



U.S. Immigration and Customs Enforcement

STATEMENT

OF

WALDEMAR RODRIGUEZ

**DEPUTY ASSISTANT DIRECTOR
TRANSNATIONAL CRIME AND PUBLIC SAFETY DIVISION
HOMELAND SECURITY INVESTIGATIONS
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
U.S. DEPARTMENT OF HOMELAND SECURITY**

REGARDING A HEARING ON

“THE AFTERMATH OF FRAUD BY IMMIGRATION ATTORNEYS”

BEFORE THE

**U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON IMMIGRATION POLICY AND ENFORCEMENT**

**Tuesday, July 24, 2012 – 2:00 p.m.
2141 Rayburn House Office Building**

INTRODUCTION

Chairman Gallegly, Ranking Member Lofgren, and distinguished members of the Subcommittee:

On behalf of Secretary Napolitano and Director John Morton, I would like to thank you for the opportunity to discuss the efforts of U.S. Immigration and Customs Enforcement (ICE) to address benefit fraud, our investigation into the Earl David Law Firm in New York, and other large-scale investigations of immigration benefit fraud facilitators.

As you know, identity and benefit fraud pose significant threats to national security and public safety. Identity and benefit fraud are also integral elements in many immigration-related crimes, such as human smuggling and human trafficking, and are regularly found in investigations involving critical infrastructure protection, worksite enforcement, visa compliance enforcement and investigations of terrorism and other national security threats.

Benefit Fraud

In most cases, benefit fraud involves the knowing and willful misrepresentation of a material fact on a petition or application to gain an immigration benefit. Types of benefit fraud include employment-based fraud, asylum fraud and marriage fraud. Benefit fraud may enable an alien who would otherwise be declined a visa or other immigration benefit due to ineligibility, whether based on criminal, security or any other grounds, to enter or reside in the United States and live in our communities under a guise of legitimacy, ultimately undermining the integrity of the legal immigration system in the process.

While identity and benefit fraud are a means by which aliens attempt to enter or remain in the United States, typically to obtain work, it is well-documented that terrorists and other

criminal organizations have engaged in these types of fraud to facilitate illicit activity. Large-scale fraud facilitators, such as those found in the Earl David Law Firm investigation, have the potential not only to provide access to illegally-obtained benefits and documents, but to provide cover for others engaged in criminal activity.

An alien who engages in benefit fraud receives an actual benefit, such as lawful permanent residence in the United States and access to government services and programs. Further, the alien receives government-issued documents containing his/her photograph and the biographical information he/she provided. These documents provide the appearance of legitimacy to the alien and in some cases can be used to obtain other government issued documents, such as a driver's license. They can also be used to obtain employment, open bank accounts, gain access to public buildings, and board airplanes. By perpetrating or benefiting from this fraud, an alien can disguise his or her true identity or intent and purpose for being in the United States.

Combating Benefit Fraud

Benefit fraud is complex and challenging to investigate and often involves sophisticated schemes and multiple co-conspirators. These cases can require substantial resources and time to investigate and prosecute. If USCIS suspects fraud in its review of applications or petitions, USCIS documents its suspicions and, if the case meets certain criteria, refers the case for criminal investigation to an ICE Benefit Fraud Unit (BFU). BFUs are located at or near the four regional USCIS Service Centers. USCIS will not refer individual instances of suspected fraud to ICE unless certain criteria, such as whether: the alien is from a country of interest; the alien has a criminal record; or USCIS suspects the involvement of an attorney or other preparer, are met.

Once the fraud referral is received by the BFUs, the BFUs vet and potentially refer the suspected instances of fraud to the appropriate HSI field office. The Memorandum of Agreement (MOA) between USCIS and ICE on the Investigation of Immigration Benefit Fraud was established on September 25, 2008 to formalize this referral process. This MOA defines the roles and procedures that enable both agencies to focus resources on taking action against criminal organizations, fraud facilitators and corrupt attorneys.

HSI directs most of its anti-fraud efforts to the HSI-led Document and Benefit Fraud Task Forces (DBFTF). There are currently 19 DBFTFs nationwide working in collaboration with our federal, state and local partners. DBFTFs combat the criminal organizations that exploit the United States immigration process and investigate individuals who violate criminal or immigration laws or who may pose threats to national security or public safety.

