

United States District Court
District of New Jersey

UNITED STATES OF AMERICA

v.

ZHENG ZHANG,
a/k/a "Vicky Zhang" and
XUE YONG LIU,
a/k/a "Jack Liu"

: Hon. Steven C. Mannion

: Magistrate No.: 16-6039 (SCM)

: Criminal Complaint

I, David A. Ferrante, the undersigned complainant being duly sworn, state the following is true and correct to the best of my knowledge and belief.

SEE ATTACHMENT A

I further state that I am a Special Agent with the United States Department of Homeland Security, Homeland Security Investigations ("HSI"), and that this complaint is based on the following facts:

SEE ATTACHMENT B

continued on the attached page and made a part hereof.



David A. Ferrante, Special Agent
U.S. Department of Homeland Security
Homeland Security Investigations

Sworn to before me and subscribed in my presence,

March 30, 2016 _____ at _____
Date

Honorable Steven C. Mannion
United States Magistrate Judge
Name & Title of Judicial Officer

Newark, New Jersey
City and State



Signature of Judicial Officer

ATTACHMENT A

COUNT ONE
(Conspiracy to Commit Visa Fraud)

From in or about June 2014 through in or about March 2016, in Union County, in the District of New Jersey, and elsewhere, defendants

**ZHENG ZHANG,
a/k/a "Vicky Zhang" and
XUE YONG LIU,
a/k/a "Jack Liu"**

did knowingly and intentionally conspire and agree with each other and with others to commit an offense against the United States, that is, to utter, use, attempt to use, possess, obtain, accept, and receive non-immigrant visas, namely student visas and other documents proscribed by statute and regulation for entry into and as evidence of authorized stay in the United States, knowing that the student visas had been procured by means of false claims and statements and otherwise procured by fraud and unlawfully obtained, contrary to Title 18, United States Code, Section 1546(a).

In furtherance of the conspiracy and to effect its unlawful objects, the defendants committed and caused to be committed the following overt acts, among others, in the District of New Jersey and elsewhere, as set forth in Attachment B below.

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

COUNT TWO
(Conspiracy to Harbor Aliens for Profit)

From in or about June 2014 through in or about March 2016, in Union County, in the District of New Jersey, and elsewhere, defendants

**ZHENG ZHANG,
a/k/a "Vicky Zhang" and
XUE YONG LIU,
a/k/a "Jack Liu"**

did knowingly and intentionally conspire and agree with each other and with others, for the purpose of commercial advantage and private financial gain, to encourage and induce an alien to reside in the United States, knowing and in reckless disregard of the fact that such residence was and would be a violation of law, contrary to Title 8, United States Code, Section 1324(a)(1)(A)(iv).

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

ATTACHMENT B

I, David A. Ferrante, am a Special Agent with the United States Department of Homeland Security, Homeland Security Investigations ("HSI"). I have personally participated in this investigation and am aware of the facts and circumstances contained herein based on my own investigation, as well as my review of documents, records, information and evidence provided to me by other law enforcement officers and relevant personnel. Since this Affidavit is submitted for the sole purpose of establishing probable cause to support the issuance of a complaint and arrest warrant, I have not necessarily included each and every fact known by the government concerning this investigation. Where statements of others are related herein, they are related in substance and in part. Where I assert that an event took place on a particular date, I am asserting that it took place on or about the day alleged.

The Defendants and Other Parties

1. At all times relevant to this Criminal Complaint:

a. Defendant Zheng Zhang a/k/a "Vicky Zhang," ("ZHANG"), was a citizen of China who resided in or around New York, New York. ZHANG worked as an education consultant for ILIS, Inc. ("ILIS"), a company that purported to provide foreign nationals in the United States with assistance in identifying methods of remaining and working in the United States and extending student visa status in the United States.

b. Defendant Xue Yong Liu a/k/a "Jack Liu," ("LIU"), was a citizen of China who resided in or around New York, New York. LIU worked as the purported "Director of the Chinese Department" at ILIS.

c. A federal agent was acting in an undercover capacity (hereinafter "UC-1").

d. Federal agents were acting in an undercover capacity and posing as the owners and/or operators of the University of Northern New Jersey (hereinafter the "School"). The School was physically located in Cranford, New Jersey. The School was part of a federal law enforcement undercover operation designed to identify individuals and entities engaged in immigration fraud. The School was not staffed with instructors / educators, had no curriculum, and no actual classes or educational activities were conducted at the School.

e. A co-conspirator not named as a defendant herein was a foreign citizen who fraudulently maintained student visa status through ZHANG and LIU (hereinafter "CC-1").

