

No. 14-10499

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

SUSAN XIAO-PING SU,

Defendant-Appellant.

**GOVERNMENT'S SUPPLEMENTAL EXCERPTS OF RECORD
VOLUME I OF II**

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
NO. 11-CR-0288 JST

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
BEFORE THE HONORABLE JON S. TIGAR, JUDGE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	No. CR 11-0288 JST
vs.)	
)	
SUSAN XIAO-PING SU,)	
)	San Francisco, California
)	Friday, February 7, 2014
Defendant.)	9:47 a.m.
)	

TRANSCRIPT OF PROCEEDINGS

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Reported By: Sarah Goekler, RPR, CSR No. 13446
Court Reporter Pro Tem

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5 **BY: ERIK G. BABCOCK, ATTORNEY AT LAW**

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1 health by her father, who's the author of the letter, and
2 requesting, based on that, that the Court dismiss the charges
3 because there has been some discussion of the defendant's
4 mental health over the course of this trial.

5 We've spoken with defense counsel and just wanted to make
6 sure that we do have on the record defense counsel's belief and
7 full familiarity with the case law that this defendant is
8 competent to stand trial and that he does not have any concerns
9 as her attorney, so I think Mr. Babcock's prepared to do that.

10 **THE DEFENDANT:** (Inaudible.)

11 **THE COURT:** Ma'am, don't talk.

12 Excuse me, Mr. Babcock. Ms. Su is attempting to address
13 the Court.

14 Ms. Su, if you have something to say, ask to speak to your
15 lawyer and he'll tell me. You have the right to remain silent
16 and not incriminate yourself. You're on the record. You talk
17 through your lawyer. If you insist on talking to the Court,
18 please consult with your lawyer first. But until you've done
19 that, please don't address me. Okay?

20 Mr. Babcock?

21 **MR. BABCOCK:** I wouldn't go so far as to say I have
22 no concerns, Your Honor. My client did have a 5150 commitment
23 about nine years ago for a couple of nights. And when she
24 appeared -- first came to Magistrate's Court on the complaint
25 in this case where I was not the attorney of record yet, but I

1 do know that Judge Ryu had some concerns. I think more
2 addressed to whether or not she was suicidal. And one of the
3 conditions of her release was that she attend counseling or
4 therapy, which she did for a couple years as a condition of her
5 pretrial release.

6 So -- but I have not declared a doubt as to her competence
7 to stand trial at this point. And I'm not a therapist; I'm a
8 lawyer, but I do believe she understands the proceedings and is
9 able to help me to the extent required. That's what the
10 Court's looking for -- or the Government, I guess.

11 **MS. WEST:** We -- just so the Court's aware of some of
12 the prior proceedings regarding this, the counsel preceding
13 Mr. Babcock had asked for some sort of evaluation of the
14 defendant, after which he advised the Government and I believe
15 the Court as well; is that right?

16 **MR. RHYNE:** I believe so.

17 **MS. WEST:** That he did not have any concerns as to
18 the defendant's competence to stand trial and there were
19 whatever conditions had been put in place by the Court at that
20 early stage were lifted at defense counsel's request.

21 I do note that there's been no sort of mental health-type
22 defense proffered -- affirmative defense proffered by the
23 defense here, so we did want to raise it and just to advise the
24 Court that despite this filing, there has been no concern
25 raised by either defense counsel as to the competency of this

1 overreaching.

2 **MS. WEST:** So the one thing that we do need to do on
3 the forfeiture issue right now is to have the defense announce
4 on the record that they waive the jury review of the forfeiture
5 aspect and are prepared to have the Court decide that.

6 **THE COURT:** Mr. Babcock?

7 **MR. BABCOCK:** That has been my discussions with the
8 Government. I have never tried a forfeiture issue to a jury.
9 I wasn't planning to start now. In past cases, the forfeiture
10 issue has been dealt with by briefing an argument after the
11 verdict when appropriate. And that was my intention here.

12 **THE COURT:** Mr. Babcock, your client has a right to
13 have any forfeiture issue in this case decided by a jury. Does
14 she waive that right?

15 **THE DEFENDANT:** I'm thinking ...

16 **THE COURT:** I can pass this case, ma'am. If you need
17 more time.

18 **THE DEFENDANT:** Please. Thank you.

19 **THE COURT:** That means that you'd have to sit down
20 and I'll take some pleas in some other cases and you can have
21 the time you need to think about it. We'll recall your case in
22 about an hour and a half.

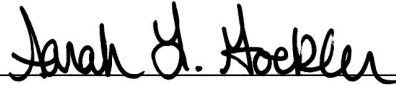
23 **THE DEFENDANT:** Okay. We'll have the Court decide.

24 **THE COURT:** All right. Mr. Babcock, that's your --
25 you join in your client's waiver?

1 I certify that the foregoing is a correct transcript from the
2 record of proceedings in the above-entitled matter.

3

4



September 16, 2014

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Signature of Court Reporter/Transcriber Date
Sarah L. Goekler

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
BEFORE THE HONORABLE JON S. TIGAR

UNITED STATES OF AMERICA,)
) Volume 2
Plaintiff,) Pages 137 - 345
)
VS.) NO. 11-00288 JST
)
SUSAN XIAO-PING SU,)
) San Francisco, California
Defendant.) Tuesday, March 4, 2014
) 8:31 a.m.

TRANSCRIPT OF COURT PROCEEDINGS

APPEARANCES:

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Reported By: James C. Pence, RMR, CRR, CSR No. 13059
Official Court Reporter - U.S. District Court
Computerized Transcription By Case CATalyst

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1 about the tuition that you would have to pay at Tri-Valley
2 University?

3 A. Yes.

4 Q. What did she say?

5 A. It was \$900 per course or 300 per credit, and she advised
6 taking three courses at a time per semester, and so I'd pay --
7 ended up paying \$2,700 for three courses.

8 Q. 900 per course?

9 A. Yes.

10 Q. Three courses?

11 A. Yes.

12 Q. Did Susan Su send you any documents after you had that
13 conversation?

14 A. Yes. She had sent me documentation working on getting me
15 to regular status, going to F-1, which I had filed -- filed
16 with the authorities for getting a different status. However,
17 it didn't work out. I missed out signing the regular form and
18 got rejected. So -- but I didn't go for it again. I had
19 decided to rearrange for and continue with my studies like
20 that.

21 Q. So did you agree to still go to Tri-Valley or take classes
22 at Tri-Valley University?

23 A. Yes.

24 Q. How did you pay for those classes?

25 A. I paid through PayPal.

1 all the courses -- they mentioned that there would be lectures,
2 discussions, midterms. But I spoke to Susan Su about it as to
3 will the professor come in, and she just asked me to be
4 patient.

5 Q. Now, you said you expected lectures, courses, and
6 interaction; is that correct?

7 A. Yes.

8 Q. Why were you expecting that?

9 A. Because initially when I spoke to Susan Su about how the
10 courses will be, that's what was communicated to me, and I was
11 going to be under the impression that this would happen.

12 Q. Okay. You also stated that you then contacted Susan Su; is
13 that correct?

14 A. Yes.

15 Q. To raise your concerns with her?

16 A. Yes.

17 Q. Okay. Tell me about those conversations. What did you say
18 to her, and what did she say back to you?

19 A. I told her that this is what is going on and will the
20 professor come in and how the lectures would be, how the
21 midterms have to be.

22 And she said, "Be patient," and -- and she would just say,
23 "Be patient," and just -- the conversation would end there, and
24 I understand that there can be some problems initially with any
25 courses that's just technical or anything that can happen. So

1 I was patient, but of course my money and time is getting
2 wasted. So I didn't want to wait any further with her.

3 Q. As time went on during the Spring 2010 semester, did the
4 classes improve as you had hoped?

5 A. No.

6 Q. Did you have any more conversations with Susan Su about the
7 quality or lack of instruction with respect to these classes?

8 A. I would just continue to follow up on a weekly basis or
9 twice a week to see what's going on because time is getting
10 wasted, and so I just continued to follow up.

11 Q. Were you familiar or did you become familiar with
12 Tri-Valley University's refund policy?

13 A. Yes. Initially, when I was going through the website, I
14 just -- I went through all the pages, whatever information I
15 could seek, and the refund policy initially that was there was
16 40 percent for an ongoing course.

17 Q. Did you raise this refund policy with Susan Su?

18 A. Yes.

19 Q. How did she respond?

20 A. Well, initially I had spoken to her to -- for a refund of a
21 hundred percent on the Dreamweaver course because it was not an
22 ongoing course. It was just a PDF book online and no
23 instructors. So it was not an ongoing course at all. Nothing
24 happened.

25 So I was -- I wanted to get a full refund for that course,

1 and the other two -- I understand that the videos were there,
2 but still as -- as far as I'm concerned, they were incomplete
3 because the professor was not there. So I asked for a prorated
4 refund. Whatever time I was there, I was okay with reducing
5 that amount from the refund.

6 Q. What did Susan Su say when you made this request?

7 A. When I made this request, she said that that's not what
8 happens, and as for the website, she would only give me
9 30 percent. And again, I questioned that 30 percent because as
10 per the website, it was 40 percent. So after that
11 conversation, then I went back to the website to see. I saw
12 that the page had completely changed.

13 Q. Did you confront Susan Su with the fact that you thought
14 the page had changed?

15 A. I again spoke to her and told her that this is what
16 happened, that I don't see 40 percent anymore. It seems that
17 somebody has completely changed the page and reduced that --
18 that number to 30 percent.

19 Q. Can you tell the jury about the tone of this conversation
20 that you were having with Susan Su?

21 A. Well, we had many conversations with Susan Su over the
22 refund because what we expected was not what she wanted to
23 give. So solely a refund, but she was getting agitated, she
24 was getting impatient, and to a point of -- she got impatient
25 to a point that she threatened me and my husband that she would

1 cancel our visa statuses and would get us deported.

2 That's the point when we got scared of this individual, and
3 we didn't really want to mess much with her, but we still
4 wanted the money because we knew that what we were doing was
5 the right thing.

6 Q. So what did you do to try to get the money?

7 A. Well, initially, Susan Su -- she just gave us 30 percent,
8 but later on we decided to file a complaint with the Better
9 Business Bureau. That's what we did, and we had exchange of
10 e-mails and conversations over the BBB -- through the BBB
11 portal, and ultimately I got the remainder money back.

12 So I got full hundred percent eventually for the
13 Dreamweaver course, and I got additional 10 percent for the
14 remaining two courses. So I got a total of 40 percent for two
15 courses and a total of hundred percent for the Dreamweaver
16 course.

17 Q. And these refunds came after you engaged with the Better
18 Business Bureau; is that correct?

19 A. Yes. The forced 30 percent came in before BBB complaint
20 and the remainder amount after the BBB complaint.

21 Q. And the 30 percent was the 30 percent you were referring to
22 on the -- what you believed to be the second version of TVU's
23 website; is that correct?

24 A. Yes.

25 MR. RHYNE: Okay. Your Honor, may I approach the

1 Special Agent training. We start training with the Federal Law
2 Enforcement Training Center in Glynco, Georgia. We follow that
3 up by more specialized training in basic Special Agent courses
4 specific for diplomatic security. We cover things that we do
5 in our professional duties more often than, say, some other
6 federal agents, visa protection, passport and visa fraud
7 investigation, which is one of the things we primarily focus
8 on.

9 Q. And in each of these trainings, have you been instructed
10 and received training on how student visas are issued at least
11 with respect to the Department of State?

12 A. Yes.

13 Q. Are you familiar with the Immigration and Nationality Act?

14 A. I am.

15 Q. I want to focus on the F-1 student visa category that you
16 talked about earlier. Can you walk the jury through the
17 process through which a student in a foreign country would go
18 through in order to get an F-1 student visa to come to the
19 United States?

20 A. Absolutely. So a prospective student would shop for
21 schools and apply to different universities that they might be
22 interested in, and once they're accepted, they would be issued
23 an I-20, which is a form. It's a certificate of eligibility
24 for studies. They would come to the U.S. consulate.

25 So in my situation, the consulate would be in Guangzhou.

1 They'd bring their passport, other supporting documentation,
2 and a copy of that I-20, and they would see a consular officer.

3 Q. And the information on the I-20 indicates the school that
4 they had been accepted to; is that correct?

5 A. That's correct. That's correct.

6 Q. What's assessed at the consulate when they come in with
7 these documents?

8 A. Okay.

9 Q. Can you walk through that process?

10 A. So when these prospective students come into the consulate,
11 they're applying for a visa to go to the United States, which
12 is basically their ticket to get to the U.S. and request entry
13 from DHS, Department of Homeland Security. And so when they're
14 applying for the visa, we're required to review some of the
15 facts of their application to make sure that they're actually
16 qualified for a visa to travel to the United States.

17 The consular officer assesses the -- it's a bona fide
18 student. It's an actual student who plans to go to the United
19 States for a full course of study and presents intent to return
20 to their own country after they've completed the studies.

21 Consular officers can also ensure that they have a financial
22 ability to pay for the education. So if they have an expensive
23 education permit, they have to make sure they can show you they
24 have the funds available to pay for that.

25 Q. What if there are red flags or something that concerns the

1 officer during this process? What happens?

2 A. Well, a couple of different things can happen. If the
3 officer thinks that it's -- there's no chance that the student
4 is a bona fide student, they can just refuse them under 14B of
5 the Immigration and Naturalization Act and not give them a
6 visa. They can also refer the case for fraud, in which case
7 the Fraud Prevention Unit eventually might end up on my desk,
8 where we would look into it for visa fraud.

9 Q. Are you familiar with the term "SEVIS"?

10 A. I am.

11 Q. Can you just briefly tell the jury what SEVIS is -- or can
12 you spell it and then tell the jury what it is?

13 A. Absolutely. So SEVIS or SEVIS is a program on our computer
14 system that we would use, and it's the Student Exchange
15 Visitors Identification System, and basically these prospective
16 students present an I-20 to the consular officer.

17 And on there, there is an individual SEVIS or SEVIS number,
18 and then the consular officer would check that number in the
19 computer system and ensure that all of the things line up. So
20 if it says the student is in active status as far as the -- on
21 the computer, then we would know that they've paid their fee
22 and are eligible for studies at that university.

23 MR. RHYNE: Thank you.

24 No further questions, your Honor.

25 THE COURT: Thank you.

1 THE CLERK: Do you solemnly swear or affirm that the
2 testimony you're about to give in the matter now pending before
3 this Court shall be the truth, the whole truth, and nothing but
4 the truth?

5 THE WITNESS: Yes, I do.

6 THE CLERK: Thank you. Speak close to the
7 microphone.

8 THE WITNESS: Thank you.

9 THE CLERK: Please state your full name and spell
10 your last name.

11 THE WITNESS: Susanna Lee Warner, W-a-r-n-e-r.

12 THE COURT: Thank you, Ms. West.

13 Your witness.

14 MS. WEST: Thank you.

15 **SUSANNA WARNER,**

16 Called as a witness by the Government, having been duly sworn,
17 testified as follows:

18 **DIRECT EXAMINATION**

19 BY MS. WEST:

20 Q. Good afternoon, Ms. Warner.

21 A. Good morning.

22 Q. What do you do for a living?

23 A. I'm a section chief at the Student Exchange Visitor
24 Program.

25 Q. Can you please tell the jury what the Student Exchange

1 Visitor Program is.

2 A. The Student Exchange Visitor Program is a program that
3 falls under the Department of Homeland Security, and what it
4 does is it certifies schools that want to bring foreign
5 students to study.

6 Q. And is that -- well, first of all, is the Student Exchange
7 Visitor Program -- is that abbreviated SEVP --

8 A. Correct.

9 Q. -- or sometimes called SEVP?

10 A. Correct.

11 Q. And is that its only function, to certify schools, or does
12 it have another function as well?

13 A. It also manages a system called SEVIS, which is used to
14 track and monitor students at the schools that it's certified,
15 and then we also oversee the immigration status of students
16 that enter the country.

17 Q. All right. And is SEVIS -- is that the Student Exchange
18 Information System?

19 A. Correct.

20 Q. How long have you been in the position of section chief?

21 A. Three years.

22 Q. Is that approximately March 2011?

23 A. Yes.

24 Q. Can you tell us a little bit, please, about your role as
25 section chief.

1 A. It's monitored by the Department of Homeland Security, and
2 it -- you need a user ID and password to enter it.

3 Q. Now, you mentioned that a school seeking to get approval to
4 admit foreign students gets a temporary ID and password. At
5 some point, does that need to be converted into a permanent
6 one?

7 A. It is once they receive approval to participate.

8 Q. Okay. So a school or an individual with that temporary ID
9 and password that you mentioned -- do they have access to all
10 of the information in SEVIS?

11 A. No.

12 Q. So that's access control; right?

13 A. Right.

14 Q. Is the use of SEVIS controlled in some way?

15 A. Is the use? Yes.

16 Q. Okay. Why is the access and use of SEVIS controlled?

17 A. Because we just don't want anybody to go -- once a school
18 is approved, they gain the ability to issue an immigration
19 document that a student uses to -- in order to obtain a visa
20 and maintain status when they're here. So we don't want just
21 anybody to go in and be able to create these documents.

22 Q. Why not?

23 A. Because the Department of Homeland Security is relying --
24 the system is primarily managed by what we call designated
25 school officials. Those are what's -- you get -- once the

1 school gets approval, they have to designate a school official
2 to be the person who accesses SEVIS, that creates the
3 documents, and keeps the proper records on the school, and we
4 just don't want anybody to do that because we're really putting
5 our trust in these designated school officials.

6 Q. Okay. So that's a little bit of foreshadowing. We're
7 going to come back to the designated school officials in a
8 moment.

9 Let's stick a little bit for another moment or two with the
10 access and use of the SEVIS database. Are users advised that
11 access and use of SEVIS is controlled?

