

Testimony Before the

**House Judiciary Committee**

**Subcommittee on Immigration, Border Security  
and Claims**

By

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Mr. Chairman and distinguished members of the House Judiciary Committee's Subcommittee on Immigration, Border Security and Claims, my name is David Huber and I am an Information Technology Network Professional who has first-hand experience with the H-1B visa program. I am here, not as an expert on how the H-1B program is supposed to work. I am not an economist who can recite all of the benefits the H-1B program is supposed to be bringing to our country. Rather, I am here today as an American citizen and an engineer whose life has been devastated by that program.

Before I get to my experiences with the H-1B program, I want to give you some background about myself. I am a University of Chicago-educated IT professional with more than fifteen years of experience, specializing in high-end, complex networking deployments, and network management/operations. I have been hands-on, directly responsible for about \$1.4 Billion in technology investments and business operations. Currently, I am working with a network architecture team on a new computing data center build-out project.

In order to rise to this level in my chosen profession, I had to make tremendous short-term financial and time-intensive sacrifices to educate myself and prepare myself for the jobs of the future in our American economy that was changing into a knowledge-intensive, high-tech service economy. We all read about these changes and predictions throughout the 1970s and 1980s. I knew that if I wanted to be able to participate in such an economy, I would have to be college-educated, and be prepared to do a lifetime of constant learning.

So, when I knew my parents didn't have the money to pay for my college, worked many jobs to put myself through college, including working as an UPS dockworker for six years. I went back to college at the University of Chicago, earning a BA in 1988. I worked one to three jobs while pursuing my degree, including several computing jobs at the University. I also worked extensively with pre-Web electronic publishing before moving into networking technologies. My professional training has included Ameritech carrier broadband technologies; Cisco networking; Sun UNIX server technologies; Microsoft server networking; Novell networking; EMC SAN/NAS training; Cisco Voice over Internet Protocol training.

When I graduated, savvy people thought that working in high tech would be a certain ticket to prosperity. We were told that America needed a limitless supply of talented, innovative high-tech engineers for the emerging high-tech world. And for a while, it did.

During the 1990's I held several increasingly difficult and important jobs. In 1999 I was hired as a consultant to work as the lead LAN/WAN network engineer for NASA's X-33 space shuttle project (ground launch network) at Edwards Air Force Base. This was a joint \$1 billion Skunkworks/NASA project which I took over and managed, successfully implementing a new IP addressing system to integrate the launch network with NASA's intranet. I am highlighting this to demonstrate that I was, and still am, among the top network engineers in the country. When you discuss America's need for highly-trained, highly-skilled innovative workers and thinkers, I am one of them. Or, at least I was until 2002.

In early 2002, I approached Bank One (now JP Morgan Chase) about working in Network Operations or Planning in Chicago. After receiving assurances that I was within the salary range

for experienced technologists, an HR director in Delaware told me that the job I was interested in paid about 30K less than what I had discussed with his colleague in Ohio. I was totally perplexed by this sudden and unexpected reduction in wages.

It took me a year to find out why the Bank One job didn't work out. It turns out that the company had filled the position with a non-American worker, hired through a job-shop.

I have since learned more about Bank One. The Labor Conditions Applications (LCAs) filed by the bank show that they were hiring in mid-2002, just not hiring American citizens. In 2002 Bank One received permission from the Department of Labor to hire 33 H-1B workers, 14 of whom were to work in Chicago where I would have worked. These included Technology Project Managers and Applications Development Analysts – jobs that I was, and am, qualified to do. At about the same time I was offered a job for \$30,000 less than market rates, Bank One was telling the U.S. government that they could not find qualified Americans to do the type of work I was already doing.

One year later, Bank One got the go ahead from the Department of Labor to hire another 120 H-1B workers, most in technology positions, again in jobs that I am qualified to do. They still had my resume on file.

In May 2003 I was hired as a network consultant at Commonwealth Edison, the power utility company responsible for the electrical grid covering most of the Chicago metropolitan area. I was hired to manage their communications network, including the systems in their headquarters in downtown Chicago. This was not an entry-level position, but a senior-level systems network management position.

Three months after being hired, I was replaced. Com Ed brought in three new employees to run their network, replacing myself. I met my replacements and helped train one of them. I do not blame them for what happened.

From talking to them, I learned that none of them were U.S. citizens. Nor were they employed by Com Ed. Two were from InSource Partners, a job shop located in Houston that specializes in placing foreign technical workers at American firms. One of them confirmed that the three had been hired for about one-third less than my salary.

