered from detection the aliens named below who entered and remained in the United States in violation of law, said conduct tending to substantially facilitate the aliens' remaining in the United States, and said defendants knowing and acting in reckless disregard of the fact that the aliens named below entered and remained in the United States in violation of the law.

COUNT	ALIEN HARBORED	APPROXIMATE DATES
TWELVE	Alberto Vasquez-Parra	February 2000 - August 2001
THIRTEEN	Aurelio Novella-Paredes	August 27, 1999 - October/ November 2000
FOURTEEN	Enrique Gonzalez-Rodriguez	January 12, 2001 - July 2001
FIFTEEN	Jacobo Guerrero-Bernal	July 2000 - November 2000
SIXTEEN	Javier Villalpando-Salazar	December 12, 1998 - October 27, 2000
SEVENTEEN	Jorge Alberto Nunez-Garcia	December 2000 - July 2001

EIGHTEEN	Nazario Villalpando-Reyna	May 7, 2001 - August 3, 2001
NINETEEN	Tomas (Manuel) Torres-Rodriguez	January 12, 2001 - July 2001

In violation of Title 8, United States Code, Section 1324(a)(1)(A)(iii), and Title 8, United States Code, Section 1324(a)(1)(A)(v)(II).

A TRUE BILL:

[redacted]

FOREPERSON OF THE GRAND JURY

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