



H1-B Scammers Invent a University and Get Away with It for Years

A case study of an immigration fraud prosecution

By David North

The extreme vulnerability of the migrant-screening process was shown again recently in a federal case in which con artists were able — for years — to procure dozens of H-1B visas for teachers' jobs at a totally nonexistent university and reap a small fortune thereby.

Its name was “Adam University”, it said it had an address in Denver, and it supposedly needed instructors for its nursing school. The institution, though it had a provisional paper clearance from a Colorado state agency, had no campus, no classes, no students, and thus no need for teachers.

Had any one of a dozen or so adjudicators handling the H-1B applications at the Departments of Labor, State, or Homeland Security spent one minute checking any one of a score of Internet listings of universities or nursing schools that official would *not* have found Adam University and the whole scheme would have been exposed from the beginning. No one did that.

There is, moreover, a genuine institution with more than 3,000 students called Adams State University in Alamosa, Colo.; that may have confused some of the officials.

My impression, from reading news accounts¹ and many of the literally hundreds of federal court documents, is that there were dozens of participants in the scheme — both foreign nurses and their American employers — who should have blown the whistle and did not do so for years. The scheme was both audacious and widespread and only the feds failed to notice it.

The con was also highly profitable, brilliant and, I must say, in a perverse way, creative.

The eventual successful prosecution of the schemers is a case study of the way that the government handles such matters, i.e., slowly, apparently cautiously, and clearly expensively.

Enforcing immigration law is neither cheap nor easy.

The Scheme. Here are the ingredients for the con: 1) there are a large number of alien nurses, particularly in the Philippines, who would love to work in the United States; 2) health care institutions are always looking for nurses, particularly low-paid ones; 3) nurses cannot secure nonimmigrant visas *as* nurses in the H1-B program or in any other; 4) there are numerical limits to most H-1B programs for skilled workers; 5) there are no such limits for aliens coming to the United States to work for universities; and 6) *teachers* of nursing are permitted to get H-1B status.

The conspirators put all those ingredients together and sought, successfully, H-1B visas for nurses to teach nursing at “Adam University”. No one in the government noticed that the university had a “faculty” of 25 aliens in its nursing school — that’s a lot of foreign nursing teachers for one institution.

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When the new H-1Bs arrived in Denver they were told by the conmen that there were no teaching jobs and they would work in long-term health facilities (i.e., nursing homes) but at a much lower wage than the \$72,000 a year that had been offered; and if they did not cooperate they would be deported. Most cooperated.

Profits for the Conmen. The two main criminals in the case figured out two different ways of making money from the scheme. First, they charged \$6,800 or so to each alien for the H-1B visa; such charges are contrary to the law; the employer is supposed to pay all federal fees and to charge the alien employee nothing. (The sum of \$6,800 is a large one in the Philippines, the nurses' families had to borrow the money, and so the nurses came to the United States deeply in debt and thus vulnerable to other exploitation.)

The second, and more significant flow of money came in monthly extractions from the nurses' earnings. At first the nurses were, in effect, rented to the nursing homes who paid the conmen's middle-man agency for their services; they should have been placed on the nursing homes' payroll directly. This part of the scheme brought illegal fees to the criminals of as much as \$15 an hour for each hour the nurses worked.

Later, after apparently some questions were raised about these payroll arrangements, the nurses went onto the nursing homes' direct payrolls, and the criminals simply charged the nurses \$1,200 a month for not cancelling their visas; i.e., blackmail. The flow of funds to the two conmen could have grossed as much as \$25,000 to \$30,000 a month from this source at the peak of the program, as they had arranged for more than 25 H-1B visas to be issued in this manner.

In a few cases the nurses refused to cooperate and the criminals asked the U.S. government to terminate the visas, and the government did exactly that!

In one of the court documents there is an estimate of an illicit gain of \$475,000 to be forfeited by the ringleader.

The Scheme's Duration. Adam University was given provisional university status by the State of Colorado early in 2005; by late 2007 the H-1B scheme had begun to bring aliens on to the phantom faculty of the make-believe university, and money to the criminals. The scheme was still going strong in 2010, according to the indictments, which were handed down in 2012.

