

FILED

DEC - 6 2012

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA



**SEALED
BY COURT ORDER**

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

12 UNITED STATES OF AMERICA,

13 Plaintiff,

15 v.

16 ANDREW CHOJECKI,
17 AARON GOLDSMITH,
18 BEATA SZKOP,
19 PAWEL KAROLAK,
VITO SCHERMA,
HECTOR VARGAS, and
MALGORZATA ZUK,

20 Defendants.

CR 12 855

WHA

VIOLATIONS: 18 U.S.C. § 371 –
Conspiracy; 8 U.S.C. § 1325(c) – Marriage
Fraud; 8 U.S.C. § 1324(a)(1)(A)(iv) and
(a)(1)(B)(i) – Alien Harboring; 18 U.S.C. § 2
– Aiding and Abetting; 18 U.S.C. § 982(a)(6)
and 8 U.S.C. § 1324(b) – Criminal Forfeiture

SAN FRANCISCO VENUE

INDICTMENT

23 The Grand Jury Charges:

INTRODUCTORY ALLEGATIONS

25 At all times relevant to this Indictment:

Defendants

27 1. Defendant ANDREW CHOJECKI, was a citizen of Poland and a naturalized
28 United States citizen (USC). CHOJECKI resided in Los Angeles, California from at least

INDICTMENT

1 December 2009 until in or about September 2011, and in Poland from in or about September
2 2011 to the present. CHOJECKI is a former Applications Adjudicator for the United States
3 Immigration and Naturalization Service, a predecessor agency of the United States Department of
4 Homeland Security (DHS), Immigration and Customs Enforcement.

5 2. Defendant AARON GOLDSMITH was a USC residing in the Northern District of
6 California.

7 3. Defendant BEATA SZKOP was a citizen of Poland residing in the Northern
8 District of California.

9 4. Defendant PAWEL KAROLAK was a citizen of Poland residing in the Northern
10 District of California.

11 5. Defendant VITO SCHERMA was a USC residing in the Northern District of
12 California.

13 6. Defendant HECTOR VARGAS was a USC residing in the Northern District of
14 California.

15 7. Defendant MALGORZATA ZUK was a citizen of Poland residing in the Northern
16 District of California.

17 Application for Permanent Status Based on Marriage to a United States Citizen

18 8. An alien who had lawfully gained admittance to the United States and
19 subsequently married a USC could file a petition to adjust his or her immigration status based on
20 that marriage.

21 9. To petition for conditional status based on marriage, an alien had to complete and
22 file with DHS's, Bureau of Citizenship and Immigration Services (USCIS) a Form I-485
23 (Application to Register Permanent Residence or Adjust Status). On the Form I-485, the alien
24 had to identify himself/herself, his/her current immigration status, and the grounds for adjusting
25 his/her status to permanent residency, such as marriage to a USC.

26 10. Concurrently, the USC-spouse had to file with USCIS a Form I-130 (Petition for
27 Alien Relative), on which the USC-spouse confirmed that the marriage had taken place, and
28 provided personal information about the marital union, including the address at which the couple

1 intended to reside.

2 11. In addition to these forms, the alien had to meet other filing requirements,
3 including providing biographical data and evidence that the marriage was genuine. Such
4 evidence would include photographs of the alien and his/her spouse and joint bank statements,
5 among other things. Upon meeting these filing requirements, the alien was entitled to a
6 conditional "green card" for two years, denoting his/her conditional permanent residency.

7 12. At any time during the conditional two-year period, both the alien and the USC-
8 spouse were subject to possible inspection and interview by immigration officials. Typically,
9 when there were questions about the legitimacy of the marriage, immigration officials
10 interviewed the couple together and then each person separately, and examined documentary
11 evidence to determine whether the couple was indeed living as husband and wife in a legitimate
12 marriage.

13 13. Within ninety days before the expiration of the conditional two-year period, the
14 alien and spouse were required to file a Form I-751 (Joint Petition to Remove Conditional Basis
15 of Alien's Permanent Residency Status) with USCIS. The petition had to verify that the marriage
16 was legitimate, that it remained intact, and that it was not entered into for the purpose of
17 procuring an immigration benefit. If satisfied, immigration officials approved the petition and
18 lifted the alien's conditional status, thus making the alien a lawful permanent resident of the
19 United States.

