

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

UNITED STATES OF AMERICA

v.

NIMON NAPHAENG,

Defendant.

U.S. DISTRICT COURT
DISTRICT OF RHODE ISLAND

In violation of 18 U.S.C. §§ 1341, 1546(a)
1028A (a)(1), (c)(5), and (c)(7), and
1956(a)(2)(B)(i).

INDICTMENT

The Grand Jury charges that:

INTRODUCTION

1. At all times relevant to this Indictment:

a. NIMON NAPHAENG ("NAPHAENG") was a resident of the District of Rhode Island.

b. The United States Citizenship and Immigration Services ("USCIS") was an agency of the United States responsible for processing and reviewing various immigration and citizenship petitions including petitions for asylum. A person who is in the United States may apply for asylum regardless of how they arrived in the United States or their current immigration status.

c. In order to qualify for asylum an applicant must establish that the person cannot return to their native country based upon persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

d. A person seeking asylum in the United States must file a Form I-589, Application for Asylum and Withholding of Removal ("Form 589"). There is no fee charged by the United States for the filing of an asylum application.

e. A Form 589 requires the applicant to provide, among other things, certain biographical data to include the name, date of birth, current address, telephone number, passport information, and the basis for the claim of persecution. The applicant must sign the Form 589 and swear under the pains and penalties of perjury that that the information provided in the Form 589 is true and correct.

f. An initial asylum application filed with the United States grants the applicant certain benefits while their application is pending. The immediate benefit is the right to remain in the United States while the application is pending and the issuance of an Employment Authorization Document ("EAD card") which entitles the holder to lawfully work in the United States.

Counts 1- 7

(Mail Fraud)

Object and Scheme to Defraud

2. The allegations made in Paragraph 1 above are re-alleged and incorporated by reference as though fully set forth herein.

3. From in or about January 1, 2014, through in or about December, 2015, the exact dates being unknown to the grand jury, in the District of Rhode Island and elsewhere, the Defendant, NIMON NAPHAENG, knowingly and willfully devised and

intended to devise a scheme and artifice to defraud and for obtaining money by materially false and fraudulent pretenses, representations, and promises.

4. It was the object of the scheme to defraud that defendant, NIMON NAPHAENG, would unlawfully enrich himself and obtain money from individuals, by filing false asylum claims on their behalf without their knowledge or consent, in order to obtain EAD cards for those individuals ("applicants").

MANNER AND MEANS

The manner and means by which the defendant accomplished the objects of the scheme to defraud included:

5. It was part of the scheme to defraud that defendant, NIMON NAPHAENG, would advertise on the internet and elsewhere that he could obtain EAD cards for individuals from Thailand who were present in the United States.

6. It was also part of the scheme to defraud that defendant, NIMON NAPHAENG, would have his victims send personal biographical information, photographs, and contact information to him at two mailing addresses: ** Blanchard Place, Apt. *, Wakefield, Rhode Island 02879 ("Blanchard Place") and *** Main Street, Wakefield, Rhode Island 02879 ("Main Street"). NIMON NAPHAENG would direct to USCIS that correspondence sent by USCIS to the applicants be sent to him at the Blanchard Place or Main Street addresses.

7. It was also part of the scheme to defraud that defendant, NIMON NAPHAENG, provided two hotmail.com email addresses and a telephone number,

(**) -4475, for individuals interested in his services to contact him. The defendant also encouraged interested individuals to alternatively "stop by and see us at" the Main Street address. The contact information was provided in flyers distributed by the defendant, in e-mail communications, and by word of mouth.

8. It was also part of the scheme to defraud that defendant, NIMON NAPHAENG, would use two Bank of America accounts to facilitate the fraud. One account was a Bank of America checking account ending in # 3490 ("BofA #3490") and a second account was a Bank of America money market savings account ending in #3564 ("BofA #3564"). NIMON NAPHAENG would deposit checks, money orders, and wire transfers paid to him by the applicants into BofA #3490 and then transferred the funds to BofA #3564.