12 A. Yes.

13 Q. I'm going to show you what is marked as Government
14 Exhibit 106 and ask if you recognize this.

15 A. Yes.

16 Q. What is this?

17 A. It's a warning that someone will see the minute they access
18 SEVIS.

19 Q. Is this a SEVIS warning banner?

20 A. Yes.

21 MS. WEST: The Government offers Exhibit 106 in
22 evidence.

23 THE COURT: Any objection?

24 MS. WEST: It would be 106, Page 2, your Honor.

25 MR. BABCOCK: Just -- just to clarify the foundation

1 THE WITNESS: Yeah, sure, please.

2 MS. WEST: Can we please pull up Exhibit 106, which
3 is now 106A.

4 Thank you. And if we could enlarge the warning banner on
5 this.

6 BY MS. WEST:

7 Q. All right. Ms. Warner, you testified that this is the
8 warning banner that was in effect at SEVIS between 2008 and
9 2011?

10 A. Correct.

11 Q. And has this warning banner changed over time?

12 A. No.

13 Q. All right. I'd like to direct your attention, please, to
14 the first line of this warning. First of all, do you see it in
15 all capitals at the top, the word "WARNING"?

16 A. Yes.

17 Q. And then the first line below that: "This system is for
18 the use of authorized users only"?

19 A. Yes.

20 Q. Now, every time anybody accesses SEVIS, would this warning
21 banner pop up?

22 A. Yes.

23 MS. WEST: All right. If we could go back, please,
24 to the full page, and if you could please blow up the bottom
25 portion just below the box where it has "User Name, Password,

1 A. It gives us the rules for a school to be eligible to apply
2 for the Student Exchanges Visitor Program and SEVIS access.

3 Q. All right. And if we look there in Subsection (a), it
4 says, "Filing Petition"; is that right?

5 A. Yes.

6 Q. And Subsection (3) is "Eligibility"?

7 A. Yes.

8 Q. Okay. So then Subsection little (1) here or little (i) --
9 does that essentially lay out what the criteria is for a school
10 in order to be eligible to admit foreign students?

11 A. Yes.

12 Q. All right. Let's look through it, please. If you'd turn
13 your direction, please, to little (i), do you see there it
14 states, "The petitioner to be eligible for certification must
15 establish at the time of filing that it..." and then there's A,
16 B, C, and D? Do you see that?

17 A. Yes.

18 Q. A is "Is a bona fide school." Can you please tell the jury
19 what that means.

20 A. For a school to be a bona fide school, when they fill out
21 their form and they put a name and address, we want to make
22 sure that there's actually a school at the name and address.

23 Q. B states, "Is an established institution of learning or
24 other recognized place of study." Do you see that?

25 A. Yes.

1 Q. Can you please tell the jury what that means.

2 A. An established institution of learning means that the
3 school has some history behind it, graduated students,
4 something like that. "Other recognized place of study" means
5 the school is accredited or has something that is akin to
6 accreditation.

7 Q. Okay. And C, "Possesses the necessary facilities,
8 personnel, and finances to conduct instruction and recognized
9 courses." Please tell the jury what that means.

10 A. It means that we want to make sure that, you know, it's --
11 I don't want to use the word "established" again but
12 established so we know, you know, that they're not going to go
13 out of business quickly, that they actually have the ability to
14 conduct instruction.

15 Q. And D states, "Is, in fact, engaged in instruction in those
16 courses." Do you see that?

17 A. Yes.

18 Q. What does that mean?

19 A. It means that when they apply for a SEVP certification,
20 they have to have a history of conducting the courses that
21 their -- of study that they're asking for. They can't be
22 intending to conduct those courses of study in the future.

23 Q. Now, are these criteria the criteria that SEVP actually
24 uses in determining whether to certify a school to admit
25 foreign students?

1 A. Yes.

2 Q. Can you explain to us why A, B, C, and D are important?

3 A. They're important because, as we've stated, we rely on
4 school officials out there to populate or, you know, fill out
5 the form that we're getting, and so we want to make sure
6 that -- you know, we're also responsible -- SEVP -- for
7 bringing in the students into the country and monitoring them.

8 So we want to make sure that when they're coming here,
9 they're going to what we call a bona fide school, that, you
10 know, they're actually going to be able to complete the purpose
11 for why they're coming, which is to get an education.

12 Q. Are there special requirements aside from the generic A, B,
13 C, and D as set forth here -- are there specific requirements
14 that apply to a school that may not be accredited?

15 A. Yes.

16 Q. Can you tell us about that?

17 A. If a school is not an accredited school or a recognized
18 place of study, we permit those schools to get three
19 articulation agreements from schools that are accredited that
20 essentially vouch for that school's -- you know, whatever you
21 want to call it -- vouch that that school is good.

22 Q. All right. So let's break that down a little bit.

23 First, what do you mean when you use the word "accredited"?

24 A. Accredited schools -- typically, we like to see that they
25 have been accredited by an accrediting association that's

1 recognized by the Department of Education.

2 Q. So if a school is not recognized by an accrediting
3 association that's recognized by the Department of Education,
4 is it then that the articulation agreement component can kick
5 in?

6 A. Correct. They can send instead -- well, not "instead," but
7 they would have to submit that.

8 Q. That's a requirement?

9 A. Yes.

10 Q. Where does that requirement come from?

11 A. From the regulations.

12 Q. All right. And you mentioned that it was three
13 articulation agreements?

14 A. Correct.

15 Q. Do articulation agreements have two components to them?

16 A. Yes.

17 Q. What are those?

18 A. The components are that in order to submit an articulation
19 agreement, the first component is that the school has to be
20 accredited, and then the second component to the school that is
21 submitting the agreement on behalf of the nonaccredited
22 institution has to state that they have been and will
23 unconditionally accept the transfer credits from the
24 unaccredited school.

25 Q. Why is that important?

1 MS. WEST: Can we enlarge now Box 2 of this document?

2 BY MS. WEST:

3 Q. What school does this I-17 pertain to?

4 A. Tri-Valley University.

5 Q. Thank you.

6 And is it fair to say that the name of the school in there
7 is something that is important to SEVP?

8 A. Yes.

9 Q. Why?

10 A. Because we want to know the name of the school that's
11 applying to bring nonimmigrants into the country for study.

12 Q. All right. Thank you.

13 MS. WEST: If we can please pull up Box -- have it
14 maybe just the bottom quarter of the document starting from
15 just above the stamp.

16 Thank you. That's perfect.

17 BY MS. WEST:

18 Q. Can you see there in Box 8 "Date School was Established:
19 March 2008"? Do you see that?

20 A. Yes.

21 Q. Is the date that the school is established something that
22 is important to SEVP?

23 A. Yes.

24 Q. Why?

25 A. Because per the regulation that we just looked at, we need

1 to know essentially when they would start it.

2 Q. Is that part of being established?

3 A. Yes.

4 Q. Now, does it -- is it something that is determinative for
5 SEVP if a school is applying in September of 2008 but was only
6 established in March of 2008? If that school had not yet
7 matriculated students or graduated students, does that rule it
8 out?

9 A. No.

10 Q. Let's look at Section 9, "Location of School." Do you see
11 that?

12 A. Yes.

13 Q. And the address there, "4455 Stoneridge Drive, Pleasanton,
14 California"?

15 A. Yes.

16 Q. Does the address -- is that something that matters to SEVP?
17 Is that important?

18 A. Yes.

19 Q. Why?

20 A. Because we want to know there's a school actually at the
21 address that's reported.

22 Q. Why?

23 A. Because the law requires it.

24 Q. Is that part of it being a bona fide school?

25 A. Correct.

1 A. Yes.

2 Q. How so?

3 A. Because Part C of the regulation over here -- we want to
4 make sure that they have adequate facilities for students to be
5 able to be educated.

6 Q. So --

7 A. Several of these instructors --

8 Q. There we go.

9 So if we look at Paragraph -- or Subpart (b) here where it
10 says, "The average annual number of students is 30," then if
11 you look at "Teachers or Instructors: 9," does that seem to
12 fit together in a way that would be satisfactory to SEVP?

13 A. Yes.

14 Q. Why?

15 THE COURT: Ms. West, I'm sorry to interrupt.
16 Anytime in the next five minutes, I'd like to take our second
17 recess.

18 MS. WEST: Perfect. We'll be there in about one
19 minute.

20 THE COURT: Very good.

21 THE WITNESS: Because it's -- just by looking at how
22 many students and the ratio to instructors, it just -- it seems
23 like they have enough instructors to teach the amount of
24 students.

25 BY MS. WEST:

1 Q. Is this question and answer provided something that is
2 important to SEVP in making its certification determination?

3 A. Yes.

4 Q. Why?

5 A. Because designated school officials are the ones that are
6 responsible for the school to follow the regulations and the
7 law pertaining to both their school certification and the
8 students that they bring in.

9 Q. And so why -- how does the answer -- this question and
10 answer relate to that fact?

11 A. How do -- I'm sorry. Repeat that.

12 Q. The fact that DSO's are charged with the responsibility of
13 following the regulations, how does that relate to the question
14 about the resources to ensure DSO compliance and knowledge of
15 SEVIS rules and regulations?

16 A. Because we need to know that they have, in fact, become
17 familiarized with all of that because, again, they're the only
18 ones that put the information in SEVIS, and they have --
19 they're the ones that have to make sure the school stays in
20 compliance.

21 Q. Let's take a look at Question 2. "Verify that the number
22 of students and programs of study being pursued are supported
23 by the facilities available." Why -- is this question
24 important to SEVP?

25 A. Yes.

1 Q. Why?

2 A. Because it's in the law that -- again, the regulation we
3 reviewed -- that they have to have the proper and necessary
4 facilities.

5 Q. And then the answers provided here: "Number of Students in
6 School: 25. Average Number of Students per Class: 10." Are
7 those answers something that is important to SEVP?

8 A. Yes.

9 Q. Why?

10 A. Again, to make sure that they're abiding by regulation with
11 having the necessary and proper facilities, you know?

12 Q. And there's actually comments down below mentioning,
13 "There's a very small library, but there is computer access.
14 The school had just opened this year." Is that sort of
15 information something that is important to SEVP as well?

16 A. Yes.

17 Q. Why?

18 A. Again, it goes back to the facilities, and we want to
19 record the observations that the site visitor sees when they're
20 at the school.

21 MS. WEST: Can we blow up now the bottom part of this
22 page, please, Question 3 and the answers.

23 BY MS. WEST:

24 Q. Question 2 states: "The following questions directly
25 relate to processes for both F-1 and M-1 nonimmigrant foreign

1 A. Yes.

2 Q. And is that information there something that would be
3 important to SEVP?

4 A. Yes.

5 Q. Why?

6 A. Again, it goes back to the standards that they're going to
7 admit students who are eligible by their admissions standing to
8 get there.

9 Q. Let's look at Question C. "How do," slash, "will you
10 verify that F-1 and/or M-1 students are maintaining a full
11 course of study?"

12 Let me just ask you about the language in here, "full
13 course of study." Is that going back to what you just
14 explained with regard to duration of status for students?

15 A. Yes, and the fact that regulations describe what the full
16 course of study means. It essentially means the student has to
17 be attending a study full time.

18 Q. And what does that mean?

19 A. As far as what?

20 Q. Is there a physical-class component to that?

21 A. Yes. There's a physical component, and depending on what
22 they're studying, it tells you how many credits or clock hours
23 of coursework they have to do.

24 Q. And the answer provided here: "By tracking students
25 successfully completion of nine units a semester." Is that

1 fault of their own, they are permitted -- again, it goes back
2 to the school official, who is responsible for reporting on
3 their students. The school official can make a recommendation
4 that that student have their legal status reinstated, and then
5 the student has to apply to USCIS to, in fact -- for their
6 adjudication of the reinstatement.

7 Q. I don't think we need to pull it back up, but I want to go
8 back to a question that we just took a look at, and that was
9 Section 3(b) about students transferring to the school. Do you
10 recall that?

11 A. Yes.

12 Q. Is there a -- are there limitations on a student being able
13 to transfer an F-1 student?

14 A. No.

15 Q. Is there something known as a two-semester rule?

16 A. No.

17 Q. Have you ever heard of a two-semester rule?

18 A. I've heard of schools trying to make a two-semester rule,
19 but SEVP allows students to transfer because -- because of the
20 physical presence component. We need to know where students
21 are going to be, and so we don't permit schools to hold the
22 student's record. That's the way that we track the students.

23 Q. So for an F-1 student who seeks to transfer according to
24 the rules in Department of Homeland Security, is that student
25 allowed to transfer?

1 A. Yes.

2 MS. WEST: Can we please go to Exhibit 5, Page 8, and
3 just the top half, please.

4 Thank you, Ms. Hughes.

5 BY MS. WEST:

6 Q. If we look at Page 7 of this same exhibit, do you see at
7 the top it states, "Section 3. Tour of Campus"?

8 A. Yes.

9 Q. Why does SEVP require a tour of the campus?

10 A. Again, it goes back to the school's eligibility. We like
11 to make sure that there's a bona fide school there and to have
12 a site visitor record their observations. So we can use that
13 as part of our adjudication.

14 Q. And Subparagraph (a) here -- it states, "Comments of
15 observation of live classroom instruction, classroom space,
16 labs and/or library facilities." And just above that, I'll
17 actually read for context, "Observe that school business
18 operations are taking place even if classes are not in
19 session."

20 Is it a deal-breaker if classes are not in session?

21 A. No.

22 Q. All right. So then the answer provided here: "No classes
23 were being conducted at the time of site inspections." As you
24 just stated, that's -- on its face, is that a problem?

25 A. No.

1 Q. "Night classes are only being offered at this time.
2 Building has 5,000 square feet, medium to large class" -- I'm
3 sorry -- "five medium to large classrooms. On" -- I think it's
4 supposed to be "One large meeting area, library, computer lab,
5 and four office spaces. Sufficient space for planned
6 activities."

7 What is the site inspector supposed to look for in
8 responding to Question A?

9 A. They look at the classrooms and the seating and make sure
10 that they have -- the facilities are adequate to host the
11 number of students they're reporting that they will be having.

12 Q. So that would in place -- we refer back to the number of
13 students stated who were attending at the beginning?

14 A. Correct.

15 MS. WEST: And if we could now go to the bottom part
16 of this page, please, to Section 2(b).

17 That's great. Thank you.

18 BY MS. WEST:

19 Q. Section 2 is "Evidence the DSO is compliant with
20 regulations and reporting requirements or has the ability to be
21 compliant with SEVIS rules and regulations." And Question B
22 specifically says, "Comments on site visit to location
23 where" -- I'm sorry. Did I get the right section? Yes -- "of
24 where nonimmigrant students' records are kept or will be kept
25 upon SEVIS approval."

1 Q. The next sentence there reads: "A DSO may not delegate
2 this designation to any other person." Do you see that?

3 A. Yes.

4 Q. Why is that rule in place?

5 A. Because, again, we limit the access to SEVIS for the reason
6 that -- the designated school official wants to take their job
7 seriously, and they have to populate all the information about
8 students. And the fact that we have 9,000 schools out there --
9 we really have to trust that that is, in fact, the person that
10 the school has asked to take on this job, is the person who's
11 doing it.

12 Q. Let's look at the next sentence. "An individual whose
13 principal obligation to the school is to recruit foreign
14 students for compensation may not be a DSO." Why is that the
15 rule?

16 A. Because we -- again, it goes back to integrity and
17 accountability, and then we want to make sure that the reason
18 is that they're actually choosing valid students to come in and
19 not doing it because they're receiving some kind of
20 compensation for it.

21 Q. All right. Let's skip to the last paragraph. "The
22 principal DSO is required to have a thorough knowledge of the
23 regulations, policies, and procedures governing nonimmigrant
24 students and is responsible for ensuring that each additional
25 DSO has a thorough knowledge of the same."

1 MR. BABCOCK: Sorry. What exhibit were you on?

2 MS. WEST: 4.

3 MR. BABCOCK: Thank you.

4 THE WITNESS: Yes.

5 BY MS. WEST:

6 Q. What is Exhibit 4, please.

7 A. It's correspondence from Tri-Valley University to SEVP.

8 MS. WEST: The Government offers Exhibit 4 in
9 evidence.

10 THE COURT: Any objection?

11 MR. BABCOCK: No objection.

12 THE COURT: Exhibit 4 is admitted.

13 (Government's Exhibit 4 received in evidence.)

14 MS. WEST: Can we please pull up Page 1 of Exhibit 4,
15 and let's just do the top half where it's the -- the addressee
16 and the "From" part.

17 Great. Thank you.

18 BY MS. WEST:

19 Q. Page 1 of Exhibit 4 is a letter that appears to be
20 addressed to a Mr. Barry Kobe. Have I pronounced that right?

21 A. Uh-huh.

22 Q. Do you know who that individual is?

23 A. Yes.

24 Q. Who is that?

25 A. He was the adjudicator on the Tri-Valley University SEVP

1 approval.

2 Q. What do you mean "adjudicator"?

3 A. He's the one who makes the ultimate decision per whether or
4 not they would have received certification or not.

5 Q. All right. And then on the lower right of this expanded
6 view, we see "Dr. Susan Su, President, Tri-Valley University,"
7 and the date below, February 10th, 2009. Do you see that?

8 A. Yes.

9 Q. All right. Thank you.

10 MS. WEST: And can we now enlarge the text of this
11 letter, please -- "Dear Mr. Kobe" -- and then the bottom of the
12 letter.

13 Great. Perfect. Thank you.

14 BY MS. WEST:

15 Q. This letter states: "Dear Mr. Kobe, per our phone
16 conversation, here are the three originals of the three
17 articulation" -- I'm sorry -- "the originals of the three
18 articulation agreements." Do you see that?

19 A. Yes.

20 Q. And is there in front of you an original signature from Ms.
21 Su?

22 A. Yes.

23 Q. Attached to this cover letter, are there, in fact, three
24 what purport to be articulation agreements?

25 A. Yes.

1 Perfect.

2 BY MS. WEST:

3 Q. What does this information here reflect?

4 A. That SEVP headquarters approved the school on
5 February 17th, 2009.

6 Q. And do you recognize that signature there?

7 A. Yes. That's Barry Kobe.

8 Q. All right. Thank you.

9 MS. WEST: You can take that down.

10 BY MS. WEST:

11 Q. Now, after SEVP has approved or certified a school to admit
12 foreign students, does SEVIS at that point get used for some
13 reason?

