

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CERTIFIED AS A TRUE COPY ON
THIS DATE DEC 1 2012

UNITED STATES OF AMERICA

SEALED
INDICTMENT BY

() Clerk
() Deputy

-v.-

12 Cr.

LIYING LIN,
a/k/a the "Deacon,"

Defendant.

12 CRIM 936

COUNT ONE

The Grand Jury charges:

BACKGROUND ON THE ASYLUM PROCESS

1. Pursuant to federal immigration law, to obtain asylum in the United States, an alien is required to show that he or she has suffered persecution in his or her country of origin on account of race, religion, nationality, political opinion, or membership in a particular social group, or has a well founded fear of persecution if he or she were to return to such country.

2. Alien applicants seeking asylum are required to complete a form called a Form I-589 to the United States Citizenship and Immigration Services ("USCIS"). The Form I-589 requires a detailed and specific account of the basis of the claim to asylum. If the Form I-589 is prepared by someone other than the applicant or a relative of the applicant, such as an attorney, the preparer is required to set forth his or her name and address on the form. The alien applicant and preparer are required to sign the petition under penalty of perjury. The alien applicant must typically apply for asylum within one year of their arrival in the United States.

3. After the Form I-589 is submitted, the alien applicant is interviewed by a USCIS officer (the "Asylum Officer") to determine whether the applicant qualifies for asylum. At the interview, the applicant can present witnesses or documentation in support of his or her asylum claim. After the interview, the Asylum Officer determines whether the alien applicant qualifies for asylum, and that determination is then reviewed by a supervisory officer within USCIS.

4. If an alien applicant is granted asylum, he or she receives a completed Form I-94 that reflects that the USCIS has granted him or her asylum status. The grant of asylum typically applies to the applicant's spouse and children as well. An alien who has a Form I-94 can apply for, among other things, lawful permanent resident status. A grant of asylum status does not expire, although USCIS can terminate asylum status if, among other things, it is later discovered that the applicant obtained asylum through fraud or no longer has a well founded fear of persecution in his or her home country.

5. If the Asylum Officer determines that the applicant is ineligible for asylum status, and if the applicant is in the United States illegally, the matter is referred to an Immigration Judge at the Executive Office for Immigration Review. The Immigration Judge holds a hearing during which the alien applicant, and commonly an immigration lawyer, appear before the Immigration Judge and present evidence in support of the asylum application. In New York City, all immigration hearings take place in New York, New York. After the hearing, the Immigration

Judge renders a decision on the alien's asylum application. If the Immigration Judge denies the asylum application the applicant may appeal that decision to the Board of Immigration Appeals ("BIA"). If the applicant loses his or her appeal before the BIA the applicant may appeal to a federal court.

THE SCHEME TO DEFRAUD

6. This scheme involved the submission of fraudulent asylum applications on behalf of Chinese aliens by law firms in the Chinatown area of New York City. Through the methods described herein, the defendant, a deacon at a church in Queens County, New York, and her co-conspirators, including lawyers and employees at law firms in New York City, profited by creating and submitting asylum applications containing false stories of persecution purportedly suffered by alien applicants.

7. Typically, before a law firm involved in the scheme would take on a client, an employee of the law firm conducted a screening interview of the potential client. One of the goals of that interview was to determine whether there was any information about the client -- that could be discovered by the USCIS -- that would bar the client from receiving asylum. For example, if the client had a passport that showed the client had been in the United States for more than one year the case would likely be rejected by the USCIS. On the other hand, if the client had been in the United States for more than one year but there was no proof of the client's date of entry into the United States the law firms mentioned herein considered taking the case.

8. If the client did not have proof that he or she had

been in the United States for less than one year, an employee at the law firm would typically explain to the client that he or she needed to obtain a letter from a person stating that he or she saw the client in China within the last year. If the client could not obtain such a letter, often because he or she had been in the United States for longer than one year, the law firm would often help them create a false letter.

9. In many instances, the clients of the law firms involved in the scheme had not actually suffered persecution in China. In those cases, an employee of the law firm explained to the client that, in exchange for money, the law firm would make up a story of persecution and that the client would need to memorize that story.

10. If the law firm was satisfied that the client did not have any barriers to asylum that could be discovered by the USCIS (such that the law firm had a reasonable chance at winning the case and receiving the most money possible) and if the law firm was satisfied that the client had the capacity to pay the law firm's fees, the client was assigned to a paralegal at the law firm (the "Paralegal"), also referred to as a "story writer." The Paralegal drafted the narrative for the client's asylum application, most importantly making up the client's story of persecution.

11. The Paralegals made up stories of persecution that usually followed one of three fact patterns: (a) forced abortions performed against woman clients pursuant to China's family planning policy; (b) persecution based on the client's belief in

Christianity; or (c) political or ideological persecution, typically for membership in China's Democratic Party or followers of Falun Gong.