Overview of Investigation

2. Beginning in or about September 2013, federal agents from HSI, using the School, commenced an undercover operation to investigate criminal activities associated with the Student and Exchange Visitor Program ("SEVP"), including, but not limited to, student visa fraud and the harboring of aliens for profit. A brief summary of the SEVP is described in Paragraph 4, below.

3. During the course of the investigation, HSI agents identified numerous individuals and organizations that used the SEVP as an instrument to engage in criminal conduct. Specifically, as described more fully below, the investigation revealed that defendants ZHANG and LIU enabled numerous foreign individuals to fraudulently maintain non-immigrant status and obtain employment authorization to remain in the United States on the false pretense that these aliens were participating in full courses of study at an academic institution.¹ In truth and in fact, ZHANG and LIU, with full knowledge that the aliens would not attend any actual courses, earn actual credits, or make academic progress toward an actual degree in a particular field of study, fraudulently maintained student visa status in exchange for kickbacks, or "commissions" from individuals they believed were co-schemers. Additionally, ZHANG and LIU facilitated the creation of false student records, including transcripts, for some of the foreign students for the purpose of deceiving immigration authorities.

Summary of Relevant Immigration Policies and Procedures

4. From my training and experience as a Special Agent with HSI, and from speaking with individuals and officials with knowledge of the SEVP with the Department of Homeland Security, I have learned about the requirements that foreign citizens must comply with under United States immigration law, including the following:

a. The United States requires individuals from most foreign countries to obtain a visa prior to entry into the United States. As they apply to this investigation, non-immigrant visas are required for foreign citizens who

1. Your Affiant is aware that this type of SEVP-related fraud is commonly referred to as a "pay to stay" scheme.

intend to enter the United States on a temporary basis, such as for tourism, medical treatment, business, temporary work, or study.²

b. A foreign citizen who wishes to enter and remain in the United States on a temporary basis to pursue a course of study at a college, university, seminary, conservatory, academic high school, or other academic institution, or for English language training (commonly referred to as "ESL"),³ must first obtain an F-1 non-immigrant visa, also known as a student visa ("F-1 visa").

c. An F-1 visa is only valid for a temporary period, called the "duration of status," which status lasts as long as the foreign citizen is enrolled as a full-time student in an approved educational program and making normal progress toward completion of the course of study.⁴ Pursuant to 8 C.F.R. § 214.2(f)(6), a full course of study for a foreign citizen studying a language or other non-vocational training program under an F-1 visa (an "F-1 student") requires eighteen (18) clock hours of attendance per week, assuming the dominant portion of the course consists of classroom instruction. Significantly, when a foreign citizen stops pursuing a full course of study, the duration of status on his or her F-1 visa ends and the temporary period for which the individual was admitted to the United States expires.

2. Under 8 U.S.C. § 1101 (a)(15)(F)(i), an F-1 student (*i.e.*, a non-immigrant alien admitted to the United States on a temporary basis to pursue a course of study) is defined as follows: "an alien having a residence in a foreign country which he has no intention of abandoning, who is a bona fide student qualified to pursue a full course of study and who seeks to enter the United States temporarily and solely for the purpose of pursuing such a course of study consistent with section 1184(l) of this title at an established college, university, seminary, conservatory, academic high school, elementary school, or other academic institution or in an accredited language training program in the United States, particularly designated by him and approved by the Attorney General after consultation with the Secretary of Education. . . ."

3. One area of study available to F-1 students includes English language training, or ESL, courses. In order to pursue ESL studies, an F-1 student must enroll in an SEVP-certified English language training program. ESL students are not eligible for online or distance education, as all training must take place in a classroom (or computer lab) setting for a minimum of eighteen (18) hour per week. A foreign citizen who is granted an F-1 visa to participate in an ESL program may not obtain work authorization.