14 A. Does it get used?

15 Q. Yes.

16 A. Yes.

17 Q. For what?

18 A. The school has used SEVIS to create -- that's when they
19 actually gain the full access to the system, and they use it to
20 create the Form I-20 to bring students in at that time.

21 Q. Now, you say that they get full access to the system at
22 that time. Does anyone get full access, or is that limited to
23 the DSO's?

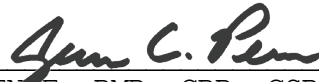
24 A. Just the designated school officials.

25 Q. All right. So from the designated school officials being

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I, James C. Pence, Federal Official Realtime Court Reporter, in and for the United States District Court for the Northern District of California, do hereby certify that pursuant to Section 753, Title 28, United States Code that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 10th day of June, 2014.



JAMES C. PENCE, RMR, CRR, CSR NO. 13059
FEDERAL OFFICIAL COURT REPORTER

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
BEFORE THE HONORABLE JON S. TIGAR

UNITED STATES OF AMERICA,)
) Volume 3
Plaintiff,) Pages 346 - 533
)
VS.) NO. 11-00288 JST
)
SUSAN XIAO-PING SU,)
) San Francisco, California
Defendant.) Wednesday, March 5, 2014
) 8:36 a.m.

TRANSCRIPT OF COURT PROCEEDINGS

APPEARANCES:

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ATTORNEY AT LAW

Reported By: James C. Pence, RMR, CRR, CSR No. 13059
Official Court Reporter - U.S. District Court
Computerized Transcription By Case CATalyst

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1 Q. Yes.

2 A. In Washington, DC.

3 Q. So as you sit there in Washington, DC, do you have any idea
4 what a student in the San Francisco Bay Area is actually doing,
5 whether they are actually going to their classes?

6 A. No. I mean, no. We rely on the designated school
7 officials to tell us.

8 Q. There were some questions also about SEVIS training --

9 A. Yes.

10 Q. -- and whether you know to what extent Ms. Su had SEVIS
11 training.

12 A. Correct.

13 MS. WEST: Let's -- if we could please pull up
14 Exhibit 3, Page 10.

15 Oh. You know what? We've already got this on. I'll just
16 use this. Let's zoom out for a moment so we see what we're
17 looking at.

18 BY MS. WEST:

19 Q. This is Page 10 of Exhibit 3, which we looked at earlier,
20 on Tri-Valley University letterhead, and do you recall that
21 this was submitted to SEVP by Ms. Su?

22 A. Yes.

23 Q. All right. And in fact, we actually see Ms. Su's signature
24 on the first line there?

25 A. Yes.

1 University?

2 A. Never.

3 Q. Did Susan Su ever ask you to teach a particular class at
4 Tri-Valley University?

5 A. No.

6 Q. Okay. I want to publish, if we can, Exhibit 1, Page 8, and
7 can we just zoom in at --

8 A. I can't see very clear.

9 Q. -- "Tri-Valley University Instructor Listing" in the first
10 paragraph.

11 And you stated your background was in engineering; correct?

12 A. Yes.

13 MR. RHYNE: Okay. Can we pull back out of that, and
14 can we go down to the line for Hao Luo?

15 BY MR. RHYNE:

16 Q. Is that your name there on the left?

17 A. Yes.

18 Q. And is that your educational background in the next column
19 over?

20 A. Yes. Yes.

21 Q. Okay. And over on the far right, it says, "TA,
22 Carnegie-Mellon University." Were you a TA at Carnegie-Mellon?

23 A. Yeah, I was a TA there. Yes.

24 Q. And were you also a senior engineer at HP?

25 A. Yes.

1 Francisco State University is accepted and approved by the
2 participating entities this 2nd day of February 2009."

3 Do you see that?

4 A. Yes.

5 Q. Were you the director of the School of Engineering in
6 February of 2009?

7 A. No, I am not.

8 Q. Had you retired by then?

9 A. I had not retired, but I stepped down from the director in
10 summer of 2008.

11 Q. Right. You're not the director of the School of
12 Engineering anymore; right?

13 A. Yes, I was not.

14 Q. Dr. Liou, I want to ask you: Did you sign this document?

15 A. I did not sign that document.

16 Q. How sure are you?

17 A. A hundred percent sure.

18 Q. Thank you, Dr. Liou.

19 THE COURT: Mr. Babcock, questions of this witness?

20 MR. BABCOCK: Yes, please, your Honor.

21 THE COURT: Dr. Liou, that water there is for you in
22 case you get thirsty.

23 THE WITNESS: Okay. Thank you.

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CERTIFICATE OF OFFICIAL REPORTER

I, James C. Pence, Federal Official Realtime Court Reporter, in and for the United States District Court for the Northern District of California, do hereby certify that pursuant to Section 753, Title 28, United States Code that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 11th day of June, 2014.



JAMES C. PENCE, RMR, CRR, CSR NO. 13059
FEDERAL OFFICIAL COURT REPORTER

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
BEFORE THE HONORABLE JON S. TIGAR

UNITED STATES OF AMERICA,)
) Volume 4
Plaintiff,) Pages 534 - 726
)
VS.) NO. 11-00288 JST
)
SUSAN XIAO-PING SU,)
) San Francisco, California
Defendant.) Monday, March 10, 2014
) 8:08 a.m.

TRANSCRIPT OF COURT PROCEEDINGS

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Reported By: James C. Pence, RMR, CRR, CSR No. 13059
Official Court Reporter - U.S. District Court
Computerized Transcription By Case CATalyst

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100C	670	671	4
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303B	617	618	4
305	660	661	4
307	653	654	4

I N D E XE X H I B I T SGOVERNMENT'S EXHIBITSIDEN EVID VOL.

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5	309	658	659	4
6	315	663	664	4
7	320	666	667	4
8	320A	672	673	4
9	327	675	676	4
10	330	677	678	4
11	331	680	681	4
12	332	682	682	4
13	333	684	684	4
14	400	631	632	4
15	401	631	632	4
16	403	631	632	4
17	405	633	634	4
18	406	628	629	4
19	407	584	585	4
20	580	621	622	4
21	581	621	622	4
22	582	621	622	4
23	582A	621	622	4
24	583	621	622	4
25	584	621	622	4

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I N D E X

E X H I B I T S

GOVERNMENT'S EXHIBITS

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587	621	622	4
588	621	622	4
589	621	622	4
590	621	622	4
591	621	622	4
592	621	622	4
706	582	582	4
709	606	607	4

1 make it overlap, if you were to try to do this perhaps by
2 holding it up to the light, you couldn't make two signatures
3 overlap. There's always just natural variation. So showing
4 that these two overlap -- will overlay exactly, thus causing a
5 dark image, that shows me that those two signatures were
6 exactly the same signature at some point.

7 Q. Meaning that one is just a total duplicate of the other?

8 A. That's correct.

9 Q. And they may, in fact, be both duplicates of some other
10 original signature?

11 A. That's correct because these are both toner. I don't
12 have -- I've never seen another document that had an original
13 ink signature from which these came. So I don't know where
14 they came from, but I can just tell you that these two, both
15 being toner signatures, both came from some other signature
16 someplace. They are both the same signature.

17 Q. And could you put Chart 4 back up for us, please.

18 A. Chart 4?

19 Q. Yes, please.

20 Okay. So then just circling back, Government Exhibit 4 was
21 an articulation agreement between San Francisco State
22 University and Tri-Valley University; is that right?

23 A. Yes, ma'am. It says so right here, "Articulation Agreement
24 Between Tri-Valley University and San Francisco State
25 University." Yes, ma'am.

1 A. I heard of it about three years later. My boss asked me if
2 I'd heard of this and was I -- did I know I was listed as a
3 faculty member, and -- and then another coworker of mine
4 Googled it to see what it was, and we saw sure enough, you
5 know, I'm listed there as a lecturer. And I was kind of
6 surprised by that because I never had heard of the place or
7 signed up to do anything like that. So --

8 Q. Was there any -- when you viewed the website, was there any
9 reference to Applied Materials?

10 A. There -- yes, there was. So in addition to my name,
11 there's also a link -- a hotlink to our corporate website.

12 Q. When you viewed the website, did you note anybody else that
13 you knew from Applied Materials that was on the website?

14 A. Yes. My -- my current boss. His name was there but
15 misspelled. They did have his correct colleges that he
16 attended, and also another colleague who had left Applied was
17 also listed there.

18 Q. When you viewed the website, could you see the credentials
19 that were listed for you?

20 A. Yes, I did.

21 Q. How did those credentials compare to the credentials you
22 told Dr. Su at the party?

23 A. Yeah. It said along the lines of, you know, "Ph.D., UC
24 Berkeley."

25 Q. So a few more questions here.

1 and had to support articulation agreements. I looked at the
2 standards for admissions, standards for graduations, and I
3 looked at the teaching roster that the school had submitted as
4 well.

5 Q. Okay. Why did you note the number of students at 30? Why
6 was that relevant to you?

7 A. Because when I subsequently checked the SEVIS database,
8 they indicated they were enrolling a far greater number than
9 30.

10 Q. Do you recall approximately how many were enrolled at that
11 point?

12 A. At that time in May of 2010, they had probably 900
13 students.

14 Q. And you subsequently checked the SEVIS database towards the
15 end of the investigation as well; is that correct?

16 A. I did.

17 Q. That number grew --

18 A. It did.

19 Q. -- to --

20 A. To approximately 1760 students, active students.

21 Q. Okay. You also said you noted the number of professors.
22 Why was that something that you noted?

23 A. I was looking at the supporting documents submitted by the
24 school to see if their facilities and resources and faculty
25 were reasonable for the number of students that they were

1 when you checked SEVIS with respect to Tri-Valley University?

2 A. Certainly. Again, I noted that there were at the time 900
3 students. I looked at the rate of growth, and the school
4 appeared to be enrolling its student base at an exponential
5 rate. I also noted that over half of the students reported --
6 of those 900 students reported to us were reporting the exact
7 same apartment in Sunnyvale, California.

8 Q. And that was -- do you remember what that apartment address
9 was?

10 A. Yes. It was 555 East El Camino Real, Apartment 415, in
11 Sunnyvale.

12 Q. There was another address that Tri-Valley University
13 reported in SEVIS as well; correct?

14 A. Yes.

15 Q. Can you tell the jury what that address was?

16 A. They also reported a large number of students at 620 Iris
17 Avenue in Sunnyvale, California.

18 Q. Did you go to the El Camino Real location?

19 A. I did.

20 Q. Why?

21 A. To interview the residents of 555 East El Camino Real,
22 Apartment 415, to determine whether or not there were any
23 Tri-Valley University students residing there.

24 Q. Can you generally describe how big is this space?

25 A. It was a two-bedroom -- two-bedroom apartment.

1 Q. Were you able to observe through your SEVIS observations
2 the nationality of most of the students at Tri-Valley
3 University?

4 A. Yes. Approximately 95 percent of the students were of
5 Indian nationality.

6 Q. Now, I want to talk about what you saw when you looked at
7 Tri-Valley University's website.

8 Were you able to capture screenshots of the website?

9 A. Yes.

10 Q. Can you tell the jury what that means?

11 A. We utilize one of our computer forensic agents to basically
12 download the website or portions of the website and preserve
13 them for me to view as part of this trial.

14 MR. RHYNE: Your Honor, may I approach the witness?

15 THE COURT: You may.

16 (Government's Exhibit 100 marked for identification.)

17 MR. RHYNE: I'm handing the witness what's been
18 marked for identification as Exhibit 100.

19 BY MR. RHYNE:

20 Q. Can you please take a look at that.

21 Do you recognize that?

22 A. I do.

23 Q. What is it?

24 A. It's a "Welcome to Tri-Valley University" page from
25 Tri-Valley University's website.

1 Florida doesn't enter into blanket articulation agreements and
2 they review all other transfers on case-by-case basis, at which
3 point she then approached -- approached her brother, who worked
4 at the University of Central Florida and who then signed it.

5 Q. She told you that her brother worked there?

6 A. Yes.

7 Q. Did she tell you what his job title was?

8 A. I believe she called him a student advisor.

9 Q. Did she tell you whether or not she approached her brother
10 at that point?

11 A. She stated that she did approach her brother into signing
12 the agreement.

13 Q. What did she say about that interaction? Let me rephrase
14 the question.

15 Did she tell you whether her brother told her anything
16 different than the Department Chair had told her?

17 A. Yes. She stated that her brother confirmed that he had the
18 authority to sign such an agreement.

19 Q. Did she say how he went about signing it?

20 A. Yes. She stated that he signed it in her presence. She
21 actually observed him sign the document.

22 Q. Did you also ask her about a third articulation agreement?

23 A. Yes, I did.

24 Q. And that articulation agreement was between Tri-Valley
25 University and what school?

1 A. The University of East-West Medicine.

2 Q. Did the defendant Dr. Su tell you how she obtained that
3 signature?

4 A. Yes.

5 Q. What did she say?

6 A. She stated that she used to work for the signer of that
7 document, Ying Qiu Wang, that she approached this individual
8 after she had left. She used to be a teacher at a school
9 called Herguan University, which Ying Qiu Wang also owns, which
10 is co-located with the University of East-West Medicine.

11 And she stated that she approached him and asked him to
12 sign an articulation agreement with Tri-Valley University, and
13 he agreed, and he signed the document.

14 Q. Can you spell the name of that signer for the record?

15 A. Sure.

16 Q. It's probably in Exhibit 7, I believe.

17 A. It's Y-i-n-g, middle name of Qiu, Q-i-u, last name Wang,
18 W-a-n-g.

19 Q. Did you ask Dr. Su about the prospect of you contacting
20 people who purportedly signed these articulation agreements?

21 A. I did.

22 Q. How did you ask that question?

23 A. I asked her if she felt that there were -- if the documents
24 were valid, and she indicated that she believed the documents
25 were valid, and then I asked her if that was the case if she

1 A. She acknowledged that she had been contacted by at least
2 three of the professors on there to have their names removed
3 from Tri-Valley University's website.

4 Q. There's some notes on this document; is that correct?

5 A. Yes.

6 Q. Can you tell the jury generally what these notes are?

7 A. She started making checkmarks next to the names of
8 individuals that she claimed had actually taught classes, and
9 then she circled some names of instructors who had contacted
10 her regarding having the names removed, and at that point she
11 just started marking up the document because to me it appeared
12 she was nervous.

13 Q. Did you discuss the topic of Tri-Valley University's site
14 visit with her?

15 A. Yes.

16 Q. Can you tell the jury your understanding at the time what a
17 site visit was?

18 A. Yes. A site visit occurs during the initial I-17
19 application process or during recertifications for
20 SEVP-approved schools. It involves an inspector, an officer,
21 traveling to the school to verify the information on the I-17
22 and confirm that the school actually has the capacity to enroll
23 the number of students that they propose.

24 Q. Did you ask her when Tri-Valley University had its site
25 visit?

1 Q. Did you have any discussion with Dr. Su during this
2 interview about her understandings of the regulations and full
3 courses of study requirement for schools?

4 A. Yes, I did.

5 Q. What did you ask her?

6 A. I asked her what Tri-Valley University considered a full
7 course of study.

8 Q. What did she say?

9 A. She stated that nine units was considered a full course of
10 study at Tri-Valley University.

11 Q. Did you ask her about a physical attendance requirement?

12 A. Yes.

13 Q. What did you ask her?

14 A. I asked her how many of those nine units that she permitted
15 her students to attend online or not actually physically at the
16 campus.

17 Q. What did she say?

18 A. She stated that her students were allowed to take three
19 units online and that the rest had to be done on campus -- or
20 "physical," I should say. She didn't say "on campus." She
21 said "physically." She said they had to physically attend
22 those six units.

23 Q. Did she tell you where those classes occurred?

24 A. I asked a follow-up question, and she said that physical
25 attendance takes place at -- at 405 Boulder Court, which was a

1 that she used to teach at Herguan University, and they were
2 skilled recruiters for foreign students, and she approached
3 them very shortly after she received her SEVIS approval to help
4 her obtain foreign students for Tri-Valley University.

5 Q. When you said "couple of associates," can you -- did Susan
6 Su tell you their names?

7 A. Yes.

8 Q. What were their names?

9 A. One of them was Bhargav Boinpally, B-a-r-g-h-a-v [sic],
10 Boinpally, B-o-i-n-p-a-l-l-y.

11 Q. Did you --

12 A. And --

13 Q. Did she mention the other name?

14 A. Yes. The other individual was Abhilash Surineni, I believe
15 A-b-h-a-s-h [sic], Surineni, S-u-r-i-n-e-n-i.

16 Q. Did you ask her whether she had any contact with these
17 individuals regarding the recruitment process at Tri-Valley
18 University?

19 A. Yes, I did.

20 Q. What did she say?

21 A. Again, she said that shortly after she received her SEVIS
22 approval, she contacted them to help her build her foreign
23 student base.

24 Q. Did you ask her whether she met with them?

25 A. Yes.

1 Q. What did she say?

2 A. She stated that she e-mailed them and subsequently met with
3 them and entered into a recruiting contract with them.

4 Q. Did she tell you the name that they went by in the
5 contract?

6 A. Yes. She indicated they were part of a company or what
7 they call a consultancy in India, and the name of the
8 consultancy was ABS Consultancy. The ABS stood for the first
9 three letters of the first names of the members.

10 Q. Did Dr. Su indicate how many students, if any, this company
11 had referred to Tri-Valley University?

12 A. Yes. She estimated that the first 200 students at
13 Tri-Valley University were recruited by them, and she
14 specifically -- or she also estimated that the first 150
15 students were Samuel Steven Kancharakuntla's recruits, and
16 the -- Boinpally recruited -- recruited another 50 students.