The DBFTFs maximize resources, eliminate duplication of efforts, and promote the sharing of information between HSI and its law enforcement partners. DBFTFs combine a variety of law enforcement knowledge and authorities to achieve focused, high-impact criminal prosecutions and financial seizures. DBFTF partners vary from task force to task force but can include agencies and components such as: USCIS Fraud Detection and National Security Directorate (FDNS); U.S. Attorney's Offices; U.S. Department of Labor, Office of the Inspector General; U.S. Department of State, Bureau of Diplomatic Security; the Social Security Administration, Office of the Inspector General; and numerous state and local agencies.

DBFTF criminal investigations seek to uncover the entire fraud organization, including front companies, middle-men, facilitators, brokers and beneficiaries. These investigations seek to remove the incentive to commit these crimes by utilizing forfeiture statutes to seize the illegal proceeds. Further, sentences imposed serve as a visible deterrent. HSI makes every effort to

ensure that the public is educated about these consequences through its outreach efforts, such as the ICE Department of Motor Vehicle (DMV) Partnership, to raise awareness about employee misconduct and alert law enforcement to identity and benefit fraud schemes perpetrated at DMV facilities, and through ICE's Office of Public Affairs.

While HSI is responsible for investigating the criminal aspects of these schemes, it also plays a role in preventing unauthorized applicants from obtaining and retaining benefits through fraud. HSI recognizes that in investigations of benefit fraud, the work does not end with the prosecution of the attorney, facilitator, or preparer. To that end, HSI supplies USCIS FDNS with its case findings at the completion of the criminal case on a local level in order to inform USCIS decisions to deny, revoke, or rescind any pending applications for or approved benefits that were obtained through fraud. HSI and USCIS have agreed that HSI will initiate removal proceedings, when applicable, on subjects who were criminally prosecuted. USCIS pursues administrative action on the remaining beneficiaries of fraudulent applications identified over the course of the investigation.

This process is aided greatly by our task force partner, USCIS FDNS, which is a significant contributor to the identification of these beneficiaries. Our HSI field offices coordinate independently with their respective FDNS partners regarding benefits suspected to have been obtained fraudulently to give USCIS the opportunity to take necessary administrative action in these cases. By implementing criminal and administrative remedies, and educating the public on these efforts, we seek to prevent the identified fraud conspiracies from continuing, ensure the profits are eliminated, and deter others from perpetrating similar crimes.

The Earl David Law Firm Investigation

In April 2012, Earl Seth David, aka Rabbi Avraham David, an attorney who headed a law firm in New York City, pleaded guilty to operating a large-scale immigration fraud mill. From 1996 until early 2009, David's firm made millions of dollars by helping its clients gain immigration status through fraudulent means. The firm, which charged up to \$30,000 per client, applied for and obtained thousands of Department of Labor (DOL) certifications based upon phony claims that U.S. employers had sponsored the aliens for employment.

As part of the scheme, David's firm used fabricated documents, including fake pay stubs, fake tax returns and fake experience letters, purporting to show that the sponsorships were real and that the aliens possessed special employment skill sets justifying labor-based certification by DOL. In reality, the sponsors had no intention of hiring the aliens and the sponsor companies often did not exist, other than as shell companies for use in the fraudulent scheme.

DOL uncovered the fraud in their process and shared the information with the HSI NY DBFTF, which initiated an investigation. HSI and DOL Office of the Inspector General (OIG), as well as other DBFTF partners such as FDNS, worked jointly throughout the investigation.

As is typical in benefit fraud investigations, HSI made efforts to identify fraud indicators used by the David Law Firm, such as boilerplate language or supporting documentation. HSI referred these indicators as they were discovered to USCIS in order to aid USCIS in determining which files were fraudulent. To ensure close coordination between HSI and USCIS regarding the fraud uncovered during this investigation, the HSI New York case agent visited both the USCIS Texas Service Center and the USCIS Vermont Service Center to discuss the fraud and to review files. The HSI New York case agent also spoke to the USCIS Nebraska Service Center and numerous adjudicators across the country about the fraud.

This case exposed vulnerabilities in the system. However, HSI has shared these vulnerabilities with our partner, USCIS, and together we will continue to work on this and other benefit fraud investigations to ensure the integrity of the lawful immigration process.

CONCLUSION

ICE is committed to ensuring that it continues its work on these important cases while recognizing the significance of addressing the fraudulent beneficiaries identified through the criminal investigation. Working with our partner, USCIS, we have made significant strides and achieved considerable results in the area of benefit fraud investigations.

Thank you again for the opportunity to appear before you today to discuss our investigative and enforcement efforts related to benefit fraud and our strategy to review the new cases resulting from our investigation of the David Law Firm and similar cases.

I am pleased to answer any questions at this time.