9. Using the biographical information provided to him by the applicants, NAPHAENG would complete the Form I-589 by providing the name, date of birth, address of the applicant, falsely stating that the applicant feared persecution in Thailand, and falsely attesting to the truth of the application on behalf of the applicant. NAPHAENG would then mail the applications to USCIS.

10. It was further part of the scheme to defraud that the defendant did not inform the applicants that the defendant was submitting asylum applications on their behalf. Rather, he represented them only that he was getting them work permits.

The Execution of the Scheme

11. On or about the dates set forth below, in the District of Rhode Island and elsewhere, the defendant, NIMON NAPHAENG, for the purpose of executing the aforementioned scheme and artifice to defraud and for obtaining money, knowingly transmitted and caused to be delivered by United States mail and according to the directions thereon, the following matter:

<u>COUNT</u>	<u>DATE (on or about)</u>	<u>ADDRESSEE</u>	<u>MATTER</u>
1	December 5, 2014	USCIS Vermont Service Center Attn: Asylum 75 Lower Welden Street St. Albans , VT 05479	Two (2) I-589 Applications for Asylum on behalf of D.P. and C.L.F.
2	December 1, 2014	USCIS Vermont Service Center Attn: Asylum 75 Lower Welden Street Saint Albans , VT 05479-0589	I-589 Application for Asylum on behalf of W.K.
3	January 16, 2015	USCIS Vermont Service Center Attn: Asylum 75 Lower Welden Street Saint Albans , VT 05479-0589	I-589 Application for Asylum on behalf of A.P.

<u>COUNT</u>	<u>DATE (on or about)</u>	<u>ADDRESSEE</u>	<u>MATTER</u>
4	August 18, 2014	USCIS Vermont Service Center Attn: Asylum 75 Lower Welden Street Saint Albans , VT 05479-0589	I-589 Application for Asylum on behalf of S.P.
5	March 19, 2015	USCIS Texas Service Center Attn: Asylum P.O. Box 851892 Mesquite, TX 75185-1892	I-589 Application for Asylum on behalf of P.S.
6	April 11, 2015	USCIS Texas Service Center Attn: Asylum P.O. Box 851892 Mesquite, TX 75185-1892	I-589 Application for Asylum on behalf of O.A.
7	March 19, 2015	USCIS Texas Service Center Attn: Asylum P.O. Box 851892 Mesquite, TX 75185-1892	I-589 Application for Asylum on behalf of K.B.

All in violation of 18 U.S.C. § 1341.

COUNTS 8-15

(Visa Fraud)

12. The allegations made in Paragraphs 1 through 11 above are re-alleged and incorporated by reference as though fully set forth herein.

13. On or about the dates set forth below, within the District of Rhode Island and elsewhere, NIMON NAPHAENG, did knowingly possess, obtain, accept, and receive, and attempted to possess, obtain, accept and receive, a document prescribed by statute or regulation as evidence of authorization for employment in the United States, to wit: an Employment Authorization Document, also known as an EAD Card, in the names set forth below, which the defendant knew to be procured by means of a false claim and statement and otherwise procured by fraud and unlawfully obtained, in that the defendant falsely claimed persecution for asylum on behalf of the applicant, whom the defendant knew was not entitled to such immigration relief and without the applicant's knowledge or permission:

<u>COUNT</u>	<u>DATE (on or about)</u>	<u>NAME</u>
8	July 16, 2015	D.P
9	July 16, 2015	C.L.F.
10	July 16, 2015	W.K.
11	July 15, 2015	M.P.
12	July 21, 2015	A.P.
13	March 24, 2015	S.P.
14	May 19, 2015	P.P.
15	October 23, 2015	O.A.

All in violation of 18 U.S.C. § 1546(a).

COUNT 16-25**(Aggravated Identity Theft)**

14. The allegations made in Paragraphs 1 through 13 above are re-alleged and incorporated by reference as though fully set forth herein.