17 Q. Did you ask Dr. Su about the immigration status of the
18 three ABS members?

19 A. Yes. She stated that she basically made them Tri-Valley
20 University F-1 students after they entered into their
21 precontract.

22 Q. Did you ask her whether they attended classes at Tri-Valley
23 University?

24 A. I did.

25 Q. What did she say?

1 Q. Okay. Same question with 207B. Do you recognize that?

2 A. Yes, I do.

3 Q. And did Dr. Su also authenticate that during the interview?

4 A. Yes, she did.

5 MR. RHYNE: Your Honor, we move Exhibit 206B and 207B
6 into evidence.

7 THE COURT: Any objection?

8 MR. BABCOCK: No, I don't think so, your Honor.

9 THE COURT: Exhibits 206B and 207B are admitted.

10 (Government's Exhibits 206B and 207B received in evidence.)

11 BY MR. RHYNE:

12 Q. Now, Agent Taylor -- I believe another witness is going to
13 testify about this, but can you generally just describe -- set
14 the stage for how you received these two e-mails or how DHS
15 received these two e-mails?

16 A. Sure. So during the course of its investigation, we
17 basically enrolled students that didn't exist at Tri-Valley
18 University and get Tri-Valley University -- to see how long
19 they would be maintained in their status.

20 And towards the end of -- before we took our enforcement
21 actions, we began contacting Ms. Su posing as immigration
22 officials at the airport and telling Ms. Su that we encountered
23 these individuals and asking for transcripts, verification
24 letters, I-20 permission documents to confirm that they were,
25 in fact, maintaining their status, that they were studying,

1 full-time students. And in response to those inquiries, she
2 sent these e-mails with those documents.

3 MR. BABCOCK: Your Honor, I'm sorry. I'm going to
4 have to object and move to strike. I think pretty much all of
5 that last answer is hearsay-based.

6 THE COURT: Do you want to be heard?

7 MR. RHYNE: I think I can clear it up with one
8 question.

9 THE COURT: All right. I'll withhold a ruling on the
10 objection for the moment, but ask the question.

11 BY MR. RHYNE:

12 Q. Agent Mackey, were you involved in these undercover
13 operations with first-hand knowledge of what happened?

14 A. Yes. I was present for all the phone calls.

15 Q. And did you see these e-mails when they were received?

16 A. Yes.

17 MR. BABCOCK: Submitted.

18 THE COURT: Overruled.

19 BY MR. RHYNE:

20 Q. Agent Mackey, you're familiar with how the students' -- you
21 called them fictitious students -- names were selected?

22 A. Yes.

23 Q. How were they selected?

24 A. We ran a report in our SEVIS database and basically
25 randomly pulled names of terminated students in the system to

1 see if Ms. Su would reactivate or attempt to reactivate those
2 students.

3 Q. Okay. Did you inform Dr. Su during this interview these,
4 in fact, were fictitious students?

5 A. I did.

6 Q. What was her reaction?

7 A. At first, it seemed like surprise. I believe she told us
8 that -- when we told her that they weren't real students at
9 Tri-Valley University, she said that was -- that's impossible,
10 and then I believe she basically called us tricky.

11 Q. And Agent Taylor was present; correct?

12 A. Yes.

13 Q. And Agent Taylor was the individual who made the phone
14 call; is that correct?

15 A. Yes.

16 Q. Did you inform her at that point of that fact?

17 A. Yes, I did.

18 Q. Then did you then follow up regarding the legitimacy of
19 these attachments in both of these e-mails that she sent --

20 A. Yes.

21 Q. -- to you?

22 A. I did.

23 Q. What did she say?

24 A. She explained that she created these transcripts and the
25 verification letters and the I-20 and sent them to us because

1 A. Yes.

2 MR. RHYNE: Could we publish Exhibit 330, Page 1, and
3 can we go from "Thursday, 5/11/09," all the way down to where
4 it says, "Thanks. In regards, Harman"?

5 BY MR. RHYNE:

6 Q. Agent Mackey, I'd like to start at the bottom of this
7 portion of the e-mail exchange. The person is writing, "Susan.
8 Hi, Susan. I want to say that as per your referral system, I
9 have referred my friend Vishal Dasa according to your referral
10 procedure. Just make sure that I get 15 percent off on
11 first-semester tuition fee.

12 "And one more thing I want to ask, that there is no slide
13 uploaded in course material for Healthcare Management class.
14 So can you please tell me from where I can get that. Thanks."

15 As we move up, we see a response from Dr. Su; is that
16 correct?

17 A. Yes.

18 Q. Dated 5 November 2009?

19 A. Yes.

20 Q. At this point, were you aware of the general dates of the
21 semester systems at Tri-Valley University?

22 A. Yes.

23 Q. And where would this fall, November of 2009 -- or 5
24 November?

25 A. This would be about a month before the end of the semester.

1 BY MR. RHYNE:

2 Q. Agent Mackey, I want to direct your attention to the
3 portion of the e-mail where it reads, "Hi, Susan. I have a few
4 questions as follows..."

5 Do you see that?

6 A. Yes.

7 Q. And that e-mail reads from there, "When can I get my
8 student ID? I can send my pic for that as well. For my
9 classes, there is no ongoing meeting as well as no instructor.
10 How does it work? Kindly explain. I am hoping that these
11 three classes would be counted for my Ph.D. Kindly let me
12 know. Thanks, Anuja," A-n-u-j-a.

13 Is that correct?

14 A. Yes.

15 MR. RHYNE: Okay. Can we go up to the e-mail that's
16 immediately above it?

17 BY MR. RHYNE:

18 Q. Here, we have a response from Susan Su; is that correct?

19 A. Yes.

20 Q. Stating, "Anuja, please send in your pictures for student
21 ID. For the courses, several courses are in developing stage
22 and are still waiting for instructors. So now just reading the
23 course materials, and they will be counted towards your Ph.D.,
24 and normally you will have good grade for these courses."


25 Is that correct?

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CERTIFICATE OF OFFICIAL REPORTER

I, James C. Pence, Federal Official Realtime Court Reporter, in and for the United States District Court for the Northern District of California, do hereby certify that pursuant to Section 753, Title 28, United States Code that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 12th day of June, 2014.



JAMES C. PENCE, RMR, CRR, CSR NO. 13059
FEDERAL OFFICIAL COURT REPORTER

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
BEFORE THE HONORABLE JON S. TIGAR

UNITED STATES OF AMERICA,)
) Volume 5
Plaintiff,) Pages 727 - 927
)
VS.) NO. 11-00288 JST
)
SUSAN XIAO-PING SU,)
) San Francisco, California
Defendant.) Tuesday, March 11, 2014
) 8:28 a.m.

TRANSCRIPT OF COURT PROCEEDINGS

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Official Court Reporter - U.S. District Court
Computerized Transcription By Case CATalyst

I N D E X

Tuesday, March 11, 2014 - Volume 5

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E X H I B I T SGOVERNMENT'S EXHIBITSIDEN EVID VOL.

15	903	904	5
19	909	909	5
311	755	756	5
450	874	875	5
477	821	822	5
478	821	825	5
479	798	799	5
480	802	803	5

I N D E XE X H I B I T SGOVERNMENT'S EXHIBITSIDEN EVID VOL.

520

899 900 5

588A

831 831 5

DEFENDANT'S EXHIBITSIDEN EVID VOL.

1004

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1005

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1 process of matching up the credit card receipts with invoices
2 created at Tri-Valley University to identify F-1 foreign
3 students that their payments were being made for, and then I
4 matched up the names -- the invoices with the records in the
5 SEVIS database to confirm that -- whether or not payment was
6 being made for an F-1 student or not.

7 Q. I want to follow up generally on this concept of
8 "taking" -- "taking class, maybe passing a test, after you're
9 granted a degree," and I forgot to ask you this yesterday. You
10 have a degree; is that correct?

11 A. I do.

12 Q. Where is it from?

13 A. UC Berkeley.

14 Q. Did you get that before or after you took your classes and
15 passed your tests?

16 A. After.

17 MR. RHYNE: No further questions, your Honor.

18 THE COURT: Thank you, Mr. Rhyne.

19 Mr. Babcock, recross?

20 **RECROSS-EXAMINATION**

21 BY MR. BABCOCK:

22 Q. You -- the -- you got a degree at Cal?

23 A. I did.

24 Q. If you missed a class, did the school call you and say
25 where were you?

1 in?

2 A. Physically.

3 Q. And you conducted surveillance outside of Tri-Valley
4 University up to that point; is that correct?

5 A. I had.

6 Q. And you were choosing times where classes were supposed to
7 be held; is that correct?

8 A. Yes.

9 Q. Did you ever see any students come and go carrying
10 backpacks, anything like that?

11 A. There were people coming and going. I wouldn't
12 characterize them as appearing to be students.

13 Q. You followed up with Dr. Su about the physical attendance
14 requirement, is that correct, during the interview?

15 A. Yes.

16 Q. What did she say next?

17 A. We covered a lot of topics during her interview.

18 Q. About the physical attendance requirement, she initially
19 gave you the answer you just spoke about. Did that
20 subsequently change?

21 A. Yes. When I informed her that agents had been conducting
22 surveillance outside of her school, she changed her answer
23 about whether or not Tri-Valley students were physically
24 attending at the Tri-Valley campus, and she explained that
25 physical attendance was occurring online, that students were

1 physically somewhere when they were logging in.

2 So she considered that physical attendance, and she also
3 stated that students had the option of coming to class or
4 taking their classes on campus if they wanted to. So because
5 of that, she characterized her classes as physical.

6 Q. That was after you had informed her of your knowledge
7 regarding the surveillance; correct?

8 A. Yes.

9 Q. Mr. Babcock asked you also about the articulation
10 agreements. During your investigation through the evidence
11 that's been admitted at trial, you're aware that SEVP
12 specifically requested articulation agreements from Dr. Su;
13 correct?

14 A. They did.

15 Q. And you've seen the letter where she sends them to SEVP;
16 correct?

17 A. Yes.

18 Q. My final question has to do with Mr. Babcock's question
19 about the regs not being attached to the I-17. Can you tell
20 the jury, aside from referencing the regs, what other kind of
21 training can somebody like Dr. Su do in order to learn these
22 regs? Actually, let me rephrase my question.

23 Does a DSO have to take any training in order to become a
24 DSO?

25 A. Yes.

1 A. My first -- first time I became aware was when two agents
2 came to my office in Orlando, and they showed me an agreement
3 that was supposedly between Tri-Valley and the University of
4 Central Florida, and that was the first time I became aware.

5 Q. Okay. Have you had an opportunity to determine whether UCF
6 actually entered into a real articulation agreement with
7 Tri-Valley University?

8 A. I have.

9 Q. How did you determine that?

10 A. Well, I looked at the agreement they presented to me, and I
11 can tell just on the basis of how it was formatted and the
12 signatures that it was not a legitimate agreement. There was
13 no approval by the dean, no approval by the vice president for
14 student development. There was no stamp from our office that
15 one of our attorneys had reviewed the agreement. So -- and
16 then it was not signed by our president. So I knew it was not
17 a real agreement.

18 Q. Did you take any steps to determine whether UCF had ever
19 entered into an articulation agreement properly with
20 Tri-Valley?

21 A. I did. I did two things. One, we have an electronic log
22 of every contract that comes through our office, and so I had
23 my administrative assistant go through that log, did a key word
24 search and some other searches for Tri-Valley University, and
25 there were no contracts in our database for Tri-Valley.

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VISHAL DASA,

Called as a witness by the Government, having been duly sworn,
testified as follows:

DIRECT EXAMINATION

BY MR. RHYNE:

Q. Good morning.

A. Good morning.

Q. Can you please summarize your educational background.

A. I'm a registered pharmacist back from India. I have
completed my Bachelor of Pharmacy.

Q. Where did you go to school in India?

A. Bharat Institute of Technology, Hyderabad, Andhra Pradesh,
India.

Q. Can you spell the school for the court reporter?

A. Sure. It's B-h-a-r-a-t. Bharat. Technology,
T-e-c-h-n-o-l-o-g-y. Technology.

Q. Are you currently employed?

A. Yes.

Q. Where do you work?

A. I work at eHarmony.com.

Q. Whereabouts?

A. I'm sorry?

Q. In what -- in what city?

A. It's in Santa Monica, California.

THE COURT: Did you say eHarmony?

1 A. Sure.

2 Q. Can you tell the jury your immigration history beginning
3 when you first entered the United States?

4 A. Sure. I -- I entered the United States on an F-1 visa, and
5 I studied at Antioch University in Santa Barbara, California.
6 I came on -- I came to the U.S. to study initially on MA for
7 Organizational Psychology. I completed my semester. Then I
8 made -- took a transfer to International Technological
9 University.

10 Q. What year did you come into the United States to study at
11 Antioch University?

12 A. October 2008.

13 Q. Okay. And then you said you transferred from there?

14 A. Yes.

15 Q. Where did you transfer?

16 A. I transferred to International Technological University,
17 which was in Sunnyvale, California.

18 (Court reporter clarification.)

19 THE WITNESS: Sunnyvale, California.

20 BY MR. RHYNE:

21 Q. What did you study there?

22 A. MS in Healthcare Management.

23 Q. You said MS in Healthcare Management?

24 A. Master of Science in Healthcare Management.

25 Q. How long did you stay at ITU?

1 A. For two semesters.

2 Q. Okay. Where did you go after that?

3 A. I went to Tri-Valley University.

4 Q. Did you go anywhere between leaving ITU and Tri-Valley
5 University?

6 A. Yes. I went to India. I took a summer of vacation. I
7 went to India, and I came back and joined Tri-Valley
8 University.

9 Q. Okay. Do you know what your immigration status was when
10 you were traveling to India?

11 A. Yes. It was an F-1.

12 Q. From which school?

13 A. From ITU.

14 Q. Okay. And then when you came back from India, you started
15 at Tri-Valley University; is that correct?

16 A. Yes.

17 Q. Okay. I want to talk about Tri-Valley University now. I
18 want to direct your attention to the fall of 2009.

19 A. Okay.

20 Q. Is that about when you first contacted Tri-Valley
21 University?

22 A. Yes.

23 Q. Okay. How did you hear about Tri-Valley University?

24 A. After I come back to United States, one of my friends --
25 her name is Harman Jeet Kaur.

1 Q. Can you spell that name for the court reporter?

2 A. H-e -- I don't know the exact spelling, but H-e-r-m-a-n
3 [sic]. J-e-e-t. K-a-u-r.

4 Q. So you heard about the school from this person?

5 A. From -- yes, and she actually told me about this
6 universities. And then after that, I contact -- I e-mailed
7 Tri-Valley University, and I got a reply and an appointment
8 from Susan Su --

9 Q. Okay.

10 A. -- to come to the university and meet her on September 4th.

11 Q. Okay. I want to back up a little bit. Before you went to
12 Tri-Valley University and before you spoke with Dr. Su, did you
13 research Tri-Valley University?

14 A. Yes, I did.

15 Q. How did you research it?

16 A. After listening from Harman Jeet, I went to Tri-Valley
17 University's web page, and I looked for it in, I believe, a
18 random way, and I saw that the university was accredited. I
19 saw they had an MS in Healthcare Management course available.

20 Q. Did you have an opportunity to look at the faculty that was
21 listed?

22 A. Yes, I did, and all of the faculty names right next to the
23 courses were, like, all of them having doctorates and high
24 professional degrees.

25 Q. Did you have an opportunity to see how much it charged per

1 semester?

2 A. No.

3 Q. Okay. Did you later learn that?

4 A. Yes.

5 Q. And how did that -- how did the fees at Tri-Valley compare
6 to the fees at your prior school?

7 A. Compared to International Technological University, it was
8 a thousand dollars less than compared to International
9 Technological University.

10 Q. Okay. Now, you stated you called, and you spoke to Dr. Su;
11 is that correct?

12 A. Yes.

13 Q. I want to talk about that phone call.

14 How do you know it was Dr. Su?

15 A. I don't know about her. I called her, and then later on, I
16 came to know that she was the president of the university
17 because I've seen her name at the time on the web page stating,
18 "Dr. Susan Su, President of Tri-Valley University."

19 Q. Did she tell you she was the president?

20 A. When I met her in person, yes, she did.

21 Q. Okay. How was the school described to you during the phone
22 conversation?

23 A. She didn't describe anything on -- while I was talking on
24 the phone.

25 Q. Did you ask whether they offered a degree in your area?

1 A. When she was making -- taking me on a tour of the
2 classrooms, she did mention -- saying students would be coming
3 over there and taking physical classes.

4 Q. After this tour, did you make a decision on whether you
5 were going to transfer to Tri-Valley University?

6 A. Yes, I did make a -- made a decision to join Tri-Valley
7 University.

8 Q. Okay. Now, after this visit, you had some e-mail
9 correspondence with Dr. Su; is that correct?

10 A. Yes.

11 Q. Were you employed at the time?

12 A. No.

13 Q. Did you want to be employed?

14 A. I was looking for an on-campus job at that time.

15 Q. Can you summarize the nature of those e-mails with Dr. Su?

16 A. On the day when I met -- I was asking her, "Are there any
17 on-campus jobs available or not?"

18 Then she said, "As of that time, there are no on-campus
19 jobs available," and she said she would let me know when
20 that -- any jobs available.

21 Q. Okay. So I want to move forward now, and I want to talk
22 about -- you had another visit to Tri-Valley University; is
23 that correct?

24 A. Yes.

25 Q. Okay. Approximately how much later did you go back to

1 And so counsel normally stand up when I come in here. I
2 don't ask them to, but it's our practice here when the jury
3 enters and leaves the courtroom for everyone to stand up. It's
4 just the way folks -- folks view your role.

5 So please -- I don't -- I can't know that you're waiting
6 for me, but it looks like you might be. So please don't do
7 that.

8 Mr. Rhyne?

9 MR. RHYNE: Thank you, your Honor.

10 BY MR. RHYNE:

11 Q. Mr. Dasa, when we left off, we were talking about fall of
12 2009. I want to pick up there.

13 At some point during the fall of 2009, did you sign up for
14 classes at Tri-Valley University?

15 A. Yes, I did.

16 Q. How did you pay for those classes?

17 A. I -- excuse me. My uncle actually made a wire transfer to
18 the university account, and the first transaction he made was
19 that thousand dollars on September 11th.

