

Department of Justice

U.S. Attorney's Office

Northern District of California

FOR IMMEDIATE RELEASE

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South Bay Resident Charged With Visa Fraud And Mail Fraud

Twenty-Count Indictment Alleges Defendant Used Multiple Staffing Agencies to Engage in High-Tech Worker Visa Fraud

SAN JOSE – A federal grand jury indicted Kishore Kumar Kavuru, charging him with visa fraud and mail fraud, announced United States Attorney Alex G. Tse and Department of Labor Office of the Inspector General Special Agent in Charge Abel Salinas. The indictment, handed down October 18, 2018, and unsealed today, charges the defendant with ten counts of visa fraud and ten counts of mail fraud in connection with a scheme to maintain a pool of foreign workers for the clients of Kavuru's consulting companies.

According to the indictment, Kavuru, 46, a resident of Sunnyvale, Calif., held himself out as a staffing specialist for technology firms based in Santa Clara County and elsewhere seeking to fill temporary positions with foreign workers. Since at least as early as 2007, Kavuru was the owner and chief executive officer of four consulting companies: Scopus Consulting Group, Inc.; ITECH Analyst Corp; Infinity Methods Corp; and Orian Engineers Incorporated. The indictment describes how Kavuru used the consulting companies to process and submit fraudulent applications for foreign workers to obtain permission to work in the United States under the H-1B visa program. The H-1B Program allows an employer to hire a foreign worker for a specialty occupation in the United States on a temporary basis. Kavuru allegedly submitted the fraudulent applications through his consulting companies to gain a competitive advantage over other staffing companies that did not have foreign workers immediately available to work.

Under the H-1B visa program, a specialty occupation requires highly specialized knowledge in a certain field and a bachelor's degree or its equivalent. An employer seeking permission to hire foreign workers under the H-1B program generally must undergo a two-step process. First, the employer must submit to the Department of Labor documentation describing certain aspects of the job to be filled; such documentation generally relates to the existence and duration of the temporary job posting, and the wages, working conditions, and benefits to be provided to the nonimmigrant. Second, the employer must submit additional documentation to the Department of Homeland Security regarding the specific individual hired for the job and details about the specific work project for which they are being petitioned.

In this case, Kavuru allegedly submitted fraudulent documents to both the Department of Labor and the Department of Homeland Security containing details of bogus work projects awaiting the foreign workers. Because many of the applications were ultimately approved, Kavuru had a pool of unemployed H-1B beneficiaries that were immediately available for legitimate work projects, giving him a competitive advantage over other law-abiding staffing companies that followed the sometimes lengthy visa application process for petitioning foreign workers. As part of the scheme, Kavuru required some prospective workers to pay thousands of dollars in cash before he would prepare and submit the visa applications, a violation of Department of Labor regulations. Kavuru also required some workers to wait unpaid, sometimes for months, to be placed at an end-client's workplace. This

process of “benching” workers without pay is also a violation of the Department of Labor’s regulations.

Also described in the indictment is an example of how Kavuru submitted fraudulent documents to the United States to suggest he had a contract to place software engineers to work on a specific project at an employee benefits and health insurance brokerage company. Through his consulting companies, Kavuru submitted and mailed approximately 43 petitions for H-1B software engineers to be placed at the benefits company. In fact, there were no software engineer positions available at the benefits company.

In sum, Kavuru is charged with ten counts of visa fraud, in violation of 18 U.S.C. § 1546(a), and ten counts of mail fraud, in violation of 18 U.S.C. § 1341.

An indictment merely alleges that crimes have been committed, and all defendants are presumed innocent until proven guilty beyond a reasonable doubt. If convicted, the defendant faces the following statutory maximum sentence of ten years in prison and a maximum fine of \$250,000 (or twice the gross gain or loss, whichever is greater) for each count of visa fraud. The defendant also faces a statutory maximum sentence of 20 years in prison and a fine maximum fine of \$250,000 (or twice the gross gain or loss, whichever is greater) for each count of mail fraud. The court also may order as part of a sentence additional fines, terms of supervised release, and restitution, if appropriate. However, any sentence following conviction would be imposed by the court only after consideration of the U.S. Sentencing Guidelines and the federal statute governing the imposition of a sentence, 18 U.S.C. § 3553.

Kavuru was arrested this morning and made his initial federal court appearance before U.S. Magistrate Judge Susan van Keulen. The defendant was released on bond; Magistrate Judge van Keulen scheduled the defendant’s arraignment and identification of counsel for November 9, 2018.

Assistant United States Attorney Maia Perez is prosecuting the case. The prosecution is the result of an investigation by the U.S. Department of Labor, Office of Inspector General and Homeland Security Investigations.