12. After the story was written, the Paralegal often showed the draft to one of the attorneys (the "Lawyer") at the law firm. Often, the Lawyer would provide substantive edits that changed basic facts in the story (such as what happened while a client was supposedly being tortured by Chinese authorities for his or her religious beliefs). The Lawyer made these substantive changes frequently without having met the client or being shown any documents pertaining to the client's case other than the story the Paralegal has drafted.

13. After the Form I-589 asylum application was submitted, the Paralegal often prepared the client for his or her interview with the Asylum Officer. This preparation often included having the client do outside studying on the topic of persecution claimed in his or her application so that he or she had a better chance of convincing the Asylum Officer that his or her story of persecution was true.

14. In instances where the client was not actually a Christian but was claiming persecution based on his or her Christianity, it was common for an employee at these law firms to refer the client to a church where he or she could receive training in the basic tenets of Christianity and obtain certificates proving that he or she belonged to a church in New York where he or she worshiped.

15. On the day of the interview, the law firms often

arranged for a translator (the "Translator") to accompany the client to the interview. Each law firm typically had one or two translators that they worked with. The Translator was frequently paid to provide two basic services. One, was to provide additional coaching and training to the client in advance of the interview (sometimes the translators were paid to train the clients days in advance of their interviews). The Translator, who often had seen hundreds of asylum interviews, advised the clients of questions that were likely to be asked and how to answer them.

16. The Translator was also paid to translate during the interview. However, the Translator was often paid not merely to translate the client's answers from Chinese to English but to do so in a way that was favorable to the client. For example, if the client answered a question in a way that was inconsistent with the fabricated story of persecution the Translator was expected to falsely translate the answer so that it conformed to the story.

17. If the Asylum Officer did not grant the client asylum, a Lawyer from the law firm would then argue the case before an Immigration Judge. In advance of the hearing, the Lawyer typically met with the client (in the case of an English speaking lawyer the lawyer typically met with the client with the aid of an interpreter) to prepare the client for his or her hearing. At these preparation sessions the Lawyer often coached the client on what to say and tried to ensure that the client would not say anything that contradicted the story that the law

firm had made up. At the hearing, the client testified, and the Lawyer questioned him or her, about his or her fictitious story of persecution.

THE DEFENDANT AND RELEVANT ENTITIES

18. At various times relevant to the charges in this Indictment, LIYING LIN, a/k/a the "Deacon," the defendant, played a variety of roles in the scheme.

19. At various times relevant to the charges in this Indictment, LIYING LIN, a/k/a the "Deacon," claimed to be a deacon at the Full Gospel Church, in Flushing, New York (the "Church"). LIN provided training in the basic tenets of Christianity to clients of law firms involved in the scheme. LIN provided this training at the Church.

20. In exchange for cash donations to the Church, and sometimes payments made directly to LIYING LIN, a/k/a the "Deacon," LIN trained asylum applicants on what questions about religious belief would be asked during an asylum interview and coached the clients on how to answer.

21. Twice a week at the Church, LIYING LIN, a/k/a the "Deacon," held training sessions at the Church for asylum applicants. Applicants were told that they were expected to make cash donations for each training session. One on one training sessions with LIN were also available but required a larger cash donation.

22. LIYING LIN, a/k/a the "Deacon," would provide certificates to asylum applicants evidencing the client's attendance at church and/or the client's baptism. Those clients

were told by LIN that they needed to pay more for those certificates.

23. At various times relevant to the charges in this Indictment, LIYING LIN, a/k/a the "Deacon," also served as a Translator during asylum interviews. LIN did this both for clients she trained at the Church and for other clients that were referred to her by law firms that were involved in the fraud.

24. LIYING LIN, a/k/a the "Deacon," sometimes advised clients before the asylum interview that if they gave a wrong answer concerning, among other things, Christianity, LIN would kick them on the foot. During the interviews, if a client gave an incorrect answer in Chinese LIN would sometimes falsely translate the Chinese answers into English so that the Asylum Officer would not detect an answer that was inconsistent with the fabricated story of persecution or an incorrect statement of religious belief.

STATUTORY ALLEGATIONS

25. From in or about 2010, through and including in or about December 2012, in the Southern District of New York and elsewhere, LIYING LIN, a/k/a the "Deacon," the defendant, and others known and unknown, willfully, and knowingly did combine, conspire, confederate and agree together and with each other to commit an offense against the United States, to wit, immigration fraud in violation of Title 18, United States Code, Section 1546(a).