20 Q. After that transfer, did you get anything from Tri-Valley
21 University?

22 A. Yes.

23 Q. What did you get?

24 A. I got my fee payment receipt along with my continued
25 attendance I-20 showing that --

1 Q. When --

2 A. -- I registered for the classes.

3 MR. RHYNE: Your Honor, may I approach the witness?

4 THE COURT: You may.

5 MR. RHYNE: 479.

6 (Government's Exhibit 479 marked for identification.)

7 BY MR. RHYNE:

8 Q. Mr. Dasa, I'm going to hand you an exhibit that's been
9 marked Exhibit 479 for identification. I'll just ask you to
10 take a look at it.

11 Do you recognize those documents?

12 A. Yes.

13 Q. What are they?

14 A. Admission letter, my fee payment invoice, my good standing
15 letter, and my address DMV verification letter, the results of
16 my invoice, which shows that I registered for these courses.

17 Q. Did you get those documents from Tri-Valley University?

18 A. Yes, I did.

19 Q. Did you give them to any member of the Government in this
20 case?

21 A. Yes, I did.

22 Q. Who did you give them to?

23 A. Jason Mackey.

24 Q. Do those documents look like they looked when you got them
25 from Tri-Valley University?

1 A. Yes.

2 MR. RHYNE: Can we go to the next page, and can we,
3 just starting with the box with his name, go all the way down
4 to the signature block at the bottom, please.

5 Thank you.

6 BY MR. RHYNE:

7 Q. Are these the classes that you registered for initially?

8 A. Yes.

9 Q. I want to talk about what happened after you registered for
10 these classes. Did you ever receive a schedule from the school
11 about when these classes would take place?

12 A. No.

13 Q. Did you ever receive any information about who your
14 professors would be?

15 A. No.

16 Q. Did you ever receive any information about when the start
17 of instruction would be?

18 A. She used to send me an e-mail. As soon as the classes
19 would begin, she would let me know.

20 Q. At some point, did you call to inquire about the status of
21 these classes that you had enrolled in?

22 A. Yes.

23 Q. Who did you call?

24 A. I called Tri-Valley University, and Susan Su answered the
25 call.

1 Q. Okay. What did you ask her?

2 A. I asked her, like, when are the classes would begin from.

3 Q. And what did she say?

4 A. She said she would get back to me.

5 Q. Did you ask her about the status of what your grades would
6 be?

7 A. No.

8 Q. Was there any discussion about what your grades would be in
9 these classes?

10 A. No.

11 Q. Would there later be a discussion about what your grades
12 would be in these classes?

13 A. There was no discussion, but finally, I received a
14 transcript from Susan Su, and I got A, A, A-minus.

15 Q. Did you continue to ask Dr. Su about when these classes
16 would start throughout that semester?

17 A. I asked a couple of times.

18 Q. Okay. Did you stay enrolled in these classes?

19 A. Yes.

20 Q. Okay. Was there any attempt to enroll you in some other
21 classes?

22 A. Yes.

23 Q. Can you tell the jury about that?

24 A. So back in September, like, I -- after I registered for my
25 classes, I e-mailed her, and one day she replied back to me

1 A. Yes.

2 Q. In the School of Medicine business; correct?

3 A. Yes.

4 Q. And here, we have some indications that some prior classes
5 had transferred; is that correct?

6 A. Yes.

7 Q. This says from Antioch?

8 A. Yes.

9 Q. And also from ITU?

10 A. From ITU, I only studied the first three. I didn't do CEN
11 and SEN subjects.

12 Q. Okay. So the bottom two, you didn't actually complete?

13 A. I didn't register those at International Technological
14 University at any time. I don't know how it got added.

15 Q. Okay. I want to go down to the -- do you see the fall of
16 2009?

17 A. Yes.

18 Q. You received grades in those classes, you mentioned
19 earlier?

20 A. Yes.

21 Q. And that was A, A, A-minus; correct?

22 A. Yes, but there's a different subject than -- compared to
23 what I registered.

24 Q. Explain that.

25 A. I never -- like, Susan Su added two of the classes, which

1 were, like, Database Management and Human Resource Management,
2 which -- I never opted for those, but you can see the third
3 subject is Human Resources Management, which -- I never
4 enrolled for that course at all.

5 Q. I want to talk about the computer science classes that she
6 said you were going to be auditing. Did she tell you why you
7 needed to audit those classes and not take the classes that you
8 signed up for?

9 A. She did mention in the e-mail saying for Healthcare
10 Management -- that only less than five students enroll. That's
11 the reason why she's making me enroll for those classes.

12 Q. Okay. Did you try to log into the computer science
13 classes?

14 A. Yes, I did.

15 Q. What happened when you tried to log into those classes?

16 A. Obviously, I'm a healthcare management guy. So when I
17 logged into classes, everything was looking new to me. So I
18 e-mailed back to her saying I couldn't able to do anything nor
19 understand the subjects.

20 Q. And that's when she told you you're just auditing?

21 A. Yes.

22 Q. I want to move forward now to the spring of 2010.

23 A. Okay.

24 Q. Did you have any more discussions with Dr. Su about
25 classes -- having classes?

1 A. I had only a few times before I got the grades, but once I
2 got the grades, I never discussed about that.

3 Q. Okay. Did you have a discussion with her about what you
4 would do during the spring semester?

5 A. No. Actually, when I met Dr. Susan Su early -- first or
6 second week of January, as soon as I'm over there, she told me
7 that I can take a break in the spring semester.

8 Q. Okay. I want to talk about that. Tell me about that
9 conversation.

10 A. So I went along with my friend, and my friend was asking
11 courses, and then when it -- when I started talking to her, she
12 told that I can take a break for that semester, and even I was
13 happy for that because there's no need for me to pay the
14 tuition fees for that semester.

15 Q. Okay. What was your immigration status during the spring
16 of 2000 --

17 A. F-1 visa. F-1 student visa.

18 Q. Let me finish my question.

19 That's the spring of 2010; correct?

20 A. Yes.

21 Q. And the F-1 visa was for Tri-Valley University?

22 A. Yes.

23 Q. And that was after Dr. Su told you you didn't have to take
24 classes that semester?

25 A. Yes.

1 Q. What did you do instead that semester?

2 A. She offered me an on-campus job. So I started working at
3 Tri-Valley University in that semester.

4 Q. Now, I just want to talk generally. You worked different
5 time frames at Tri-Valley University; correct?

6 A. Yes.

7 Q. Approximately how many different periods of employment did
8 you have at Tri-Valley University?

9 A. Three.

10 Q. And we'll talk about those in a little while, but I want to
11 talk about how your position started there.

12 Did Dr. Su offer you the employment?

13 A. Yes.

14 Q. Did she tell you how much you would make?

15 A. She told me I'll be getting paid \$10 an hour.

16 Q. Are you familiar with the term "Assistant to the
17 President"?

18 A. Not when I was joining, but later on I came to know about
19 it.

20 Q. What was that? What was that job title? Who had that job
21 title?

22 A. Susan Su told me to put that title when I'm trying to send
23 the e-mails.

24 Q. So you would send e-mails with that job title?

25 A. Yes.

1 Q. What were some of your initial duties when you started
2 working at Tri-Valley University?

3 A. At the beginning, I used to answer the phone calls and
4 reply back to the e-mails and register a few of the students.

5 Q. Would calls and e-mails normally be questions from
6 students?

7 A. Yes.

8 Q. I want to talk about any instruction or training that you
9 received on how to perform your duties at Tri-Valley
10 University. Did you receive instruction and training from
11 anyone?

12 A. Yes.

13 Q. Who trained you and instructed you?

14 A. Susan Su and Parth Patel.

15 Q. That was Parth Patel?

16 A. Yes.

17 Q. As you continued to work at Tri-Valley University, did you
18 take on additional jobs? Did you handle other things besides
19 just answering the phone?

20 A. Yes.

21 Q. Okay. Are you familiar with the term "SEVIS"?

22 A. Yes.

23 Q. And the SEVIS database?

24 A. Not at the beginning when I joined, but later on, I came to
25 know.

1 Q. Okay. And did you receive training on how to operate
2 SEVIS?

3 A. Yes.

4 Q. Who trained you?

5 A. Susan Su and also Parth Patel.

6 Q. Did Dr. Su provide you any information or training about
7 what addresses to enter into SEVIS?

8 A. Yes.

9 Q. What did she tell you?

10 A. If a student was not providing any address while applying
11 to Tri-Valley University, the student who got enrolled into CPT
12 and is working at some other -- apart from California, I should
13 use the California address, which was listed in that manual.

14 Q. Okay. What do you mean "manual"?

15 A. There was a -- they gave me a manual, which was created by
16 Parth Patel and other folks, which was having the California
17 address, which I needed to copy and paste into the SEVIS.

18 Q. And how did that address in the manual -- was that the same
19 address that Dr. Susan Su told you to enter as well?

20 A. Yes.

21 Q. Do you remember what that address was?

22 A. 555 East El Camino Real, Sunnyvale, California. There was
23 some apartment number. I don't remember.

24 Q. Did you ever receive any training or hear Dr. Su talk about
25 the Tri-Valley University admissions process?

1 A. Always -- not particularly, but every time she used to
2 scream at me, and she used to tell, like, I should process an
3 application as soon as possible.

4 Q. Did she tell you about whether any students should or
5 should not get into the school?

6 A. I haven't seen any student not getting an admission at
7 Tri-Valley.

8 Q. Did you hear Dr. Su give people instructions on who to
9 admit?

10 A. We used to admit all the students.

11 Q. Why?

12 A. Because it was from Susan Su. She told us to do that.

13 Q. She -- did you ever request additional information from
14 applicants that were applying to Tri-Valley University?

15 A. Yes, I did.

16 Q. How would you request that information?

17 A. There is an application requirement which has -- like, the
18 basic requirements is passport, visa, previous I-20's, and
19 other financial information. But when I requested the
20 students, she actually yelled at me, and she said what those
21 students submit, I should process the application even if all
22 the documents are not available.

23 Q. How did she know you were requesting this information?

24 A. Every day when I sent an -- when I sent e-mails to -- when
25 I reply back to the students in the night, she used to verify

1 I want to talk a little bit more about SEVIS. Did you
2 access SEVIS while you were working at Tri-Valley University?

3 A. Yes, I did.

4 Q. On what kind of machine were you working on?

5 A. There were a couple of laptops and one desktop, I guess,
6 one or two desktops.

7 Q. Do you know what the term "designated school official"
8 means?

9 A. Not at the beginning, but later on, I came to know.

10 Q. And you've heard of it referred to as DSO?

11 A. Yes.

12 Q. Do you know who the DSO's at Tri-Valley University were?

13 A. Yes.

14 Q. Who were they?

15 A. Susan Su, Wenchao Wang, and Sophie Su.

16 Q. Explain to me how your day would start. How would you
17 access SEVIS?

18 A. I would come in the morning, and once I'm over there, Susan
19 Su used to -- she used to tell me to grab a laptop. I used to
20 grab a laptop and give it to her. She used to log into some of
21 the sites, and then after logging in, she used to hand the
22 laptop to me.

23 Q. And the site that she was logging into -- was that SEVIS?

24 A. Yes.

25 Q. When you would work in SEVIS, what would you do?

1 A. I'd go back to the e-mails. I'd take the application,
2 documents. I tried to input the student's first name, last
3 name, date of birth, address, course, and financial information
4 and print the I-20.

5 Q. How many I-20's would you say you printed per day?

6 A. An average, like, 15 to 20.

7 Q. What would you do with those I-20's at the end of the day?

8 A. I would print out and give it to Susan -- Susan Su, then
9 she would sign it, and then we were going to mail it. And
10 before that, like, once I create the I-20, I attach those to
11 the student's e-mail and reply back to them saying, "Your I-20
12 has been created."

13 Q. Is it true that the DSO's name is preprinted on the I-20?

14 A. Yes.

15 Q. And that depends on which account you're using; correct?

16 A. Yes.

17 Q. Did you always use the same account?

18 A. No. It was different accounts.

19 Q. When you would take the I-20's to Dr. Su, were they all the
20 same DSO, or were there different names?

21 A. They were all the same DSO's --

22 Q. Did you sign --

23 A. -- on a particular day.

24 Q. On a particular day.

25 Okay. Did you take I-20's to Dr. Su that were in her name?

1 A. Yes.

2 Q. Did you see her sign her name on those I-20's?

3 A. Yes, I did.

4 Q. Did you take I-20's to Dr. Su in the DSO name of Sophie Su?

5 A. Yes, I did.

6 Q. Did you see Dr. Su sign those names?

7 A. Yes.

8 Q. Or those signatures?

9 A. Yes.

10 Q. Whose name would she sign?

11 A. Sophie Su's and Wenchao Wang.

12 Q. So you saw her do the same thing with Wenchao Wang as well?

13 A. Yes.

14 Q. Did you come to learn that you weren't supposed to be
15 accessing SEVIS?

16 A. Yes.

17 Q. What did you do when you learned that -- well, let me ask
18 you this: How did you learn that?

19 A. So one day what happened -- every day, she used to log in
20 and give it to me. One day, the SEVIS logged out, and when
21 I -- when the site got logged out, there was a disclaimer on
22 the site saying only DSO's should be accessing the SEVIS.

23 Q. What did you do at that point?

24 A. At that point, I took the laptop and went back to Susan,
25 and she logged in back and gave it to me.

1 A. Yes.

2 Q. During your time frame working at Tri-Valley University,
3 did you ever see any physical classes?

4 A. No.

5 Q. How often would you see an instructor?

6 A. Twice -- once or twice a month.

7 Q. What was the purpose of the instructor's presence at
8 Tri-Valley University, if you know?

9 A. Couple of them were, like, Ph.D. students at Tri-Valley
10 University. They were coming at the university to get enrolled
11 for the classes, and that's how I met them.

12 Q. Were these also F-1 students?

13 A. Yes.

14 Q. How did you know they were F-1 students?

15 A. Because I was helping them in order to register their
16 classes, and sometimes they used to come for their paycheck.

17 Q. Did you ever see them sit at the front of a room and start
18 to teach a class?

19 A. No.

20 Q. What about an online class? Did you ever see them get in
21 front of a camera and start teaching an online class?

22 A. At the beginning, there were no classes, but later on there
23 were a couple of online classes.

24 Q. You saw a couple of those?

25 A. Couple of them, yeah.

1 Q. Now, you actually tried to log into some of your classes;
2 is that correct?

3 A. Yes.

4 Q. What would happen when you would log into your classes?

5 A. I see a few of the books attached and materials attached to
6 it, and that's what I've seen. When I was getting bored while
7 I'm working, I used to log in, and I used to go through the PDF
8 documents.

9 Q. How did you log in?

10 A. I used to have my user ID and password. It's -- we need to
11 go onto TVU's admin website where they administer the classes,
12 and that's when I log into -- using my account. I see my
13 classes over there.

14 Q. What else would you see when you would log into these
15 classes? Anything else?

16 A. No, and there would be always a professor's name right next
17 to the course.

18 Q. Would you see the live professor?

19 A. I haven't seen at any time.

20 Q. Did Dr. Su give -- or did you hear Dr. Su give instructions
21 to you or other people that worked in Tri-Valley's office about
22 what to do if a teacher submits grades that have F's for their
23 students?

24 A. I never heard about that, and up to my knowledge, I never,
25 like, college students -- to know a student who got F grade.

1 A. Susan Su.

2 Q. And what percentage of the students' tuition would the
3 referring student get?

4 A. 15 percent and -- plus 5 or 3 percent if the other student
5 refers some other students.

6 Q. So the first student -- if you're at the top, you'd get
7 15 percent for this student; correct?

8 A. Yes.

9 Q. And then if this student refers other students, then 5
10 percent would go up to the top person?

11 A. Yes.

12 MR. RHYNE: Your Honor, may I approach the witness?

13 THE COURT: You may.

14 (Government's Exhibits 477 and 478 marked for
15 identification.)

16 BY MR. RHYNE:

17 Q. Mr. Dasa, I'm going to hand you Exhibit 477 and 478 for
18 identification, and I'll ask you to look at Exhibit 477 first.

19 Do you recognize that?

20 A. Yes.

21 Q. What is it?

22 A. It's a referral agreement.

23 Q. Where did you get it?

24 A. From Susan Su.

25 Q. Is that a document you provided to Agent Mackey in this

1 A. Yes.

2 Q. -- of the Tri-Valley --

3 A. Yes.

4 Q. You're referring to this spot right here?

5 A. Yes.

6 Q. Okay. Let me ask you to close that, put that back in the
7 folder there, and look at Exhibit 478.

8 Do you recognize Exhibit 478?

9 A. Yes.

10 MR. RHYNE: You can take that down. Thanks.

11 BY MR. RHYNE:

12 Q. What's Exhibit 478?

13 A. It states that I've got, like, 15-percent referral fees,
14 and it also states that 12 -- like, 12-percent extra bonus for
15 those 12 and for the other students.

16 Q. Is this a receipt for your payments?

17 A. Yes.

18 Q. Okay. You received referral payments?

19 A. Yes.

20 Q. Did you get this from Tri-Valley University?

21 A. Yes.

22 Q. Did you give it to Agent Mackey?

23 A. Yes.

24 Q. Does it look -- if you look at Exhibit 478, does it look
25 like it looked when you got it?

1 A. Yeah.

2 MR. RHYNE: Your Honor, we'd ask that 478 be admitted
3 into evidence.

4 THE COURT: Any objection?

5 MR. BABCOCK: No objection, your Honor.

6 THE COURT: 478 is admitted.

7 (Government's Exhibit 478 received in evidence.)

8 MR. RHYNE: Can we publish Exhibit 478, the first
9 page, please, and can we just start at the top, "Agent Referral
10 Fees," and go down about halfway.