20 14. If an alien received lawful permanent resident status through a marriage, he or she
21 could apply for naturalization after three years.

22
23 COUNT ONE: (18 U.S.C. § 371 – Conspiracy to Commit Marriage Fraud and Visa Fraud)

24 15. Paragraphs 1 through 3 and 8 through 14 of this Indictment are hereby re-alleged
25 and incorporated by reference as if set forth in full herein.

26 16. Beginning no later than in or about April 2010 and continuing through in or about
27 November 2012, in the Northern District of California and elsewhere, the defendants,

28 ///

1 ANDREW CHOJECKI,
2 AARON GOLDSMITH, and
3 BEATA SZKOP,

4 and others knowingly conspired among themselves and with others known and unknown to the
5 Grand Jury:

6 a. to knowingly and unlawfully enter into and aid and abet the entering into
7 of a marriage for the purpose of evading a provision of the immigration laws of the United
8 States, in violation of Title 8, United States Code, Section 1325(c); and

9 b. to knowingly and willfully use and possess, and aid and abet the use and
10 possession of, a document prescribed by statute and regulation as evidence of authorized stay in
11 the United States, specifically a green card, knowing it to have been procured by means of a false
12 claim and statement, and to have been otherwise procured by fraud and unlawfully obtained, in
13 violation of Title 18, United States Code, Section 1546(a).

14 MANNER AND MEANS OF THE CONSPIRACIES

15 17. CHOJECKI introduced aliens and USCs to each other for the purpose of their
16 entering into fraudulent marriages to evade the immigration laws of the United States.

17 CHOJECKI required the alien to pay an initial lump sum at the time of the wedding ceremony,
18 which was split between himself and the USC spouse. Thereafter, CHOJECKI required the alien
19 to pay the USC spouse an additional sum at the time the alien received his or her "green card,"
20 and again at the time he or she received lawful permanent resident status. If CHOJECKI was
21 referred to the alien by another individual, CHOJECKI typically paid the referring individual a
22 \$500 fee.

23 18. After the marriage, CHOJECKI sent each alien co-conspirator a packet containing
24 immigration forms that he had prepared for the alien and USC-spouse to submit to USCIS,
25 including a Form I-485 and a Form I-130, for the purpose of seeking conditional and ultimately
26 permanent residence status for the alien. These forms falsely and fraudulently represented that
27 the alien and the USC-spouse were legitimately married. The alien and USC then submitted the
28 false immigration forms, including the Form I-485 and Form I-130, to USCIS.

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1 a. to knowingly and unlawfully enter into and aid and abet the entering into
2 of a marriage for the purpose of evading a provision of the immigration laws of the United
3 States, in violation of Title 8, United States Code, Section 1325(c); and

4 b. to knowingly and willfully use and possess a document prescribed by
5 statute and regulation as evidence of authorized stay in the United States, knowing it to have
6 been procured by means of a false claim and statement, and to have been otherwise procured by
7 fraud and unlawfully obtained, in violation of Title 18, United States Code, Section 1546(a).

8 OVERT ACTS

9 23. In furtherance of the conspiracy and to effect the objects of that conspiracy, the
10 following overt acts were committed in the Northern District of California and elsewhere:

11 a. In or about December 2010, defendant KAROLAK referred defendant
12 CHOJECKI to E.T., an alien and citizen of Poland, for the purpose of defendant CHOJECKI
13 facilitating a marriage for E.T.

14 b. On or about July 8, 2011, defendant CHOJECKI introduced defendant
15 SCHERMA to E.T., in San Francisco, California.

16 c. On or about July 9, 2011, defendant SCHERMA married E.T., in San
17 Francisco, California.

18 d. On or about July 9, 2011, E.T. gave defendant CHOJECKI \$9,000 in
19 payment for the marriage.

20 e. On or about September 4, 2011, defendant CHOJECKI sent E.T. an email
21 asking for the name of her daughter and her daughter's date of birth.