4. Certain F-1 students (identified as "Border Crossing" students from Mexico or Canada who attend a school within 75 miles of a land border) may be admitted to the United States until a date certain, rather than for duration of status. See 8 C.F.R. § 214.2(f)(18). None of the foreign individuals associated with this investigation were the recipient of a "Border Crossing" F-1 visa.

d. To obtain an F-1 visa, a foreign citizen must first apply to study at a school within the United States that has been certified by the SEVP to enroll and train foreign students. If accepted, the school will provide the foreign citizen with a "Certificate of Eligibility for Nonimmigrant (F-1) Student Status - For Academic and Language Students," also known as a Form I-20 A ("Form I-20"). The Form I-20 is required for the foreign citizen to obtain an F-1 visa. By issuing a Form I-20 to a foreign citizen, an SEVP-approved school certifies that the individual: (1) meets all standards of admission for the school based on a review of the student's application, transcripts, proof of financial responsibility, and other records; and (2) has been accepted for, and would be required to pursue, a full course of study.

e. Once a foreign citizen receives a Form I-20, that individual may apply for an F-1 visa. The foreign citizen can then use the F-1 visa and Form I-20 to enter and remain in the United States for the period of time he or she is granted. After a foreign citizen completes his or her course of study, that individual is typically required to depart the United States within 60 days. Conversely, if the foreign student fails to maintain status (e.g., stops attending school, drops below the full course of study without authorization, etc.), the foreign student must immediately depart the United States.

f. The Student and Exchange Visitor Information System ("SEVIS") is an internet based data system that provides users with access to current information on nonimmigrant foreign citizens, exchange aliens, and their dependents. Each Form I-20 that is issued by a school to a foreign citizen will contain a system-generated identification number. This number is referred to as the "SEVIS ID number." Generally, the SEVIS ID number remains the same as long as the foreign citizen maintains his or her valid, original nonimmigrant status. This number will typically remain the same regardless of any changes or updates made by the school to the foreign citizen's record.

g. Once in the United States, a foreign citizen is generally permitted to transfer from one SEVP-certified school to another, as long as that individual maintains valid F-1 student status and is pursuing a full course of study. To effect such a transfer while maintaining valid status, a foreign citizen must first obtain a school acceptance letter and a SEVIS transfer form from the SEVP-certified school to which the student intends to transfer. The foreign citizen may then transfer to that school, obtain a Form I-20, and remain in the United States as long as he or she pursues a full course of study at the new SEVP-certified school.⁵

5. Every SEVP-approved school must have one Primary Designated School Official ("PDSO") who, among other things, certifies under penalty of perjury on the

h. In addition to taking a full course of study at an accredited institution, a non-ESL, F-1 student may also seek practical training – which could include paid employment - that is directly related to the student’s major and is considered part of the student’s program of study. The two types of practical training available to non-ESL, F-1 students include curricular practical training (“CPT”) and optional practical training (“OPT”). If approved by the PDSO (or DSO), an F-1 student may obtain a new Form I-20 indicating that he or she has been approved for either CPT or OPT. Generally, therefore, as long as an F-1 student has been properly enrolled at an SEVP certified school, has taken classes and earned credits, and has made academic progress toward

Form I-20 that the foreign student’s application, transcripts, or other records of courses taken, and proof of financial responsibility - including proof that the student has the funds necessary to live and study in the United States without working illegally or suffering from poverty - were received by the school and the student met the qualifications for admission. The PDSO also certifies that the foreign student will be required to pursue a full course of study as defined by the regulations in 8 C.F.R. § 214.2(f)(6). The forgoing certification responsibilities of the PDSO may also be handled by a Designated School Official (“DSO”).

SEVP certified schools also are required to maintain up to date and accurate records in SEVIS regarding the foreign students attending the school and are required to input accurately when students have completed their studies so that their immigration status can be terminated. The PDSO (or DSO) is also required to maintain up to date and accurate records in the SEVIS database for status events of foreign students attending their school including, but not limited to: entry/exit data, changes of current United States address (residence), program extensions, employment notifications, changes in program of study, and completion of studies so the student’s immigration status can be timely terminated.