11 Thank you.

12 BY MR. RHYNE:

13 Q. Mr. Dasa, this is the receipt you're referring to?

14 A. Yes.

15 Q. It's for Spring 2010?

16 A. Yes.

17 Q. And it has a referral agreement rate of 15 percent?

18 A. Yes.

19 Q. Has your e-mail address there?

20 A. Yes.

21 Q. A mailing address for a check?

22 A. Yes.

23 Q. Is that your address?

24 A. Yes, that's my address.

25 Q. It was?

1 A. Yes.

2 Q. And as you were working at Tri-Valley University over time,
3 you did some of that; is that correct?

4 A. Yes.

5 Q. And other people in the office were doing that as well; is
6 that correct?

7 A. Yes.

8 Q. And that was against the instructions that Dr. Su had given
9 to you about the referral fees; is that correct?

10 A. Yes.

11 Q. Now, you would also refer walk-in students to other people
12 that you knew; correct?

13 A. Yes.

14 Q. One of those people was Ram Karra?

15 A. Yes.

16 Q. And his name is spelled R-a-m, C-a-r-r-a; correct?

17 A. No. R-a-m, K-a-r-r-a.

18 Q. K-a-r-r-a. I'm sorry.

19 And you would refer those students out so he could get the
20 referral fee; correct?

21 A. Yes, and he told me that he will give me some percentage of
22 it.

23 Q. He, in fact, gave you something in return for that; is that
24 correct?

25 A. He just gave me a cell phone.

1 Q. What kind of phone?

2 A. iPhone.

3 Q. You also passed along some walk-in students to somebody
4 named Golla; is that correct?

5 A. Yes.

6 Q. Who is that?

7 A. He was a student at Tri-Valley University.

8 Q. Okay. How do you spell his name?

9 A. Hari, H-a-r-i. His middle name is B, and Golla is his last
10 name, G-o-l-l-a.

11 Q. And he got referral fees for those students; is that
12 correct?

13 A. Yes.

14 Q. Even though they were walk-in students?

15 A. Yes.

16 Q. You also received extra payments for some other things you
17 did at Tri-Valley University; is that correct?

18 A. Yes.

19 Q. Would you -- did you ever expedite referred students'
20 application fees, speed them up?

21 A. Hari Golla actually used to message to myself saying that
22 if I give a high priority to his applications, then he will
23 give me some money, and he gave me a thousand dollars for it.

24 Q. What was Dr. Su paying you at this point?

25 A. She was paying about, like -- it was depending on the

1 number of days when I worked over there. So it was about 1500
2 to \$1800 per month.

3 Q. Okay. And how many days a week were you working?

4 A. At that time, I used to work five days a week, and I used
5 to work, like, more than -- like, about 12 hours a day. Not
6 every day I used to work 12 hours. It would -- like, ten to
7 12 hours.

8 Q. Did Dr. Su find out that you were referring these students
9 and breaking some of these rules?

10 A. Yes.

11 Q. What did she do?

12 A. Actually, for the second time when I joined, she came to
13 know in the month of May, and we had a very bad argument, and I
14 left the university. I left the job, and she was telling me to
15 go off.

16 Then later on, I started coming to the university for my
17 friend's -- friend's I-20's and other admission documents. She
18 actually took me aside, and she asked me what happened, why I
19 was doing that. And I told her -- saying it was Ramakrishna
20 Karra who made me do all these, and he told me that he will pay
21 a percentage, and that's how I got involved in it. And then
22 later on when -- after I told her everything, she rehired me.

23 Q. I want to jump back to -- to one question I asked you
24 earlier.

25 MR. RHYNE: Your Honor, may I approach the witness?

1 Q. Is that why you transferred to ITU?

2 A. That's one of the reasons, but the major reason was --

3 like, at Antioch University, I was doing MA in Organizational

4 Psychology because I'm from a science background. I've done my

5 Bachelor of Pharmacy. I wanted to do my Master's in Healthcare

6 Management so that it's related to my course of study. That's

7 the reason why I transferred to International Technological

8 University.

9 Q. And Antioch did not offer the program you were interested
10 in?

11 A. They were not offering me that.

12 Q. Okay. But I'm curious. Why did you go to Antioch in the
13 first place if it didn't offer a program you were interested
14 in?

15 A. I was -- at the beginning, I was interested to do some
16 organizational psychology stuff, but later on, I think, like,
17 healthcare management would be more, like, closer to my
18 professional Bachelor of Pharmacy degree than organizational
19 psychology because psychology is completely different.

20 Q. Okay. When you -- so you registered in September of 2009
21 for -- strike that.

22 I meant to ask and forgot: The ITU -- did ITU offer -- so
23 ITU did offer courses that you were interested in studying?

24 A. Yes. They were having an MS in Healthcare Management.

25 Q. And isn't it true one of the main reasons, if not the

1 A. When I went there, I see a large room in the building, what
2 I saw on the website the day I was in India when I did research
3 for that, and I told her I saw some pictures of the university.
4 So that's the same building I had seen there when I went.

5 And after getting into the room, it's a very big room. In
6 one corner of the room, a person was busy having three lines in
7 front of her and taking calls, and when I asked Keerthana, she
8 told me that she was Susan Su, Director of the Tri-Valley
9 University. And then on the other side of the room, I see two
10 people, one girl and then a boy. They were assisting the
11 people who were coming to the -- to the university.

12 Q. What do you mean "assisting people"?

13 A. If anybody wants to -- if new-coming students who want to
14 pay the fee or if they need an ID card or that information,
15 they will help the student then.

16 Q. Now, what you saw when you arrived, was that what you
17 expected?

18 A. No.

19 Q. Why not? How was it different?

20 A. In -- when I was in India when doing my Bachelor's, like --
21 I've done my Bachelor's in Andhra University. So it was a huge
22 university, and when I was coming to the United States, I
23 expected more than that. I expected a huge building, like,
24 with a lot of students and offices, and I expected a different
25 thing than what I had seen on that day.

1 A. After paying some amount at the university, I went back to
2 my home, and after a couple of weeks, I got a link for
3 registration of the courses, and at that time I -- I'm able to
4 see the -- see the link -- see the e-mail provided with the
5 date and the time of the class.

6 Q. Okay. And did you find out whether that class was online
7 or in person?

8 A. It's online.

9 Q. All right. Did you find out whether there were any
10 physical classes that semester?

11 A. No.

12 Q. Let me try that question again.

13 Did you learn one way or another whether there were going
14 to be physical classes that semester?

15 A. On that day when I was at the university as per our
16 conversation, I came to know that there would be in-person
17 classes for that semester.

18 Q. And did you later find out whether that was true?

19 A. Later that -- I found out that there would be no in-person
20 classes also for the second semester, too.

21 Q. Did you ever try to log into the online classes for that
22 second semester?

23 A. Yes.

24 Q. What happened when you tried to log in?

25 A. In the second semester when I tried to log in, I can just

1 see the -- regarding a "Play" button and some -- some -- I
2 don't know whether those were student names or professors'
3 names. I can see some names listed on the left side of the web
4 page.

5 Q. Okay. So you saw a list of names on the side?

6 A. Yes.

7 Q. And you saw a window with a "Play" button?

8 A. Yes.

9 Q. Did you press "Play"?

10 A. Yeah.

11 Q. And what happened?

12 A. After -- after I started playing the recording, I thought
13 there was, like, a professor who was teaching the students
14 because that's the first time I'm taking the online -- online
15 course, and I don't have that option in India.

16 Q. So --

17 A. So --

18 Q. So you thought there was an instructor there?

19 A. Yes.

20 Q. Did you find -- did you do anything to find out whether
21 that was correct?

22 A. I just -- I just tried to say, "Hello? Hello?" for a
23 couple of times, and I did not get any response, and then I
24 came to know that it's just a recording. There was no
25 instructor.

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CERTIFICATE OF OFFICIAL REPORTER

I, James C. Pence, Federal Official Realtime Court Reporter, in and for the United States District Court for the Northern District of California, do hereby certify that pursuant to Section 753, Title 28, United States Code that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 13th day of June, 2014.



JAMES C. PENCE, RMR, CRR, CSR NO. 13059
FEDERAL OFFICIAL COURT REPORTER

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
BEFORE THE HONORABLE JON S. TIGAR

UNITED STATES OF AMERICA,)
) Volume 6
Plaintiff,) Pages 928 - 1123
)
VS.) NO. 11-00288 JST
)
SUSAN XIAO-PING SU,)
) San Francisco, California
Defendant.) Wednesday, March 12, 2014
) 8:34 a.m.

TRANSCRIPT OF COURT PROCEEDINGS

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Official Court Reporter - U.S. District Court
Computerized Transcription By Case CATalyst

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Wednesday, March 12, 2014 - Volume 6

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1 A. It's a Tri-Valley University fee receipt.

2 Q. For Rajiv Batra?

3 A. Yes.

4 Q. Same courses?

5 A. Correct.

6 Q. And does this reflect that a thousand dollars had been paid
7 on that day?

8 A. Yes, it does.

9 Q. Now, were you involved in a ruse call at some point?

10 A. Yes, I was.

11 Q. I want to direct your attention to September 20th, 2010.
12 Do you have that date in mind?

13 A. I do.

14 Q. What happened on that day?

15 A. That day, myself and Agent Mackey conducted a surveillance
16 at the Tri-Valley University campus. We waited for Ms. Su to
17 arrive in her vehicle, which we were familiar with at this
18 point. Upon her arrival, we placed a ruse phone call to the
19 Tri-Valley office.

20 Q. Okay. And roughly what time of day was this?

21 A. This was afternoon, after 4:00 o'clock, I believe.

22 Q. Was it light outside?

23 A. It was still light, yes.

24 Q. Okay. So you were able to see what was going on?

25 A. Yes.

1 Q. And I'm sorry. You said you saw Dr. Su arrive?

2 A. Yes, we did.

3 Q. How did she arrive?

4 A. In her red Mercedes.

5 Q. How did you decide what numbers to call or what number to
6 call?

7 A. We picked the numbers off the Tri-Valley website, the
8 contact numbers, and began randomly dialing -- dialing them.

9 Q. Did you ultimately reach anyone?

10 A. Yes.

11 Q. Who did you reach?

12 A. Initially, a female voice answered the phone. I wasn't
13 aware of who that person was.

14 Q. Did you identify yourself in some way?

15 A. I identified myself as Officer Taylor from the airport.

16 Q. And did you ask to speak with anyone in particular?

17 A. I asked to speak with a DSO.

18 Q. Did somebody else then get on the phone?

19 A. Yes.

20 Q. And how did that person identify themselves?

21 A. It was Dr. Su.

22 Q. Did you recognize her voice at that point?

23 A. Yes, I did.

24 Q. Can you explain generally what happened?

25 A. Yes. We informed Dr. Su that there was a student that

1 appeared to be a Tri-Valley student that had arrived at the
2 airport without any proper documentation.

3 Q. Which airport?

4 A. San Francisco International Airport.

5 Q. And did you --

6 A. And --

7 Q. -- ask her for anything?

8 A. Yes, we did.

9 Q. What did you ask her for?

10 A. We asked her to provide a letter from the school stating
11 that the identified student was in good standing and a current
12 student. We requested a signed copy of the student's I-20 and
13 current transcripts for the student.

14 Q. And what identifying information did you provide for that
15 student to make sure she was checking for the right person?

16 A. We spelled his name out for her.

17 Q. What was the name?

18 A. Sparsh Agrawat.

19 Q. Did you provide other information besides spelling the
20 name?

21 A. No, I don't believe so.

22 Q. Okay. Did you ask her to do anything?

23 A. We requested her to submit those documents via fax and via
24 e-mail to my e-mail address.

25 Q. Was this call recorded in some way?

1 A. I provided a fax number.

2 Q. I'm sorry. Fax number.

3 What was that fax number?

4 A. (415) 844-5335. That's our office fax.

5 Q. Okay. And what happened after you hung up from that call?

6 A. Agent Mackey and I continued to surveil the location, and
7 we witnessed Ms. Su exit the building and retrieve something
8 from her car and then reenter the building.

9 Q. Okay. At some point, did you get e-mails?

10 A. Yes.

11 Q. About how long after?

12 A. Not too long, maybe ten, 15 minutes.

13 Q. Okay. I'm going to show you Exhibit 206B, which is already
14 in evidence.

15 MR. BABCOCK: Sorry. What number are you getting?

16 MS. WEST: 206B. It's already in.

17 BY MS. WEST:

18 Q. Agent Taylor, is this the e-mail that you received from
19 Dr. Su?

20 A. Yes, it is.

21 Q. September 20th, 2010?

22 A. Yes.

23 Q. And was that your true e-mail address that you provided?

24 A. The e-mail addresses I provided? Yes, it was my DHS e-mail
25 address.

1 that she had a point of contact to go to if she had any issues
2 with students. She seemed to agree to that.

3 Q. Did anything else substantive happen in her office?

4 A. No.

5 Q. Okay. What happened after you were in her office?

6 A. For the brief time we were in her office, we then exited
7 and asked for a tour. She provided us a tour of the campus.

8 Q. Let me ask you about that.

9 How many floors were there?

10 A. Two floors.

11 Q. And did you start on the first floor?

12 A. We did. We were outside her office.

13 Q. What did you see outside the office?

14 A. She took us right outside her main office and showed us an
15 open-space area that contained a screen similar to that, which
16 didn't have anything projected on it, and a few tables and
17 chairs that were lined up.

18 Q. Okay. When you say "similar to that," are you referring to
19 the projection screen?

20 A. Yeah, similar to that projection screen.

21 Q. The one that we've been using to show exhibits?

22 A. Yes. It was affixed to the wall. It was one of the ones
23 you can pull down.

24 Q. Okay. It's just -- on the record, it just says "that." So
25 we need to describe it a little more particularly.

1 After you saw the projection screen and some chairs, what
2 else did you see?

3 A. At that time, Ms. Su identified that as the classroom.

4 Q. Okay. Any other classrooms?

5 A. No. No. We didn't -- we weren't shown any other
6 classrooms during our site visit there. She next showed us her
7 networking closet, wire closet.

8 Q. What is a networking closet?

9 A. It's a room where typically IT equipment is kept, network
10 servers, exchange servers, stuff like that --

11 Q. Okay.

12 A. -- routers.

13 Q. Did you see anything in there?

14 A. We did see some boxes of what appeared to be equipment. I
15 didn't open the boxes. Ms. Su stated something to the effect
16 that there were -- there was an e-mail server in the box, but
17 she was going to have to set up a -- she didn't have the funds
18 at the time.

19 Q. And did she have any explanation for that e-mail server?

20 A. I don't recall off the top of my head.

21 Q. What else did she show you after the networking closet?

22 A. Next, we traversed from Suite -- we were now in Suite 800.
23 She took us to Suite 700 and showed us her staff area where her
24 staff worked.

25 Q. Okay. So are these two areas connected to 800 --

1 A. They are connected.

2 Q. Okay. You have to wait for me to finish asking my question
3 so we don't upset the court reporter.

4 Okay. So they're connected inside?

5 A. Yes.

6 Q. You walked from 800 into 700, and what did you see?

7 A. It was another open room, appeared to be desks on the
8 outsides, and at this time we were introduced to Sophie Su.

9 Q. Okay. Did Susan Su say anything about what that space was
10 used for?

11 A. Yes. She said that this was where her staff worked, and
12 she also identified the back left corner as the TVU library.

13 Q. Can you describe the TVU library?

14 A. It consisted of two bookshelves, which had various books on
15 it, and a single computer.

16 Q. Did you see any staff working in the staff work center?

17 A. We saw what she identified as staff. They were basically
18 standing there waiting to greet us.

19 Q. How many people?

20 A. Two.

21 Q. And you said you met Sophie Su at that point?

22 A. Yes.

23 Q. Did Dr. Su introduce her to you?

24 A. Yes, she did.

25 Q. How did she -- how did she do that?

1 Q. How many chairs?

2 A. There was two chairs. Sorry.

3 Q. Can you explain where the two chairs were situated?

4 A. On the opposite side of Ms. Su's desk.

5 Q. So guest chairs?

6 A. Yes.

7 Q. Okay. Was there a chair behind the desk?

8 A. Yes, there was.

9 Q. And was that the one that Dr. Su was seated in when you met
10 with her?

11 A. Yes.

12 Q. Okay. Did you have an opportunity to -- let me make sure I
13 cover -- was there anything else on the first floor that you
14 saw, or did we cover it?

15 A. That was it.

16 Q. Okay. Did you get a chance to go upstairs?

17 A. I did.

18 Q. What did you see upstairs?

19 A. Ms. Su escorted us to the top of Suite 700, which consisted
20 of three consecutive rooms.

21 Q. What -- what did you see? Can you describe the rooms for
22 us, please.

23 A. The rooms were sparsely furnished. Ms. Su identified them
24 as staff rooms, faculty rooms. In the center room, Ms. Sophie
25 Su was there with a small child.

1 Q. And was that room furnished?

2 A. It was sparsely furnished.

3 Q. What do you mean by that?

4 A. It appeared to be -- it looked to me as if it was a folding
5 picnic table, not an actual desk.

6 Q. Was there a chair?

7 A. Yes, there was a chair.

8 Q. And was Sophie Su in that?

9 A. Yes, she was.

10 Q. By herself?

11 A. In the chair, yes, but again, she had a small child with
12 her.

13 Q. Okay. But by herself in the chair?

14 A. Yes.

15 Q. Okay. What else did you see upstairs?

16 A. That was it.

17 Q. Did you get to see the second floor of Suite 800?

18 A. No.

19 Q. Why not?

20 A. We requested to see it, but she was very insistent that we
21 couldn't go in there for some reason. I believe she stated it
22 was under construction and that they were building some type of
23 student auditorium. I asked a couple times and -- you know,
24 "Can we just go on the steps and take a look?" And it was "No"
25 each time. So we never made it up there.