22 f. On or about September 14, 2011, defendant CHOJECKI sent E.T. a Form
23 I-485 that he had filled out for E.T., and a list of sample questions that she might be asked by a
24 USCIS adjudicator to determine the legitimacy of her marriage.

25 g. On or about October 12, 2011, defendant SCHERMA caused a Form I-130
26 to be filed for E.T.

27 h. On or about October 12, 2011, E.T. caused a Form I-485 to be filed.

28 All in violation of Title 18, United States Code, Section 371.

1 COUNT THREE: (18 U.S.C. § 371 – Conspiracy to Commit Marriage Fraud and Visa Fraud)

2 24. Paragraphs 1, 6, 7, 8 through 14, and 17 through 19 of this Indictment are hereby
3 re-alleged and incorporated by reference as if set forth in full herein.

4 25. Beginning no later than in or about July 2011 and continuing through in or about
5 November 2012, in the Northern District of California and elsewhere, the defendants,

6 ANDREW CHOJECKI,
7 HECTOR VARGAS, and
8 MALGORZATA ZUK,

9 and others knowingly conspired among themselves and with others known and unknown to the
10 Grand Jury:

11 a. to knowingly and unlawfully enter into and aid and abet the entering into
12 of a marriage for the purpose of evading a provision of the immigration laws of the United
13 States, in violation of Title 8, United States Code, Section 1325(c); and

14 b. to knowingly and willfully use and possess a document prescribed by
15 statute and regulation as evidence of authorized stay in the United States, knowing it to have
16 been procured by means of a false claim and statement, and to have been otherwise procured by
17 fraud and unlawfully obtained, in violation of Title 18, United States Code, Section 1546(a).

18 OVERT ACTS

19 26. In furtherance of the conspiracy and to effect the objects of that conspiracy, the
20 following overt acts were committed in the Northern District of California and elsewhere:

21 a. On or about July 28, 2011, defendant VARGAS married defendant ZUK
22 in San Francisco, California.

23 b. On or about August 4, 2011, defendant CHOJECKI's One West Bank
24 account received a wire transfer of approximately \$5,000 from a relative of defendant ZUK.

25 c. On or about March 12, 2012, defendant VARGAS caused a Form I-130 to
26 be filed with USCIS for defendant ZUK.

27 d. On or about March 12, 2012, defendant ZUK caused a Form I-485 to be
28 filed with USCIS.

All in violation of Title 18, United States Code, Section 371.

1 COUNT FOUR: (8 U.S.C. § 1325(c) – Marriage Fraud; 18 U.S.C. § 2 – Aiding and Abetting)

2 27. Paragraphs 1 through 3 and 8 through 14 of this Indictment are hereby re-alleged
3 and incorporated by reference as if set forth in full herein.

4 28. On or about April 19, 2010, in the Northern District of California and elsewhere,
5 the defendants,

6 ANDREW CHOJECKI,
7 AARON GOLDSMITH, and
8 BEATA SZKOP,

9 did knowingly and willfully enter into a marriage, for the purpose of evading a provision of the
10 immigration laws of the United States, and defendant CHOJECKI did aid, abet, counsel,
11 command, induce, and procure the same, in violation of Title 8, United States Code, Section
12 1325(c) and Title 18, United States Code, Section 2.

13
14 COUNT FIVE: (8 U.S.C. § 1325(c) – Marriage Fraud; 18 U.S.C. § 2 – Aiding and Abetting)

15 29. Paragraphs 1, 4, 5, and 8 through 14 of this Indictment are hereby re-alleged and
16 incorporated by reference as if set forth in full herein.

17 30. On or about July 9, 2011, in the Northern District of California and elsewhere, the
18 defendants,

19 ANDREW CHOJECKI,
20 VITO SCHERMA, and
21 PAWEL KAROLAK,

22 did knowingly and willfully enter into a marriage, for the purpose of evading a provision of the
23 immigration laws of the United States, and defendants CHOJECKI and KAROLAK did aid, abet,
24 counsel, command, induce, and procure the same, in violation of Title 8, United States Code,
25 Section 1325(c) and Title 18, United States Code, Section 2.