26. It was a part and object of the conspiracy that LIYING LIN, a/k/a the "Deacon," the defendant, and others known

and unknown, would and did knowingly and willfully forge, counterfeit, alter, and falsely make an immigrant and nonimmigrant visa, permit, border crossing card, alien registration receipt card, and other document prescribed by statute and regulation for entry into and as evidence of authorized stay and employment in the United States, and would and did utter, use, attempt to use, possess, obtain, accept, and receive any such visa, permit, border crossing card, alien registration receipt card, and other document prescribed by statute and regulation for entry into and as evidence of authorized stay and employment in the United States, knowing it to be forged, counterfeited, altered, and falsely made, and to have been procured by means of a false claim and statement, and to have been otherwise procured by fraud and unlawfully obtained to wit, LIYING LIN, a/k/a the "Deacon," and others coached asylum applicants to lie during interviews with United States Citizenship and Immigration Services which resulted in the clients receiving Form I-94's, in violation of Title 18, United States Code, Section 1546(a).

Overt Acts

27. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. In or about March 2011, LIYING LIN, a/k/a the "Deacon," the defendant, coached an asylum applicant to lie in an asylum interview with United States Citizenship and Immigration

Services.

b. In or about July 2012, LIYING LIN, a/k/a the "Deacon," the defendant, coached an asylum applicant to lie in an asylum interview with United States Citizenship and Immigration Services.

c. In or about July 2012, LIYING LIN, a/k/a the "Deacon," the defendant, coached another asylum applicant to lie in an asylum interview with United States Citizenship and Immigration Services.

(Title 18, United States Code, Section 371)

COUNT TWO

The Grand Jury further charges:

28. In or about March 2011, in the Southern District of New York and elsewhere, LIYING LIN, a/k/a the "Deacon," the defendant, knowingly and willfully made under oath, and as permitted under penalty of perjury under section 1746 of title 28, United States Code, knowingly subscribed as true, a false statement with respect to a material fact in an application, affidavit, and other document required by the immigration laws and regulations prescribed thereunder, and knowingly presented such an application, affidavit, and other document which contained such a false statement and which failed to contain any reasonable basis in law and fact, to wit, LIYING LIN, a/k/a the "Deacon," the defendant, coached an asylum applicant to lie in an asylum interview with United States Citizenship and Immigration

Services in an effort to obtain a Form I-94 on behalf of the applicant.

(Title 18, United States Code, Sections 1546(a) & 2.)

COUNT THREE

The Grand Jury further charges:

29. In or about July 2012, in the Southern District of New York and elsewhere, LIYING LIN, a/k/a the "Deacon," the defendant, knowingly and willfully made under oath, and as permitted under penalty of perjury under section 1746 of title 28, United States Code, knowingly subscribed as true, a false statement with respect to a material fact in an application, affidavit, and other document required by the immigration laws and regulations prescribed thereunder, and knowingly presented such an application, affidavit, and other document which contained such a false statement and which failed to contain any reasonable basis in law and fact, to wit, LIYING LIN, a/k/a the "Deacon," the defendant, coached an asylum applicant to lie in an asylum interview with United States Citizenship and Immigration Services in an effort to obtain a Form I-94 for the applicant.

(Title 18, United States Code, Sections 1546(a) & 2.)

COUNT FOUR

The Grand Jury further charges:

30. In or about July 2012, in the Southern District of New York and elsewhere, LIYING LIN, a/k/a the "Deacon," the defendant, knowingly and willfully made under oath, and as permitted under penalty of perjury under section 1746 of title 28, United States Code, knowingly subscribed as true, a false

statement with respect to a material fact in an application, affidavit, and other document required by the immigration laws and regulations prescribed thereunder, and knowingly presented such an application, affidavit, and other document which contained such a false statement and which failed to contain any reasonable basis in law and fact, to wit, LIYING LIN, a/k/a the "Deacon," the defendant, coached an asylum applicant to lie in an asylum interview with United States Citizenship and Immigration Services in an effort to obtain a Form I-94 for the applicant.

(Title 18, United States Code, Sections 1546(a) & 2.)

FORFEITURE ALLEGATIONS

31. As a result of committing the offense alleged in Counts One through Four of this Indictment, LIYING LIN, a/k/a the "Deacon," the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offenses, including but not limited to a sum in United States currency representing the amount of proceeds obtained as a result of the offenses.

Substitute Assets Provision

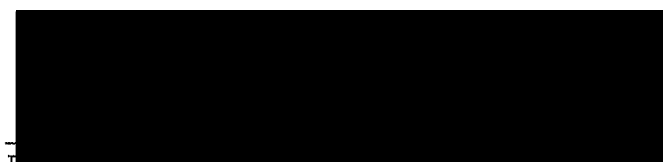
32. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to, or deposited with, a third person;

- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), to seek forfeiture of any other property of said defendant up to the value of the above forfeitable property.

(Title 18, United States Code, Section 981 and Title 28, United States Code, Section 2461)



FOR PERSON

Preet Bharara
PREET BHARARA
United States Attorney

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SOUTHERN DISTRICT OF NEW YORK

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(18 U.S.C. §§ 1546, 2 & 371)

PREET BHARARA
United States Attorney.