1 Q. Did she say anything about whether those classes were
2 physical; that is, in-person classes or online?

3 A. We asked her where classes took place, and she said, "At
4 this campus," and then she went kind of off on a tangent
5 saying, "Sometimes the students don't like to drive here. They
6 don't like the traffic." So they project it on the wall, and
7 they can -- the students can watch it in their system.

8 Q. Did you seek any clarification on that?

9 A. Yeah, we did ask her to clarify. I think we -- it was
10 myself that said, "When classes are held, they're held at this
11 location?"

12 And she said, "Yes."

13 Q. Did she say anything about what days or what times the
14 classes were offered?

15 A. Yeah. She said the classes were offered from 5:30 to 8:30,
16 I believe, Monday through Saturday. And we asked her if there
17 was classes that evening, and she said, "Yes."

18 Q. Was there any discussion as to requirements for attendance?

19 A. We did ask her if the DSO's reviewed attendance records,
20 who kept track of attendance, and she initially said it was the
21 instructors' job to do that. And then we asked her, "Do DSO's
22 review those, seeing as how they're responsible for the
23 students' attendance?"

24 And she said, "Yes."


25 Q. Was there any question posed to her about the regulations

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CERTIFICATE OF OFFICIAL REPORTER

I, James C. Pence, Federal Official Realtime Court Reporter, in and for the United States District Court for the Northern District of California, do hereby certify that pursuant to Section 753, Title 28, United States Code that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 19th day of June, 2014.



JAMES C. PENCE, RMR, CRR, CSR NO. 13059
FEDERAL OFFICIAL COURT REPORTER

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
BEFORE THE HONORABLE JON S. TIGAR

UNITED STATES OF AMERICA,)
) Volume 7
Plaintiff,) Pages 1124 - 1332
)
VS.) NO. 11-00288 JST
)
SUSAN XIAO-PING SU,)
) San Francisco, California
Defendant.) Thursday, March 13, 2014
) 8:31 a.m.

TRANSCRIPT OF COURT PROCEEDINGS

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Official Court Reporter - U.S. District Court
Computerized Transcription By Case CATalyst

I N D E X

Thursday, March 13, 2014 - Volume 7

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1 Please state your full name and spell your last name.

2 THE WITNESS: Anji Reddy Dirisanala,
3 D-i-r-i-s-a-n-a-l-a.

4 **ANJI REDDY DIRISANALA,**

5 Called as a witness by the Government, having been duly sworn,
6 testified as follows:

7 **DIRECT EXAMINATION**

8 BY MS. WEST:

9 Q. Good morning, Mr. Dirisanala.

10 A. Good morning.

11 Q. Where did you grow up?

12 A. In India.

13 Q. Where are you living now?

14 A. I'm living in Sunnyvale.

15 Q. Why did you come to the United States?

16 A. I came here to do my Master's in Industrial Engineering.

17 Q. Can you tell us about your educational background in India?

18 A. I did my Bachelor's in Automotive Engineering. Then after
19 that, I did -- I worked for two and a half years in Hyundai.
20 Then I came here for doing my Master's.

21 Q. What made you decide to do your Master's?

22 A. Most of my classmates and friends came here to do their
23 Master's. Then they wanted to come here, finish their
24 Master's, then get into a good job. So that's why I came here
25 to do it.

1 Q. Well, that's what your friends did; right?

2 A. Yeah.

3 Q. What made you decide to do that?

4 A. Oh. I came here to finish my Master's and get into some
5 good job to --

6 Q. Did you say H-1?

7 A. H-1.

8 Q. Was making money a factor in your decision to come?

9 A. Yes.

10 Q. Why was money a factor for you?

11 A. I've been supporting my family from the day I finished my
12 Bachelor's, and I'm the only son in my family. So my father is
13 in too many debts. So I took up all the responsibilities. So
14 that's the main factor for me to come here to do Master's, then
15 to earn money here.

16 Q. And was part of your motivation for coming to the United
17 States to get a Master's itself to make money?

18 A. See, the only option I have as a Bachelor's student is only
19 to come as a Master's to the United States. I do not have much
20 experience. So there's nobody to file an H-1 visa for me.
21 That's work regulation here. So for students, it is the only
22 option to come to the United States to do the Master's degree.

23 Q. So you thought an F-1 visa would be your only chance?

24 A. Yes.

25 Q. Now, do you know the defendant in this case, Susan Su?

1 A. Yes.

2 Q. Can you identify her here in the courtroom?

3 A. Yeah. She's sitting there.

4 Q. Are you referring to this table between the two gentlemen?

5 A. Yes.

6 MR. BABCOCK: Stipulate they know each other.

7 BY MS. WEST:

8 Q. How do you know Susan Su?

9 A. Oh, she's the Tri-Valley University president, and I worked
10 in the university along with her for three months in that
11 office.

12 Q. When you first came to the United States, did you -- excuse
13 me. Did you go to Tri-Valley University or someplace else?

14 A. No. I actually got a visa to attend International
15 Technological University in Sunnyvale. So -- but I didn't join
16 the university due to financial issues, and I'm not able to get
17 some part-time job in -- like, a campus job in the college.
18 Then I was -- I told through my friends to join that Tri-Valley
19 University. That's my second option going there.

20 Q. All right. I want to talk about how you came to learn
21 about Tri-Valley University. You mentioned it was through a
22 friend. What was -- or how did Tri-Valley University first
23 come up for you?

24 A. I was waiting in the ITU university. Then I met an Indian
25 guy named -- the name of Vandesh. Then he told me there is one

1 university in Pleasanton, but he didn't give me much details,
2 but he told me through his friend he would give me an
3 admission, and he would talk to the university president so I
4 can -- that he can give me a campus job. So --

5 Q. Let me stop you for a moment, please.

6 Was the campus job important to you?

7 A. Yes, the campus job was important to me.

8 Q. Why?

9 A. Because I have to support myself to pay the fee, and if
10 there is some money remaining, I need to send it to India to
11 support my family.

12 Q. How much money did you have when you came to the United
13 States?

14 A. When I enter first entered the United States, I had around
15 \$30.

16 Q. And why couldn't you work while at ITU?

17 A. Can you repeat it?

18 Q. Why could you not work at ITU?

19 A. Oh. ITU University -- they are full with all the students,
20 and they do not have much jobs available there. So they said
21 they can only try to give me a campus job the next semester.

22 Q. And would that work for you?

23 A. No. I thought -- no. I need to work somewhere in, like, a
24 legal job to make money. So that was my option, to look up
25 something else who can offer me a job.

1 THE COURT: Mr. Dirisanala, that pitcher there is
2 water, and it's there for you if you get thirsty.

3 THE WITNESS: Yes.

4 BY MS. WEST:

5 Q. So then you heard about Tri-Valley University and the
6 possibility of a job there; is that correct?

7 A. Yes.

8 Q. Okay. And did you follow up on that?

9 A. No. Van -- he referred me to a person by the name of
10 Vishal. So Vishal confirmed it to me if that -- he talked with
11 the university president, and they are ready to give me a
12 campus job if I move into that university.

13 Q. So you actually had a direct conversation with Vishal?

14 A. Yes.

15 Q. After he told you that you could get a campus job if you
16 switched to that university, what did you do?

17 A. So I send my documents to Vishal, and he give me -- he came
18 to my house, and he gave me the admission letter and the
19 initial I-20 to transfer to the Tri-Valley University.

20 Q. What documents did you provide to Vishal?

21 A. I gave him my educational documents to get a -- like,
22 documents required for a -- for my education, my certificates,
23 then my passport. I think I gave all the documents required
24 for --

25 Q. And then you received an admission letter?

1 Q. But why did your brother-in-law go with you?

2 A. He came with me to pay the fee because I do not have any
3 money. My brother-in-law said he will pay my college fee. So
4 Tri-Valley gave me an option to just pay a thousand dollars at
5 the start. So he came along with me to pay the fee.

6 Q. Did you have any trouble locating Tri-Valley University?

7 A. Yes.

8 Q. Can you describe that to us, please.

9 A. On the website, we saw an address. It's, like, on
10 Stoneridge Avenue. So me and brother-in-law went to Stoneridge
11 Avenue, but we couldn't find it. We researched all the
12 buildings. There's nothing at Tri-Valley University there.

13 Then we took the phone number of Susan Su and called her.
14 She said, "No. Come over here. Our office has moved to Bernal
15 Avenue." Then we later on went to the Bernal Avenue to meet
16 Susan Su.

17 Q. And did you have any trouble finding it then?

18 A. Yeah, because it's, like, a used building. I think -- when
19 I went first, I do not know what kind of -- I was thinking it's
20 a huge university, but I couldn't find where is the university
21 located. So I needed to call her from the parking lot, and she
22 just came out, and she get me to the university, but it was a
23 small room.

24 Q. I'm sorry. You said a small room?

25 A. A small room. She got us to the university admission

1 office.

2 Q. When you got to the admission office, did you have a
3 conversation with Susan Su?

4 A. Yes.

5 Q. What did you talk about?

6 A. Okay. I told her, like, "Okay. This is a problem." And
7 Vishal confirmed it to me that "You are going to give me a
8 campus job if I come to your university."

9 Then she said, "Yeah. Yes." Then she said, "Yes." Then
10 she asked us to pay the fee right away, and we paid a
11 thousand-dollar fee, and she gave the receipt to us. In
12 addition, she also told me, "Okay. You can come over tomorrow.
13 I'm going to give you the job."

14 Q. All right. Let me break that down a little bit, please.

15 After you paid the fee, you said she gave you a receipt?

16 A. Yes.

17 Q. Did she also give you an I-20?

18 A. Yeah, she gave me a register I-20.

19 Q. And did she sign it?

20 A. Yes.

21 Q. Now, did you have any conversation with her about classes?

22 A. Yeah. In the conversation with her -- and I was also
23 imagination [sic] the whole building belongs to Tri-Valley
24 University. The way she told us -- actually, I was sitting
25 next to my brother-in-law, and he asked where are the classes

1 going on.

2 She said, like, "This" -- "these are all the classes where
3 people take classes." So we were on the assumption that the
4 entire rooms there belong to Tri-Valley University.

5 Q. Did you have any conversation with Dr. Su about when the
6 classes would start?

7 A. Oh, I talked with her when other classes were going to
8 start. She said once all the students sign up, it's going to
9 start. So she didn't give me a specific time period, but she
10 said all the classes are going to start once all the people
11 sign up for the classes.

12 Q. Now, how did you know where to go for your campus job?

13 A. Oh, she told me to come over to the same office tomorrow.
14 So I took the -- we have the address over there, the Bernal
15 Avenue address. So I came early morning by 7:30. She didn't
16 tell me the timing -- what time to come since I do not have a
17 car, and my brother-in-law has to go to the office. He dropped
18 me early morning around 7:00 o'clock, 7:30.

19 Q. Was Dr. Su there when you arrived?

20 A. No, she's not there.

21 Q. What time -- or did she arrive?

22 A. She came somewhere around 9:00 o'clock time, around
23 9:00 o'clock.

24 Q. Did you have any conversation with Dr. Su that day about
25 classes?

1 A. Oh, we really didn't have any conversation with her. The
2 moment I came, I started noticing a lot of schoolchildren
3 coming there to all the classrooms there until 7:30. I am
4 there until 9:00 o'clock. I noticed most of the schoolchildren
5 coming there.

6 Q. When you say "schoolchildren," what do you mean?

7 A. Oh, like, maybe, like, five years, six years, seven, like,
8 up to eight years, kids like that, small kids.

9 Q. Five, six, seven years old?

10 A. Something like that, maybe first time -- first-grade,
11 second-grade -- somewhere around that age -- students.

12 Q. Did you discuss that with Dr. Su?

13 A. No, I didn't talk with her about anything the first day. I
14 didn't talk with her about anything.

15 Q. Now, this is -- do you remember what day this was that you
16 went there for your first day of work?

17 A. It was on February 10th, 2010.

18 Q. And was this -- where did this fall in Tri-Valley
19 University's semester, if you know, or trimester?

20 A. I think it's spring or something. I don't what the
21 semesters --

22 Q. Okay.

23 MR. BABCOCK: I'm sorry. I didn't hear any of that.

24 THE COURT: I'm sorry. I didn't hear -- I didn't
25 hear your testimony. Can you say that more loudly?

1 and give it in the evening back to Susan Su.

2 Q. Okay. Do I understand correctly you were supposed to go
3 through the e-mails?

4 A. Go through the e-mails and print all the address of the
5 students.

6 Q. And put everything -- put the address on envelopes?

7 A. Yes.

8 Q. And put I-20's in the envelopes?

9 A. Yes.

10 Q. What time did you leave that day?

11 A. I left evening, around 7:00.

12 Q. So from that first day, February 10th -- do I have that
13 right?

14 A. Yes.

15 Q. How long did you work for Tri-Valley? What was your last
16 day?

17 A. Last day is May 12th.

18 Q. And approximately over that roughly three-month period,
19 approximately how many hours a day did you work?

20 A. Most of the day is Monday to Saturday and some days on
21 Sunday. Most of the days I worked, I used to come to the
22 university around 7:00 o'clock, 7:30 in the morning, and I
23 leave around 6:30 to 7:30 in the evening.

24 Q. From those hours and the days Monday through Saturday,
25 sometimes Sunday, did you ever see somebody -- or do you know

1 Q. Over time, did your job duties expand at Tri-Valley?

2 A. Yes.

3 Q. How did they -- how did they first enlarge?

4 A. First I was printing all the envelopes, addresses, and
5 everything, and then later on I was told by Susan Su that
6 "Okay. I'm going to give you this I-20," and she gave me a
7 laptop, and she started telling me to do the I-20 admission
8 letters and I-20's for the students who wish to transfer into
9 Tri-Valley.

10 Q. Okay. So that was for students transferring in?

11 A. Transferring in.

12 Q. How -- how did you learn how to do that? Did somebody
13 instruct you?

14 A. Yes. Susan Su instructed to me, and she gave me a working
15 manual, what all I should input there in the new I-20.

16 Q. What do you mean "a working manual"?

17 A. Like, a -- there are some steps to be followed in the
18 I-20 -- with creating an I-20 like putting the address, then
19 what is the starting day of the semester and what other funds
20 are available for the student to do their studies and how much
21 is their expenditure in the U.S. and what is the physical
22 address they are staying. So there's some things like this.

23 So everything -- Susan Su gave me a manual, and on it with
24 paper, she gave -- wrote and gave to me the starting and ending
25 of the semester dates I should input in the SEVIS system.

1 Q. Now, how would you know what address to list for the
2 students?

3 A. It was given to me by Susan Su.

4 Q. And was there a particular address?

5 A. Yeah. It is 555 El Camino Real, Sunnyvale.

6 Q. Did she explain to you why to use that address?

7 A. Oh, she told me, like, "This is the address where all the
8 students are going to stay to show that this is the record
9 being maintained by SEVIS," and they need some address in
10 California to show students are living there and they're coming
11 to the Tri-Valley University.

12 Q. Did you know one way or another whether these people were
13 actually staying at 555 El Camino?

14 A. Later on, I came to know that nobody stays in address, and
15 it is just us putting some address there in --

16 MR. BABCOCK: Objection.

17 THE WITNESS: -- in the SEVIS system.

18 MR. BABCOCK: Objection. I'm sorry. Move to strike
19 absent a foundation for the last response.

20 THE COURT: Overruled.

21 BY MS. WEST:

22 Q. How did you come to know that, Mr. Dirisanala?

23 A. Later on, there is a person by the name Samuel Steven who
24 comes to the university often. I have a discussion with him,
25 and I asked him, like, "Who are the people staying at this 555

1 El Camino Real?" Then he told me it was this apartment address
2 he previously lived in in Sunnyvale, and Susan Su is using the
3 address on I-20.

4 MR. BABCOCK: I'm going to renew my objection and
5 move to strike.

6 MS. WEST: Statement of coconspirator.

7 MR. BABCOCK: It's hearsay.

8 THE COURT: The motion will be granted.

9 BY MS. WEST:

10 Q. How did you get the information about student finances to
11 put in the I-20's?

12 A. Okay. Please repeat it.

13 Q. Yes.

14 You mentioned that one of the things that you had to enter
15 into the I-20 was something about the students' money?

16 A. Yes.

17 Q. How did you get that information?

18 A. Oh, there is a fixed amount for all the students. So it
19 was written in the manual that is given to me by Susan Su. So
20 it states that -- put 5,500 for education, 5,000 for
21 expenditure live -- to live, and \$500 for miscellaneous
22 charges. So it come out to be about \$11,000.

23 Q. That's the expenses for the school?

24 A. For the school and for the students to stay in the United
25 States. Basically, it is like -- every student has to give

1 their own financial information when applying for college
2 admission, and everybody has their own financial, like -- okay.
3 I have \$30,000 or \$40,000. That is the amount to be put in the
4 SEVIS system, but Tri-Valley has the same option of following
5 the same amount for all the students.

6 Q. Okay. I want to make sure that we understand what you're
7 saying.

8 All students have their own amount of money that they
9 possess when they're transferring; right?

10 A. Yes.

11 Q. How -- did students convey to you maybe through e-mails or
12 some other way how much money they had?

13 A. Basically, no, because that is a process that students have
14 to do, sending the financial information, but Tri-Valley
15 University doesn't request the students to give financial
16 information. So that --

17 Q. So stop for a moment.

18 How do you actually get that information to put in the
19 I-20, then?

20 A. It was given to me by Susan Su in a working manual to put a
21 particular amount for all the students. I do the I-20's.

22 Q. Now, how do you actually access the I-20 form? Is that
23 through a computer?

24 A. Yeah, through a computer.

25 Q. And were you able to log into the computer and open up the

1 I-20?

2 A. No. Actually, Susan Su carries the laptops always with
3 her, and she logs in the login information and password, and
4 she gives computers to the students -- students and to me also
5 to access the I-20 on the SEVIS system.

6 Q. Okay. So would you actually enter a login ID and password?

7 A. No.

8 Q. That would be done by Susan Su?

9 A. By Susan Su, and sometimes she will ask -- if I am standing
10 next to her, she will say, "Okay. Turn that side. I'm going
11 to enter the details."