15. On or about the dates set forth below, in the District of Rhode Island and elsewhere, the defendant, NIMON NAPHAENG, during and in relation to the commission of the offenses set forth below, did knowingly possess and use without lawful authority the means of identification of another person, that is, the name and date of birth belonging to the person set forth below:

<u>COUNT</u>	<u>DATE (on or about)</u>	<u>VICTIM</u>	<u>RELATED COUNT(S)</u>
16	December 5, 2014 (mail fraud)	D.P.	1 (mail fraud)
	July 16, 2015 (visa fraud)		8 (visa fraud)
17	July 16, 2015(visa fraud)	C.L.F.	9 (visa fraud)
18	December 1, 2014 (mail fraud)	W.K.	2 (mail fraud)
	July 16, 2015 (visa fraud)		10 (visa fraud)
19	July 15, 2015 (visa fraud)	M.P.	11 (visa fraud)
20	January 16, 2015 (mail fraud)	A.P.	3 (mail fraud)
	July 21, 2015 (visa fraud)		12 (visa fraud)
21	August 18, 2014 (mail fraud)	S.P.	4 (mail fraud)
	March 24, 2015 (visa fraud)		13 (visa fraud)
22	May 19, 2015 (visa fraud)	P.P.	14 (visa fraud)

23	March 19, 2015 (mail fraud)	P.S.	5 (mail fraud)
24	April 11, 2015 (mail fraud) October 23, 2015 (visa fraud)	O.A.	6 (mail fraud) 15 (visa fraud)
25	March 19, 2015 (mail fraud)	K.B.	7 (mail fraud)

All in violation of 18 U.S.C. §§ 1028A(a)(1), (c)(5), and (c)(7).

COUNT 26

(International Money Laundering)

16. The allegations made in Paragraphs 1 through 15 above are re-alleged and incorporated by reference as though fully set forth herein.

17. On or about December 21, 2015, in the District of Rhode Island and elsewhere, the defendant, NIMON NAPHAENG willfully and knowingly, transported, transmitted, and transferred, and attempted to transport, transmit, and transfer a monetary instrument and funds from a place in the United States to and through a place outside the United States in the amount of \$279,550, more or less, knowing that the monetary instrument and funds involved in the transportation, transmission, and transfer represented the proceeds of some form of unlawful activity and knowing that such transportation, transmission, and transfer was designed in whole or in part to conceal and disguise the nature, the location, the source, the ownership, and the control of the proceeds of specified unlawful activity, to wit: mail fraud, in violation of 18 U.S.C. § 1341, and visa fraud, in violation of 18 U.S.C. § 1546(a),

All in violation of 18 U.S.C. § 1956(a)(2)(B)(i) & (c)(7)(A).

FORFEITURE ALLEGATION UNDER 18 U.S.C. § 982(a)

(Money Laundering)

18. The allegations made in Paragraphs 1 through 17 above are re-alleged and incorporated by reference as though fully set forth herein.

19. Upon conviction of the money laundering offense alleged in Count 26 of this Indictment, defendant, NIMON NAPHAENG, shall forfeit to the United States of America pursuant to 18 U.S.C. § 982(a)(1), all right, title, and interest in any and all money and other property and proceeds involved in each offense in violation of 18 U.S.C. § 1956(a)(2)(B)(i), and all property traceable to such property, including but not limited to \$279,550, originating in Bank of America account ending in number 3564, and a sum of money equal to the total amount of money involved in each offense, for which the defendant is convicted.

20. If any of the above-described forfeitable property, as a result of any act or omission of the defendant, cannot be located upon the exercise of due diligence, has been transferred, sold to, or deposited with a third party, has been placed beyond the jurisdiction of the court, has been substantially diminished in value, or has been commingled with other property which cannot be divided without difficulty, it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 982(b), to seek forfeiture of any other property of said defendant up to the value of the forfeitable property described above.

All in accordance with 18 U.S.C. § 982(a)(1), and Rule 32.2(a), Federal Rules of Criminal Procedure.