One defendant was found guilty in 2013 — more on that below — and another pled guilty at about the same time. The sentencing will take place in February, at the earliest. By then the scheme will be nine years old. It should have been shot down at least six years ago.

The Criminals and the Many Collaborators. According to the indictments,² the mastermind of the scheme was Kizzy Kalu, a 48-year-old naturalized U.S. citizen from Nigeria. Apparently a high-flyer, he was also said to be the CEO of Global Energy Initiatives, a generator producer for the third world, and the leader of a charity in the volunteer tourism field. He got himself invited to a conference in the Old Executive Office Building adjacent to the White House and had his picture taken near the latter structure, according to the *Daily Mail*.³

Kalu's sidekick was a 77-year-old, white USC PhD, Philip Langerman, who was the nominal leader of the nominal university. We know little about him, except that one court document indicated that payments of at least \$42,000 were made to Langerman and/or Adam University.

Both men were indicted by a federal grand jury on a multiplicity of charges in March 2012. The trial was held in the fall of 2013 and Kalu was found guilty on 89 of 95 counts.

Langerman, who apparently cooperated with the government, entered a plea bargain, agreeing he was guilty on a single count of mail and visa fraud.

Kalu, who was regarded by prosecutors as a "flight risk" has been in jail since his indictment and remains there pending sentencing. This reflected a fairly remarkable decision for a judge to make about a white collar criminal — and a commendable one. Kalu faces as many as 10 years in jail.

Federal District Court Judge Marcia S. Krieger presided over the case.

Lamentably, the two were the only ones indicted despite the fact that both the nurses and, presumably, the nursing homes that hired them, also engaged in and profited from the scheme.

Setting aside, for the moment, the period in which the nursing homes paid Kalu's corporation for the services of the on-staff nurses, after those arrangements were dropped the nursing homes had an I-9 obligation to record the status of these workers.

I cannot imagine an honest reply to the I-9 questions that could be offered by the nursing homes; the nurses were not in H-1B status any more, and were by definition illegal aliens. The nursing homes must have known that, and must have violated the I-9 rules.

I saw nothing in the court records or the press coverage that indicated that anyone had even thought about this obvious violation of employer sanctions.

So the nursing homes got nurses, presumably for below-market rates, and the nurses, in turn, were — despite the fees paid to Kalu and company — making much more than they would have earned in their home countries, but the press and the federal prosecutors treated both workers and employers as nothing but victims.

Reading between the lines, incidentally, I assume that one or more of the nurses must have blown the whistle on the criminals, and caused the indictments, but that is not spelled out.

I would grant legal status to the nurses who helped the prosecution, and deport the others, but I doubt that the latter will happen. I would also fine the nursing homes for the I-9 violations, but such cases are handled by the Department of Homeland Security, and not by the U.S. Attorneys, the people prosecuting the Denver case.

The Resources Needed for Such a Prosecution. I am not a lawyer, and am not well grounded in the economics of criminal prosecutions, but after looking at the voluminous court records I have to conclude that bringing Kalu and Langerman to justice must have cost the government a sizeable sum of money. Here are some bits of evidence:

- As of January 6, 2014 — note that the process was not yet over on that date — there were a total of 322 motions, orders, notices, and other documents listed for the Kalu case with the federal courts electronic filing system, PACER. Each filing reflected an expenditure of time by the federal lawyers, in some cases extended periods of work.
- As of the same date, there were 318 filings in the prosecution of Langerman (there being some documentary overlap between the two cases).
- Kalu's indictment included 95 separate counts, each requiring documentation provided by the U.S. attorney's office.
- Langerman's original indictment included 132 separate counts. (These were, as Kalu's were, for a mix of visa and mail fraud, money laundering, and forced labor.)
- The costs noted above are those of the prosecution. In addition, and often mirrored in expenditures, were the legal bills run up by Kalu and Langerman, both of whom convinced the court that they were paupers in the court's eyes, and needed federally funded attorneys.⁴
- Kalu's wife, though not indicted, also was represented by a government-paid attorney in her role as a material witness.
- There were, in addition, all the costs of the investigators, the grand jury, the judge, the courtroom personnel, jail for Kalu, and the like.