12 Q. And then what would she do after she entered that
13 information?

14 A. After she enters the information, I take the laptop and
15 just sit next to her maybe this much distance. She sits here,
16 and I'd be almost sitting next to her because the size of the
17 room is so small, everybody has to sit next to each other.

18 THE COURT: Indicating a distance of not more than
19 three feet for the record.

20 BY MS. WEST:

21 Q. So she would log in, and then she'd hand the computer to
22 you to work on. Is that fair?

23 A. Yes.

24 Q. Okay. Aside from working on the transfer I-20's -- well,
25 actually, let me ask you first: Do you know the name of that

1 they are telling. Just keep on transferring the student."

2 Most of the admissions coming to the university are only
3 transfer students. They're all from different universities.

4 So she told me, "Just don't worry about it. Just keep on
5 giving the I-20's, whether they have it or not."

6 Q. Okay. So that's for transfers; right?

7 A. Yes.

8 Q. Did you ever have a conversation with Dr. Su about whether
9 to admit or deny anyone who was a new applicant, not a
10 transfer?

11 A. No. She told me, "Don't deny anybody. Just put them in
12 place. Immediately do it."

13 Q. Did you --

14 MR. BABCOCK: I'm sorry. I missed that last part.

15 THE WITNESS: Oh. "Whoever applies for admission,
16 give them the admission." There's no denying anyone in the
17 university.

18 BY MS. WEST:

19 Q. Did you ever see any applicants, whether transfer or new
20 admission, who were not already F-1 students?

21 A. Yes.

22 Q. Were there people who were United States citizens?

23 A. I don't think I'd done even one or two citizens. I'm not
24 sure about it. I don't think I did any citizen applications.

25 Q. So who were the non-F-1's?

1 A. Most of the students that got an admission are -- who are
2 H-4 visa -- like, most of the women who come -- if their
3 husband is working as an H-1 visa, they come as an H-4. So
4 they are not supposed to do anything here. So since this
5 university has an option of giving CPT --

6 Q. What is CPT?

7 A. It's credit program training. It's like a permission to
8 work in any company related to the field they're taking.

9 Q. Okay.

10 A. So they got there -- all the students -- like, some
11 students who are on a tourist visa -- there is only -- who come
12 to visit the United States, they're going to apply for an
13 admission, and they are given I-20. Then H-4 -- they are --
14 that's their dependents. Even dependents are given an I-20.

15 Q. All right. So from all of the applicants you saw, you
16 don't remember seeing any citizens; is that right? Yes or no?

17 A. I'm not sure about it --

18 Q. Okay.

19 A. -- but up to my knowledge, I don't think I did, and --
20 because U.S. citizens -- there is no need to do any SEVIS for
21 them. It's just an admission to them.

22 Q. Okay. But I'm talking not just about the I-20 but all of
23 the e-mails. Do you remember doing an admission -- a letter of
24 admission for anybody you did not have to create an I-20 for?

25 A. I don't remember.

1 Philip. See, this system -- how it works is since four DSO's
2 are there and a few people are working in the university,
3 anybody can get any DSO's user ID and their password. One day,
4 I can work on Sophie Su's ID or Susan Su's ID or Wang's ID or
5 Renu Philip's ID. If me or other students work in Renu
6 Philip's ID, then Susan Su signs Renu Philip. If Renu is
7 working on her name, she signs it in the office.

8 Q. Okay. Did you -- you said that you never saw Sophie Su
9 there?

10 A. No, I never saw her.

11 Q. Okay. So I take it that means you never saw Sophie sign
12 her own name?

13 A. Yes.

14 Q. And did you ever see Wenchao Vince Wang sign his own name?

15 A. No.

16 Q. But you did sometimes see Renu Philip sign her own name?

17 A. Yes.

18 Q. Okay. So for -- let's put aside Renu Philip. Did you see
19 Susan Su sign Sophie Su and Wenchao Wang's names?

20 A. Yes.

21 Q. How often?

22 A. Every day.

23 Q. Can you give us a rough number from your three months
24 there?

25 A. I did more than a hundred. It can be very large number of

1 A. I only -- see, I came to know that after I am working for
2 some time. If I don't access the system for a few minutes, it
3 automatically logs off. Then the warning comes on the screen,
4 and it says it is accessible only to the DSO's who are
5 authorized, and it says, "Authorized people are allowed to
6 access this," something like that.

7 Q. Okay. So when you first learned that you weren't allowed
8 to do it was when it timed out and you saw that warning?

9 A. Yes.

10 Q. Did you have a discussion with Susan Su about that?

11 A. Within two -- like, two, three days after I started working
12 on I-20's, I asked her, "Susan, this sign came up. I'm
13 unauthorized to do it."

14 She said, "Don't you worry. I'm the university president.
15 You take just continue doing it. Don't worry."

16 Q. Mr. Dirisanala, did you attend classes while you were
17 working in Tri-Valley's office?

18 A. No, I didn't attend any classes.

19 Q. Why not?

20 A. I'm working in the university. So at -- starting, I was
21 thinking there will be classes. Actually, to be frank, on the
22 first day, I came with the hopes also -- like, to take notes if
23 any classes would go on, anything like that.

24 Q. On your first day?

25 A. On my first day, I came with, like, a notebook. So I was

1 on the assumption classes would go on, but eventually then I
2 thought, "Okay. Maybe it will start within one week or
3 ten days," but the classes didn't start. So I never took any
4 classes there.

5 Q. Did you have any conversation with Susan Su about "Hey, the
6 classes haven't started yet. When are they going to start?"

7 A. The first two or three days, she said that classes are
8 going to start when all the people show up. And within four,
9 five -- like, a week at a time, then it is clear there are no
10 classes.

11 So this university doesn't -- like, all the classrooms are
12 not belonging to this university, only that small room and the
13 next -- one classroom she's renting a few hours a day. So I
14 came to know that, and it is clear. Okay? This is one
15 university where there are no classes.

16 Q. Did you actually see any classes take place at that
17 classroom next door she had rented?

18 A. No. There are no classes at all.

19 Q. Did you ever worry about being here as an F-1 student but
20 not taking classes?

21 A. Yes.

22 Q. Did you ever have a conversation with Susan Su about that?

23 A. Yes. I had a conversation with her that I'm not taking
24 classes. "What will happen?"

25 And she told me, "Since you are working in the university,

1 you don't worry. I'll take care of you."

2 Q. At any point, did you switch your degree program to help in
3 that somehow?

4 A. Yeah. It went on around a month time. Then there are no
5 classes going on. And, like, someone told me, "If you are an
6 F-1 student, it's mandatory for you to take classes. Somebody
7 might check on you any time what you are doing."

8 Then I asked Susan Su in the office. I said, "I'm not
9 taking any classes. So what will happen to me now? I'm really
10 scared."

11 And she said, "Okay." She asked me then, "What degree did
12 you have?"

13 I told her, "Automotive Engineering," and I told her the
14 subject I took.

15 Then she said, "Okay. I already have a Ph.D. in
16 Mechanical. So why don't you shift to Mechanical. Then I will
17 be your professor."

18 Q. That Susan Su would be your professor?

19 A. Yes. And she said, "I will take care of your grades even
20 if you don't take care of" -- "if you don't attend online
21 classes." Then she changed my SEVIS to Mechanical Engineering
22 from Computer Science.

23 Q. Okay. So you just mentioned online classes. You said that
24 there weren't any classes at all. At some point, did there
25 start online classes?

1 A. I have one --

2 Q. I mean for yourself.

3 A. For myself, there's one professor who used to send an
4 e-mail. I showed it to Susan Su. "Susan, this guy is sending
5 me e-mails to attend the class. What do I do?"

6 She said, "Don't worry. Leave it." So that's only one I
7 got an e-mail to attend classes -- for one class.

8 Q. And did you ever even try to log in for that class?

9 A. No, I didn't do it.

10 Q. Why not?

11 A. Because I'm already working from 1:00 -- 7:00 o'clock in
12 the evening, 7:00 o'clock, approximately at that time. So
13 there's no time for me to attend classes or do anything, and in
14 addition, I got assurances from Susan she would take care of
15 me.

16 Q. Did you ever get a transcript --

17 THE COURT: I'm just looking at the transcript, sir.
18 Can you say again what time would you typically start your work
19 day?

20 THE WITNESS: I come around in the morning,
21 7:00 o'clock, and I stay at least up to 6:30, 7:00 o'clock in
22 the evening.

23 THE COURT: Thank you.

24 BY MS. WEST:

25 Q. Did you ever receive a transcript from Tri-Valley?

1 A. At the end of the semester, I received a transcript.

2 Q. How did you receive it?

3 A. On May 17th, when I was interviewed by ICE for the first
4 time, I was a little bit scared, and I went to the university
5 on the 18th requesting for a transfer. Then they give me a
6 transcript for Mechanical Engineering.

7 Q. Who gave you a transcript?

8 A. Susan Su gave me a transcript.

9 Q. Okay. Let me -- let me stop for a second.

10 So this is when? When did this happen?

11 A. On May 18th.

12 Q. Of 2010?

13 A. 2010.

14 Q. Okay. And were you still working for Tri-Valley on that
15 day?

16 A. No. I worked only until May 12th.

17 Q. Okay. So from February to May 18th, you did not receive a
18 transcript; is that right?

19 A. Yes.

20 Q. So did you actually go to Tri-Valley University on
21 May 18th?

22 A. Yes.

23 Q. And did you create your own transcript?

24 A. No. Susan Su typed it and gave it to me.

25 Q. Did you ask her for it?

1 Q. Did you ever see an instructor teaching on a camera?

2 A. No, I never saw any instructor teaching on camera.

3 Q. From -- you mentioned that you received calls from students
4 about no instructor or they can't access the system; is that
5 right?

6 A. Yes.

7 Q. Can you estimate for us, please, about how many of those
8 kinds of calls that you received from students who actually
9 seemed to be trying to attend a class.

10 A. Very few. Very few. Maybe one or two in a day.

11 Q. One or two a day?

12 A. One or two a day.

13 Q. So over the three-month period --

14 A. Yeah.

15 Q. -- can you give us an estimate?

16 A. I would attend, like, ten or 15 people on the phone because
17 the phone keeps on changing to all the people. Something --

18 Q. Okay. So then you received -- you recall maybe ten to 15?

19 A. Ten to 15 people would call me.

20 Q. Did you receive a salary working at Tri-Valley?

21 A. Yes.

22 Q. What was the salary?

23 A. First day when I joined the university, she told me she
24 would pay me a thousand dollars per month.

25 Q. Did you receive a thousand dollars per month?

1 profit off of the FedEx fees; is that right?

2 A. Yes.

3 Q. Was there another way that you found to make money?

4 A. Yeah. I -- in the university, I see a lot of students
5 coming in, and they are referring the students, and they are
6 getting paid money. Like, the first semester -- if a student
7 pays \$2,750, Susan used to write a check to them for \$1,200 for
8 referring the students.

9 Q. A referral fee?

10 A. A referral fee for referring the students to the
11 university.

12 Q. Did you try to do the same thing?

13 A. Yeah. I tried to do the same thing and told Susan, "There
14 are many people calling me. Can I" -- "can I also refer the
15 students and get that \$1,200?"

16 She told, "No. You're already working in the office. You
17 cannot do that."

18 And I said, "Okay." Then I talked with my friend, and I
19 told him, see, there's an option like this. Many people who
20 are all on F-1 status are referring their students -- referring
21 their friends, and they are getting paid \$1,200 per student.
22 Then me and my friend thought, "Okay. She's not going to give
23 out my name, but she can give it on your name."

24 Then my friend contacted Susan Su, and she gave a referral
25 agreement to my friend. He can send the documents for new

1 students, and she will pay him for every student \$1,200 if they
2 pay the fee.

3 Q. Were you going to make money off of that somehow?

4 A. Yes.

5 Q. How?

6 A. Since I was attending phone calls, some people asked me --
7 the phone is always busy. If I am taking one phone call, there
8 will be, like, five or six phone calls waiting on that. So not
9 all calls are returned back to the students. So some people --
10 they state, "I'm going to" -- "I'm trying to get hours. Can
11 you give me your phone number?" And some people -- I give my
12 phone number. So my number works.

13 Some people are, like, "Okay. This guy is working in the
14 university. You can call him day to day." Somehow, they have
15 my number, and some people say, "We want to get into this
16 university."

17 Then I tell them, "Okay. This is my friend. You will call
18 him, he will send you the documents, and he will get admission
19 for you." So there is -- we got new admissions, and then Susan
20 Su pays. I got money off of it.

21 Q. What portion of the referral fee of your friend did you
22 get?

23 A. Most of the money, I got it because I'm only just using my
24 friend as a name there. Most of the monies was based on -- I
25 got at least a thousand dollars per student and around 200 for

1 my friend because he's not doing anything. Everything -- I did
2 it like passing on the number -- passes on the phone number for
3 the admission.

4 Q. About when did you start getting money from referrals?

5 A. February -- somewhere in -- after one month or one and a
6 half month I joined -- after May 15th, I believe.

7 Q. I'm sorry. You said May?

8 A. March. Sorry. After March 15th or something like that.

9 Q. And about how many students did you refer?

10 A. I had through my friend e-mailed -- he forwarded around 35,
11 40 students, and he got paid for 18 to 20 students, referral
12 fee.

13 Q. Okay. So he did not get paid for all of the referrals?

14 A. Yes.

15 Q. So approximately how much money did you make from the
16 referral fees?

17 A. Around 20,000.

18 Q. Did you ever do any work for Susan Su that was not at
19 Tri-Valley University?

20 A. Yes.

21 Q. Can you tell us about that, please.

22 A. One day, Susan Su took me to her mother's house. Me and
23 Susan went to her mother's house and bought all the furniture.
24 Like, she wants to add new tables and computers to the next two
25 rooms she had for a few hours a week, she wants to put a few

1 You just stay out there for one week. You don't come to the
2 office."

3 So I said, "Okay."

4 Q. Now, after that week, did you go back to work at
5 Tri-Valley?

6 A. No, I didn't go back there. She told she was going to call
7 me when I can come back and start working.

8 Q. What happened during that week?

9 A. So within three days, all this simultaneously -- many
10 things happened in two or three days' timing. She told me not
11 to come. I said, "Okay." I'm at home for two days. I didn't
12 go anywhere. Then Ramakrishna came to my house. Usually,
13 Ramakrishna had a car, and he used to take me and Previn
14 somewhere to San Francisco or somewhere just to -- for fun. He
15 takes us --

16 Q. Let me just stop you for a moment.

17 Who is Ramakrishna? Is that another employee?

18 A. No. He's not an employee at Tri-Valley University, but he
19 has a consulting company in India. He recruits students to
20 Tri-Valley University. He has a referral agreement from Susan
21 Su to recruit new students.

22 Q. So he doesn't work in the office, but he would often come
23 there?

24 A. Yes. He doesn't work often -- actually, he comes every day
25 to the university, collects the documents, and go back.

1 Q. Okay. So please continue.

2 A. So I left. Ramakrishna came to my house, and he said,
3 "Anji, let's go to San Francisco." I just went with him. Then
4 he took me to the ICE office. Until that time, not -- I'm not
5 aware why he's taking me there. Then I met Agent Mackey. Then
6 he told me, "We want to talk with you regarding this
7 university. You are working in this."

8 So since it's the very first time for me and I do not have
9 any idea, I didn't talk with them much, and I am not very
10 clear -- like, I'm not very truthful to them, what I'm telling.

11 Q. All right. Let me stop you for a moment.

12 You said that Ramakrishna took you to ICE. Do you mean the
13 immigration --

14 A. Yeah, Immigration --

15 Q. -- building?

16 A. -- Customs Enforcement office.

17 Q. Okay. And you spoke with Agent Mackey?

18 A. Yes.

19 Q. And did you tell him the truth that day?

20 A. No.

21 Q. Did you have -- did you have another opportunity to speak
22 to Agent Mackey?

23 A. Yes.

24 Q. When was that?

25 A. So after that, May 17th, I met. Then I went back home. By

1 that time, they told me, "Okay. This is one university."

2 While riding back, Ramakrishna told me --

3 Q. Well, hold on. Did you ultimately give more information to
4 Agent Mackey about Tri-Valley University?

5 A. Yes.

6 Q. And did you at some point agree to cooperate with the
7 United States Government's investigation --

8 A. Yes.

9 Q. -- of Tri-Valley?

10 A. Yes.

11 Q. Did you at some point during this period transfer to
12 another university?

13 A. Yeah. The very next day, I transferred back to the ITU
14 University, where I got a first-time visa to attend that
15 college.

16 Q. The next day after you first spoke with Agent Mackey?

17 A. Yes.

18 Q. All right. Now, is that the time that you're referring to
19 where you got a transcript from Susan Su?

20 A. Yes.

21 Q. Why did you transfer to ITU then?

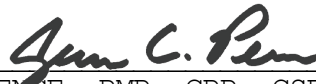
22 A. After talking with Agent Mackey, I was a little bit scared,
23 and while coming back, even Ramakrishna told me that if I
24 didn't report that this is one fraud university running all
25 these things --

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CERTIFICATE OF OFFICIAL REPORTER

I, James C. Pence, Federal Official Realtime Court Reporter, in and for the United States District Court for the Northern District of California, do hereby certify that pursuant to Section 753, Title 28, United States Code that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 20th day of June, 2014.



JAMES C. PENCE, RMR, CRR, CSR NO. 13059
FEDERAL OFFICIAL COURT REPORTER

CERTIFICATE OF SERVICE

I, Hui Chen, certify that I am an employee of the Office of the United States Attorney, Northern District of California, a person over 18 years of age and not a party to the within action. I certify that on April 17, 2015, I electronically submitted the

- **Brief for the United States as Appellee**
- **Government's Supplemental Excerpts of Record (2 Volumes)**

in the case of *United States v Susan Xiao-Ping Su*, No. 14-10499, with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Dated: April 17, 2015

/s/ Hui Chen

Hui Chen, Paralegal Specialist