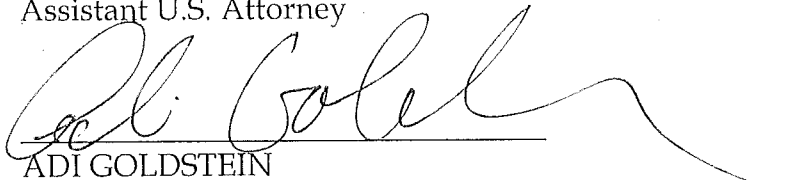
A TRUE BILL:

REDACTED

PETER F. NERONHA
United States Attorney



RICHARD W. ROSE
Assistant U.S. Attorney



ADI GOLDSTEIN
Assistant U.S. Attorney
Criminal Division Chief

Dated: January 19, 2016

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: ☐ INFORMATION ☒ INDICTMENT ☐ COMPLAINT CASE NO. _____Matter Sealed: ☐ Juvenile ☐ Other than Juvenile
☐ Pre-Indictment Plea ☐ Superseding ☐ Defendant Added
☐ Indictment ☐ Charges/Counts Added
☐ Information

Name of District Court, and/or Judge/Magistrate Location (City)

UNITED STATES DISTRICT COURT RHODE ISLAND
DISTRICT OF RHODE ISLAND Divisional OfficeName and Office of Person PETER F. NERONHA
Furnishing Information on ☒ U.S. Atty ☐ Other U.S. Agency
THIS FORM Phone No. (401) 709-5043Name of Asst. RICHARD W. ROSE
U.S. Attorney
(if assigned)

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)
Homeland Security Investigations☐ person is awaiting trial in another Federal or State Court
(give name of court)☐ this person/proceeding transferred from another district
per (circle one) FRCrP 20, 21 or 40. Show District☐ this is a reprosecution of charges
previously dismissed which were
dismissed on motion of:☐ U.S. Atty ☐ Defense☐ this prosecution relates to a
pending case involving this same
defendant. (Notice of Related
Case must still be filed with the
Clerk.)☒ prior proceedings or appearance(s)
before U.S. Magistrate Judge
regarding this defendant were
recorded underSHOW
DOCKET NO.MAG. JUDGE
CASE NO.

1:15-MJ-392-PAS

Place of offense RHODE ISLAND County

USA vs.

Defendant: Nimon Naphaeng

Addre



REDACTED

Birth
DateAlien
plicable)

Socia

Issue: ☐ Warrant ☐ Summons

Location Status:

Arrest Date _____ or Date Transferred to Federal Custody _____

☒ Currently in Federal Custody☐ Currently in State Custody☐ Writ Required☐ Currently on bond☐ Fugitive

Defense Counsel (if any): Tara I. Allen, Esq.

☒ FPD ☐ CJA ☐ RET'D☐ Appointed on Target Letter☒ This report amends AO 257 previously submitted

OFFENSE CHARGED - U.S.C. CITATION - STATUTORY MAXIMUM PENALTIES - ADDITIONAL INFORMATION OR COMMENTS

Total # of Counts 26

Set	Title & Section/Offense Level (Petty = 1 / Misdemeanor = 3 / Felony = 4)	Description of Offense Charged	Felony/Misd.
	See Attached Sheet.	See Attached Sheet.	<input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
			<input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
			<input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
			<input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
			<input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
		Estimated Trial Days: 4	<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor

United States v. Nimon Naphaeng
INDICTMENT COVER SHEET ATTACHMENT

Counts 1-7: (Mail Fraud, 18 U.S.C. § 1341)

MAX PENALTY FOR EACH COUNT

- a. 20 years imprisonment;
- b. \$250,000 fine;
- c. 3 years supervised release; and
- d. \$100 special assessment.

Counts 8-15: (Visa Fraud, 18 U.S.C. § 1546(a))

MAX PENALTY FOR EACH COUNT

- a. 10 years imprisonment;
- b. \$250,000 fine;
- c. 3 years supervised release; and
- d. \$100 special assessment.

Counts 16-25: (Aggravated Identity Theft, 18 U.S.C. § 1028A(a)(1), (c)(5) and (c)(7))

MAX PENALTY FOR EACH COUNT

- a. 2 consecutive years imprisonment; and
- b. \$100 special assessment.

Count 26: (International Money Laundering, 18 U.S.C. § 1956(a)(2)(B)(i))

MAX PENALTY

- a. 20 years imprisonment;
- b. \$500,000 fine or twice the value of the financial transaction;
- c. 3 years supervised release; and
- d. \$100 special assessment.