In both instances at Bank One and Com Ed those hired were less qualified than I was. They had less experience and had never managed a project before. They also barely spoke English and lacked the temperament and business demeanor necessary for that level of responsibility – not the sort of employees you would expect for jobs demanding creative problem solving and excellent communication skills.

Now, I want to be clear here – I do not think their lack of English skills made them bad people. In fact, I feel no ill-will towards any of them. Each just wanted to earn a living and build a life for himself and his family in America – something I understand completely.

Nevertheless the ability to communicate is an essential part of the work I did – and my replacements could not communicate. This does not disparage them as individuals – after all, my Mandarin is lousy - but it does call into question the decision to replace me with them. When I hear companies complain that they can't find "qualified" Americans to fill high-tech jobs, I think of my replacements and wonder exactly what qualifications they are looking for. Mr. John Miano, who is also testifying here today, may have an answer to that question.

There is another, more troubling aspect to my experience at Com Ed. Two of the three individuals who replaced me were from China. I do not care about their ethnicity. But I do think that it is noteworthy that two of these men were foreign nationals from a country that our military views as a threat.

This is important because, as a part of my job, I had access to all of the data communication switches that control the electrical grid for the entire Chicago metropolitan area. This access gives one the ability to shut down the entire telecomm/data comm. operations for the power company, and possibly the power grid itself. I have to wonder about the wisdom of replacing American citizens with foreign nations in highly sensitive positions like this. It is very likely that my replacements returned to China after six years, taking with them detailed knowledge about the inner workings of our electrical grid system.

Why does Congress think this is a good idea?

Between the summer of 2002 and January 2006, I had only worked for a total of about 6.5 months. I fully depleted my savings, and was nearly homeless on two or three occasions. On Thanksgiving 2004, I had an apple, baked beans and water for dinner. Since I could no longer afford my Cobra premiums, I am very fortunate I had no medical emergencies to contend with. Otherwise, I truly would have ended up being indigent.

I am a highly-qualified network administrator with decades of professional experience and skills that are as current as anyone in the country. Yet for nearly three years, I was unemployable. During this period, Congress allowed companies to hire over 300,000 foreign workers on H-1B visas because companies claimed they could not find qualified Americans.

I am here before you today to tell you that this claim is not true.

There are thousands of unemployed Americans with the skills, drive and creativity to needed to thrive in the current marketplace. I know, because I was one. Yet too many of us cannot find jobs because companies are turning to H-1B workers as a first choice, before even advertising open positions to American workers. The H-1B program allows companies to hire 85,000 cheap, disposable workers each year before even looking for Americans.

Companies can do this because current law does not require most H-1B employers to prove they can't find an American before using an H-1B. In fact, the law doesn't even require companies to look. Without a labor market test, companies can, and do, use the program to bypass local labor markets entirely and replace qualified Americans with less qualified foreign workers.

H-1B workers are allowed to stay in the United States for up to 6 years – but only if their employers permit them. Since the visas themselves are owned by the sponsoring companies, H-1B workers are often treated as indentured servant, dependent upon their employers' good graces to stay in our country.

This is not just bad policy, it is also wrong. It is wrong for the United States to encourage talented people to come to the U.S. and then deny them access to the freedoms the rest of us enjoy. And it is wrong to force American workers to compete against such a program. The H-1B program tilts the playing field against workers, both American and foreign, in favor of companies.

As the program functions now, companies have strong incentives to favor H-1B workers over American workers. They can and they do give hiring preference to non-Americans, and even replace qualified American workers with H-1B workers. I know because it happened to me twice.

I urge Congress to take a hard look at how the H-1B program actually functions. I urge you to look at the types of jobs that are actually being filled with the visas. I urge you to look at the wage levels the Department of Labor routinely approves for H-1B positions. And I urge you to listen to workers like myself who have suffered economically as a result of H-1Bs.

If you do, you will learn that the visa program is far different than the one described by its supporters. The real H-1B program has more to do with providing companies with cheap labor, and little to do with making America more competitive.

I would like to close by pointing out that the signers of the Declaration of Independence said that they would mutually pledge to each other, their lives, their fortunes, and their sacred honor.

The Citizens of these United States are asking that the political and business leadership in this great country live up to that pledge, and not allow the lives and the fortunes of American Citizens to be compromised by these worker visa programs.

Thank you for giving me an opportunity to be heard today and to share my story with you. I hope it will help you better understand the real H-1B program.