Additionally, if a foreign citizen admitted on an F-1 visa to attend an SEVP-certified school has not pursued a full course of study at the school, a PDSO (or DSO) is prohibited from transferring that foreign citizen to another school. Pursuant to 8 C.F.R. § 214.2(8)(i), an F-1 student who was not pursuing a full course of study at the school he or she was last authorized to attend is ineligible for school transfer and must apply for reinstatement, or, in the alternative, may depart the U.S. and return as an initial entry in a new F-1 nonimmigrant status. Once an SEVP-certified school terminates an F-1 student’s active status in SEVIS for “Unauthorized Drop Below Full Course of Study,” thereby flagging the F-1 student’s termination for review by the Department of Homeland Security, SEVP guidance allows the school to then transfer the F-1 student’s SEVIS records *in terminated status* to another school. The terminated F-1 student must then file an application for reinstatement of active status with the support of the school the student is transferring to, or depart the United States. Further, an F-1 student who has not been pursuing a full course of study at an SEVP-certified school cannot be transferred to another school unless and until his or her active status has been terminated in SEVIS.

graduation, that F-1 student may have the opportunity to work full or part-time CPT or OPT, in addition to taking classes.⁶

The Defendants' Criminal Activities

5. Beginning in or about June 2014, ZHANG contacted School officials to solicit potential recruiting opportunities. Specifically, by e-mail dated on or about June 3, 2014, ZHANG contacted the School and stated that ILIS was "interested on working with [the School] to advise prospective students regarding your application procedures and assist student recruitment of your school." The email further stated that ILIS hoped "to establish a cooperative relationship with your distinguished school. . . ." Later that day, ZHANG engaged in a consensually recorded telephone conversation with UC-1. During that call, ZHANG claimed to want to help UC-1 recruit Chinese students to the School. UC-1 advised ZHANG that the School could not offer ZHANG's clients enrollment, as the School's classes were full. Despite UC-1's representation, ZHANG and UC-1 discussed a scenario whereby ZHANG's recruits could enroll in the School for the purpose of maintaining their immigration status and obtaining work authorization in the United States, despite the evident lack of any available classes or curriculum.

6. Over the course of the next several weeks, and in response to ZHANG's initial inquiries, UC-1 engaged in several consensually recorded telephone conversations and in-person meetings with ZHANG and LIU (collectively, the "Defendants") to negotiate the terms of the Defendants' proffered recruiting services.

7. For example, on or about June 4, 2014, ZHANG contacted UC-1 and engaged in a consensually recorded telephone conversation. During this

6. Practical training may be authorized to an F-1 student who has been lawfully enrolled on a full time basis, in a SEVP-certified institution, for one full academic year. CPT is more specifically defined as an alternative work/study, internship, cooperative education, or any other type of required internship or practicum that is offered by sponsoring employers through cooperative agreements with a given SEVP-certified institution. An F-1 student may be authorized by the PDSO (or DSO) to participate in a CPT program that is an integral part of an established curriculum. A student may begin CPT only after receiving his or her Form I-20 with the PDSO (or DSO) endorsement. A student may be authorized 12 months of practical training, and becomes eligible for another 12 months of practical training when he or she changes to a higher educational level. Exceptions to the one academic year requirement prior to obtaining CPT approval are provided for students enrolled in graduate studies that require immediate participation in curricular practical training. See 8 C.F.R. § 214.2 (10).

call, UC-1 reiterated the terms of the proposed illicit agreement between ILIS and the School. Specifically, UC-1 and ZHANG discussed the issuance of CPT work authorization to purported foreign students beginning on their first day of enrollment at the School; UC-1 further stated that ILIS' recruits would not have to attend classes, and that their enrollment in the School would be solely to maintain their immigration status. Additionally, UC-1 and ILIS discussed a proposed "tuition" rate that would be charged for each alien's enrollment. ZHANG acknowledged her understanding of the proposal and explained that ILIS had one client who was in need of immediate assistance to maintain his/her immigration status in the United States. With regard to that client, ZHANG stated, "if [the alien] just wants the, the status, it should be fine but if [the student] want some real class, real courses, yeah I think that's another, another thing it's not the same thing." ZHANG indicated that she would explain the nature of enrollment at the School to her client in detail, stating, "I will talk to him very clear about this."