To aggravate the cost situation, Kalu made a number of moves that caused an already expensive activity to become more so. For example, he refused to talk to the first defense lawyer assigned to him, and insisted that the judge appoint another one — a process that involved much paper as well as the judge's time.

Similarly, Kalu caused an expensive fuss by demanding the return of his expired Nigerian passport, a document that had been seized by the feds early in the case. He said that he needed it to renounce his Nigerian citizenship. It is not clear to me why the feds wanted to keep it — it could not be used for international travel.

After motions and counter-motions the judge eventually ordered the passport returned to the Nigerian Embassy in Washington; the U.S. Attorney's Office agreed to do so, but only after Kalu's lawyers had told them the exact address within the embassy to which the passport was to be sent.⁵

In such circumstances the defendant is free to run up expenditures at no monetary or other cost to himself.

Meanwhile the prosecutors made things more expensive than absolutely necessary when they decided to file more than two hundred charges against the two men, when a lower number would have been sufficient. I suppose it is a fail-safe maneuver. If the first 21 (say) charges don't move the jury, maybe the 22nd one will.

The prosecutors eventually triumphed, and that is a good thing.

I would hope that the government saw to it that all these things were covered thoroughly in both the Nigerian and the Filipino press, but I doubt it.

A Suggestion. One way to prevent such schemes in the future would be to mandate that the university employers in the case (such as the alleged school of nursing) take out an advertisement in the college newspaper (or the community paper in cases where there is no college paper) announcing the hiring of each H-1B, the alien's name, job description, department, and salary. The employer would have to submit a hard copy of the ad to the Department of Labor.

Pre-employment (help wanted) ads are already required in H-1B cases, though there is no mention in the rules, to my knowledge, that college papers be included. These ads are supposed to test the labor market for the job in question. The advertisements that I have in mind would have a different purpose, to bring transparency, after the fact, to a largely hidden part of the immigration process.

The employer would have to report to the Department of Labor, in writing, that there was no college paper if that were the case. (Such a report should be useful *because* it is colleges without school papers, like Adam University, that are likely to abuse immigration programs.)

The ads, in turn, might cause some budding collegiate journalists to pay attention to the universities' hiring practices, a useful by-product.

Full disclosure: I have a personal (if historical) interest in such a practice as it would have been financially helpful to my school paper, the *Daily Princetonian*, of which I was managing editor some decades ago.⁶

In the instant case, since there is neither an Adam University nor, consequently, an Adam University school paper, the ad would have had to have appeared in the *Denver Post* and the cat, one hopes, would have been out of the bag.

End Notes

¹ See, for example, [“Accused Human Trafficker Visited White House Complex Indictment: Highlands Ranch Man Lured Foreigners With Nonexistent ‘University’ Jobs”](#), TheDenverChannel.com, March 10, 2012.

² Subscribers to PACER, the electronic records system of the U.S. courts, can find the full file for Kizzy Kalu at 1:12-cr-00106-MSK-1, and for Philip Langerman at 1:12-cr-00106-MSK-2, with the indictment being the first document in each file.

³ [“CEO charged with human trafficking after ‘luring nurses to U.S with promise of jobs and education at made up university”](#), *The Daily Mail*, March 11, 2012.

⁴ The PACER files, otherwise quite complete, have suppressed items on the granting of federally funded attorneys to the accused, and on the payments made to them.

⁵ In Kalu’s PACER file, cited in end note 2, there were at least four documents dealing with this matter, numbers 100, 102, 103, and 128.

⁶ Among my predecessors in that job were Woodrow Wilson and Adlai Stevenson. A bit of Stevensonian trivia: He told me, in the 1950s, that he made more money the year he was managing editor than he did in the next four or five. He was in law school for much of that time. The *Prince* was profitable in my day, but not as much as it had been in the 1920s.