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Infosys Employee Testifies on Alleged Visa Fraud

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An Infosys employee, who has alleged that Indian tech giant, Infosys Technologies Ltd., engages in visa fraud, provided more details to a U.S. Senate subcommittee this week.



Tony Avelar/Bloomberg News

In a testimony, an Infosys employee provided more details about alleged visa fraud at Infosys.

In a [statement to the Senate Judiciary Subcommittee](#) on Immigration, Refugees and Border Security on Tuesday, Jay Palmer, the whistleblower at Infosys, said the company “intentionally violated our visa and tax laws for the purpose of increasing revenues.” Mr. Palmer accused Infosys of frequently violating U.S. visa laws and of staffing multiple client projects with illegal employees, including at Goldman Sachs, American Express, Wal-Mart and Johnson Control, among others.

Mr. Palmer filed a lawsuit against the company in February in Circuit Court in Alabama, alleging [the company sought his help](#) to circumvent U.S. law. The lawsuit has led to a [probe by U.S. authorities](#).

Infosys, which is cooperating with the inquiry, denied the allegations. Paul N. Gottsegen, chief marketing officer for Infosys, said in a statement Wednesday that Mr. Palmer’s remarks were “full of inaccuracies, exaggerations and falsehoods.”

“There is not, nor was there ever a strategy, scheme, or policy by the company to use the B-1 visa program to circumvent the H-1B visa program,” he said. “The company did not have a practice of sending unskilled employees to the United States on B-1 visas to do the work expected of skilled individuals in the U.S. on H-1B visas.”

Mr. Palmer disagreed. This is how, he says, it was done.

During a March 2010 visit to Bangalore headquarters he says he heard several conversations between Indian managers and U.S.-based managers where it was made clear that Infosys was going to increase the use of the B1 visa program to get around tough new restrictions the U. S. had placed on the H-1B program. Infosys, he says, decided to flood the local Indian consulate with visa applications in order to get as many approved as possible no matter the level of an individual’s skill. He says that in many cases the company sent relatively inexperienced workers to the U.S. for projects.

He says Infosys sent employees on B1 visas to the U.S. for specific full-time jobs at client sites but instead of paying them U.S. salaries, it would pay them much lower Indian salaries, calling it a stipend. Infosys, however, charged its clients U.S. rates for the employees, thus getting full reimbursement from their American clients for Infosys’ labor costs. He also says Infosys paid no taxes on payments to these workers.

According to Mr. Palmer, Infosys created an internal website of “do’s and don’ts” with tips including: “Do not mention activities like implementation, design & testing, consulting etc., which sound like work. Also do not use words like, work, activity, etc., in the invitation letter. Please do not mention anything about the contract rates as you’re on a B-1 Visa.”

He says that in order for this to work, the U.S. contracts had to be written as “Fixed Price” contracts and not as “Time and Material” contracts. On a Fixed Price contract a customer is charged a lump sum for labor, and the people doing the work do not need to be identified to the client. But on a T&M contract, on the other hand, the people doing the actual work had to be named along with their hourly rate. In August 2010 Mr. Palmer says he received emails and requests to rewrite T & M contracts to FP contracts.

Describing a specific instance, he says that in December 2010 an Infosys employee showed him a spreadsheet with a list of B1 visa workers on a project at Johnson Control, who should not have been doing such work. He said that these workers were working full-time testing software code and writing scripts but were paid their salaries by Infosys depositing money into the cash card accounts without withholding any income tax.

Mr. Palmer’s testimony comes as the Indian IT industry finds itself facing more scrutiny than ever. Outsourcing has always been a hot-button issue in the U.S., but with a stubbornly high unemployment rate in the U.S., the offshoring of what are perceived to be American jobs has become an increasingly sensitive political issue. Last year the

U.S. passed legislation that raised fees for skilled visas, particularly affecting Indian IT firms. IT firms based in India generate 60% of their revenue from the U.S.

On their part, Indian firms have seen the increased visa fees as well as delays in getting approvals and much tougher interviews as part of a concerted campaign against them. Some Indian officials have even [labeled the U.S. moves unfair trade practices](#).

In his testimony Mr. Palmer, says he and his attorney have received over 40 communications from individuals at other Indian companies stating that the same type of H-1B and B1 visa fraud is being committed there as well.

Infosys said it would not rebut Mr. Palmer's remarks point-by-point at this time because of its ongoing litigation with him.

"We take very seriously our obligations under the law and specifically our responsibilities to comply with the immigration laws and visa requirements in all jurisdictions where we have clients," said Infosys's Mr. Gottsegen. "Mr. Palmer is obviously intent on spreading his falsehoods about Infosys and our business practices as broadly as possible in order to advance his objective of getting as big of a payout as he can from the Company."

In his testimony, Mr. Palmer also lobbied for more restrictions on work visas to foreign companies.

"My real life experiences have educated me to the point that if Congress decides that an increase of Green Cards or legal work visas in the U.S. is a must, then there should be limitations or ratios," he said. "For example, for every H-1B visa issued to foreign national company they should have to hire an American worker."

He also said Indian companies were benefiting at the expense of the American economy, a charge the Indian IT industry disagrees with. Indian software and services industry body NASSCOM has said in the past that the cost savings they provide help make U.S. firms more competitive.

"I have read statements from NASSCOM stating that not increasing Green Card numbers and with the current visa restrictions, the Indian economy would suffer," said Mr. Palmer. "Let me ask the committee, what about our economy? What about the years and years of ignoring the laws. These companies maliciously do not hire Americans and look at ways to circumvent policy and law instead of working with it. Look at the stock and growth of these large foreign companies in a down environment — they are not suffering."