8. Thereafter, on or about June 11, 2014, ZHANG and LIU met with UC-1 at the School and engaged in a consensually recorded meeting. The matters discussed at this meeting included, among others, the manner and means of payment of purported foreign student "tuition" at the School, as well as the issuance of CPT work authorization. Additionally, ZHANG and LIU queried whether the School would be "safe" [i.e., not subject to scrutiny by law enforcement or immigration officials] for the purported foreign students, as they would not actually be attending classes. Further, LIU offered UC-1 a recruiting opportunity with ILIS, stating, "if you have students you can refer to us and we can have them apply for these schools, uh, schools, and we also will issue commission to you. . ." Later that day, UC-1 sent an e-mail to ZHANG and LIU to memorialize the terms of the arrangement they had discussed at the meeting. The e-mail contained the cost of tuition for the purported foreign students and specified that ZHANG and LIU would receive a twenty five percent commission of the tuition payments made on behalf of ILIS recruits to the School, with added commission rates based on the total number of purported foreign students ultimately recruited by ZHANG and LIU.

9. Based on those discussions, and beginning in or about June 2014, ZHANG and LIU facilitated the enrollment of dozens of foreign students at the School despite knowing that the individuals they recruited were not bona fide students, and had no intention of attending classes or earning credits at the School.⁷ In exchange for receiving a Form I-20 from the School and being reported in SEVIS as a legitimate foreign student, ZHANG and LIU's recruits

7. From in or about June 2014 through March 2016, ZHANG and LIU recruited and referred approximately 36 foreign individuals to the School, and they collected thousands of dollars in commission fees as a result of their illicit activities.

would make "tuition" payments to the School that corresponded to the length of time that the purported foreign students were enrolled. For each foreign student referred by ZHANG and LIU and subsequently enrolled at the School, ZHANG and LIU received a percentage of the purported foreign student's tuition payments as commission for ZHANG and LIU's illicit recruiting services. Once ZHANG and LIU referred an alien to the School, ZHANG and LIU followed up with School personnel via e-mail to track the status of the issuance of relevant immigration documents, including Forms I-20 and CPT documentation, for their recruits. Significantly, the Forms I-20 that ZHANG and LIU caused the School to issue to ZHANG's and LIU's recruits were falsely made and procured by fraud. ZHANG and LIU knew the Forms I-20 were fraudulent because their recruits would not be attending any classes at the School and would not be making any academic progress toward a legitimate degree in an established curriculum; indeed, the Forms I-20 were procured by ZHANG and LIU to fraudulently maintain their foreign recruits' immigration and work status in the United States. Further, numerous individuals referred by ZHANG and LIU enrolled at the School in an effort to falsely obtain and extend CPT eligibility, so that those individuals could continue to reside and work in the United States in contravention of U.S. immigration laws.

10. During the course of the conspiracy, ZHANG and LIU obtained numerous false and fraudulent documents from the School on behalf of their recruits. These documents included false transcripts and student identification cards. In certain instances, ZHANG and LIU obtained and created false documents for the School to falsely create the appearance that their recruits were legitimate students. For example, by e-mail dated on or about April 21, 2015, ZHANG sent UC-1 falsified and completed attendance records for nine aliens she had previously recruited to the School. The false records purported to show that the aliens attended classes at the School; ZHANG, however, knew that none of the recruits had actually attended a single class at the School.