26 COUNT SIX: (8 U.S.C. § 1325(c) – Marriage Fraud; 18 U.S.C. § 2 – Aiding and Abetting)

27 31. Paragraphs 1, 6, 7, and 8 through 14 of this Indictment are hereby re-alleged and
28 incorporated by reference as if set forth in full herein.

1 32. On or about July 28, 2011, in the Northern District of California and elsewhere,
2 the defendants,

3 ANDREW CHOJECKI,
4 HECTOR VARGAS, and
5 MALGORZATA ZUK,

6 did knowingly and willfully enter into a marriage, for the purpose of evading a provision of the
7 immigration laws of the United States, and defendant CHOJECKI did aid, abet, counsel,
8 command, induce, and procure the same, in violation of Title 8, United States Code, Section
9 1325(c) and Title 18, United States Code, Section 2.

10 COUNTS SEVEN THROUGH NINE: (8 U.S.C. § 1324(a)(1)(A)(iv) and (a)(1)(B)(i) –
11 Alien Harboring)

12 33. Paragraphs 1 through 14 of this Indictment are hereby re-alleged and
13 incorporated by reference as if set forth in full herein.

14 34. On or about the following dates, in the Northern District of California and
15 elsewhere, the following defendants did knowingly encourage and induce an alien, as set forth
16 below, to reside in the United States, knowing and in reckless disregard of the fact that such
17 residence was and would be in violation of law, all for the purpose of commercial advantage and
18 private financial gain:

19

<u>Count</u>	<u>Defendants</u>	<u>Dates</u>	<u>Alien</u>
7	ANDREW CHOJECKI AARON GOLDSMITH	April 2010 to November 2012	BEATA SZKOP
8	ANDREW CHOJECKI VITO SCHERMA PAWEL KAROLAK	December 2010 to November 2012	E.T.
9	ANDREW CHOJECKI HECTOR VARGAS	July 2011 to November 2012	MALGORZATA ZUK

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26 Each in violation of Title 8, United States Code, Section 1324(a)(1)(A)(iv) and
27 (a)(1)(B)(i).

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1 FORFEITURE ALLEGATION: (18 U.S.C. § 982(a)(6), 8 U.S.C. § 1324(b), and 28 U.S.C.
2 § 2461(c) – Criminal Forfeiture)

3 35. Upon conviction of any of the offenses alleged in Counts One through Three and
4 Seven through Nine of this Indictment, defendants CHOJECKI, GOLDSMITH, SZKOP,
5 SCHERMA, KAROLAK, VARGAS, AND ZUK shall forfeit to the United States pursuant to
6 Title 18, United States Code, Section 982(a)(6); Title 8, United States Code, Section 1324(b);
7 and Title 28, United States Code, Section 2461(c), all property, real and personal, that constitutes
8 or is derived from or is traceable to proceeds obtained directly or indirectly from the commission
9 of the offense, and all property, real or personal, that was used to facilitate, or was intended to be
10 used to facilitate the commission of the offense.

11 36. If any property subject to forfeiture, as a result of the offenses alleged in Counts
12 One through Three and Seven through Nine of this Indictment:

- 13 a. cannot be located upon the exercise of due diligence;
- 14 b. has been transferred or sold to or deposited with, a third person;
- 15 c. has been placed beyond the jurisdiction of the Court;
- 16 d. has been substantially diminished in value; or
- 17 e. has been commingled with other property which cannot be divided without
18 difficulty;

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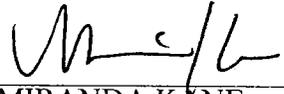
1 any and all interest defendants have in any other property up to the value of the proceeds
2 traceable to said offense, shall be forfeited to the United States pursuant to Title 28, United States
3 Code, Section 2461(c) and Title 18, United States Code, Section 982(b), incorporating Title 21,
4 United States Code, Section 853(p).

5
6 DATED: December 6, 2012

A TRUE BILL.

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9 
FOREPERSON

10 MELINDA HAAG
11 United States Attorney

12 
13 MIRANDA KANE
14 Chief, Criminal Division

15 (Approved as to form: )
16 AUSA WEST

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