11. The fraudulent nature of the Defendants' dealings with the School was further underscored by the types of payments made by the Defendants to purchase various immigration related documents, such as Forms I-20 and CPT work authorization, for ILIS clients. In one instance, the Defendants had an outstanding balance at the School for their recruits' purported tuition payments. By e-mail dated on or about July 28, 2015, UC-1 advised the Defendants that, in an effort to reduce potential exposure that could be created by multiple banking transactions, that UC-1 would accept a watch as payment for the tuition, in lieu of cash or checks. Subsequently, by e-mail dated on or about July 28, 2015, UC-1 provided ZHANG and LIU with an internet link for the requested watch. By e-mail dated July 29, 2015, ZHANG replied to UC-1, stating that the requested watch would cost \$7,117 after taxes, and that in

exchange for providing the watch to UC-1, the School could redeem the watch's cost for seven of her clients' tuition fees for the next school term. By e-mail dated on or about July 29, 2015, ZHANG sent UC-1 a copy of the shipping and tracking information for the package containing the requested watch. UC-1 subsequently received the watch on or about August 3, 2015, and it was retained as evidence as part of this investigation.

12. As stated, the Defendants used the School to request and obtain numerous false and fraudulent documents for their clients that were intended to deceive U.S. immigration officials and to unlawfully obtain visa documents. For example, by e-mail dated on or about June 1, 2015, ZHANG contacted UC-1 to discuss documents she wanted to obtain for one of the Defendants' School recruits ("CC-1"). ZHANG informed UC-1 that an H1-B visa⁸ application had been filed on CC-1's behalf, and that U.S. immigration officials had requested additional information for CC-1's file (this request is commonly referred to as a "request for evidence," or "RFE").⁹ ZHANG's email to UC-1 also revealed that CC-1 had requested, through ZHANG, a parking permit, signed attendance records, and professor contact information from the School, and that CC-1 would prepare a false syllabus for the School courses in which CC-1 was purportedly enrolled. These false documents were requested by ZHANG and

8. An H-1B visa permits an alien to work in the United States subject to certain requirements. Generally, the program allows businesses in the United States to employ foreign workers with specialized or technical expertise in a particular field such as accounting, engineering, or computer science. Before hiring a foreign worker under the Program, the employer must first obtain approval from the United States Department of Labor ("DOL") and the U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services ("USCIS") to hire a specific individual. This approval is obtained, in part, by filing a "Petition for a Nonimmigrant Worker, Form I-129," (commonly referred to as an H1-B visa), and paying certain fees. In this petition, the employer is required to truthfully provide biographical information regarding the specific foreign worker to be employed, including job title, the specific type of position for which the worker is hired, work location, pay rate, dates of intended employment, and whether the position is full-time. The petition is signed under penalty of perjury, and the employer must certify that the information submitted is true and correct. Ultimately, if USCIS approves this petition (and assuming the foreign worker is already lawfully in the U.S.), then the foreign worker's immigration status can be adjusted without the worker having to leave the country.

9. The USCIS periodically issues a request for evidence ("RFE") in connection with its review of various immigration petitions. As it applies to the instant investigation, documents typically provided by a petitioner in response to a RFE include, among others, proof of enrollment and payment of tuition, student identification cards, student transcripts and attendance records, proof of CPT work authorization and cooperative employer-student agreements, diplomas, and other education-related materials.

CC-1 to trick USCIS into believing that CC-1 was lawfully enrolled in the School and had lawful status in an effort to induce USCIS to convert CC-1's F-1 status into an H1-B status (which H1-B status can later be changed into lawful permanent resident status). By e-mail dated on or about June 1, 2015 and in response to ZHANG's request, UC-1 sent ZHANG final, signed copies of CC-1's fake parking permit, an RFE letter from the School, a tuition payment receipt, and a fake School transcript. Thereafter, by e-mail dated on or about June 9, 2015, UC-1 sent ZHANG signed copies of CC-1's false attendance records. Subsequently, by e-mail dated on or about June 22, 2015, ZHANG thanked UC-1 for providing the RFE responses for CC-1. Ultimately, after paying for and receiving the final signed false documents from UC-1, ZHANG and CC-1 facilitated USCIS's receipt of the fraudulent RFE documents. Law enforcement agents' review of official records maintained by USCIS has confirmed that the false School documents obtained by ZHANG and CC-1 were, in fact, submitted to U.S. immigration authorities in support of CC-1's H1-B application.