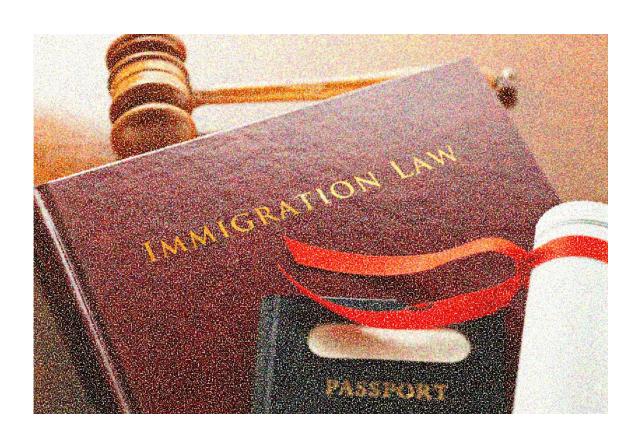
# COLLABORATING TO PROTECT NEW YORKERS FROM IMMIGRATION FRAUD

A Resource Guide for Law Enforcement, Government Agencies and Advocates



January, 2016

CREATED BY THE PROTECTING IMMIGRANT NEW YORKERS TASK FORCE



"Collaborating to Protect New Yorkers from Immigration Fraud: A Resource Guide for Law Enforcement, Government Agencies and Advocates" was made possible by the contributions and collaboration of the Protecting Immigrant New Yorkers (PINY) Task Force.

#### PINY Members

- American Immigration Lawyers Association New York Chapter
- Brooklyn District Attorney's Immigrant Fraud Unit
- Bronx County District Attorney's Office Immigrant Affairs Unit
- Catholic Charities Community Services
- Departmental Disciplinary Committee (NY Supreme Court, 1st Department)
- Federal Trade Commission
- Immigrant Justice Corps
- Legal Aid Society
- Make the Road New York
- Nassau County District Attorney's Office of Immigrant Affairs
- New York County District Attorney's Office Immigrant Affairs Unit
- NYS Bar Association Special Committee on Immigration Representation
- New York Immigration Coalition
- New York Legal Assistance Group
- New York City Mayor's Office of Criminal Justice
- New York City Mayor's Office of Criminal Justice
- New York City Mayor's Office of Immigrant Affairs
- New York City Public Advocate
- New York State Attorney General's Office
- New York State Office for New Americans
- Queens County District Attorney's Office of Immigrant Affairs
- US Citizenship and Immigration Services New York City District Office
- US Citizenship and Immigration Services New York Asylum FDNS
- US Citizenship and Immigration Services Newark Asylum FDNS
- US Immigration and Customs Enforcement Homeland Security Investigations

For questions regarding the PINY Task Force or this guide, please contact Camille Mackler at the New York Immigration Coalition at cmackler@nyic.org or 212-627-2227.

EDITORS: Camille J. Mackler & Matthew W. Blaisdell

#### **DISCLAIMER**

This guide is not intended as legal advice. Please contact the appropriate agencies listed in the guide or directories for further information if needed. Immigration law is complex and most answers are fact specific. This publication is intended to be used as a guide only.



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#### Introduction

#### Overview of Comprehensive Initiative to Combat Immigration Services Fraud

Over the last few years, there has been a rise in awareness of issues facing immigrants. Immigrants are often vulnerable targets for illegal activity such as wage and labor violations and real estate scams. They are also disproportionately more likely to be targeted in immigration legal services scams. Unscrupulous immigration service providers come in various forms. For example, in some cases they are unlicensed individuals illegally practicing law, while in others, they are licensed attorneys preying on immigrants who do not know where to turn for reputable assistance. The consequences of these scams can be devastating. They can lead the immigrant to incur substantial losses of money, forfeit eligibility for a future benefits, or even face deportation.

In October 2013, a group of community organizations, government offices, and law enforcement agencies came together to explore ways to collaboratively combat immigration services fraud. In January, 2014 the Protecting Immigration New Yorkers (PINY) Task Force was launched, meeting quarterly to discuss ongoing issues, new developments, and potential projects. Since November 20, 2014, after President Barack Obama's announcement of administrative action on immigration increased fears of possible scam opportunities, the task force has met monthly and continues to do so to this day.

PINY partners are individually and collectively engaged in a large scope of efforts to combat immigration services fraud.

## Conducting outreach to the public to educate New Yorkers about immigration services fraud

In 2014, the New York State Office for New Americans (ONA) launched a public service campaign warning immigrants of scams and urging them to report unscrupulous providers to the authorities<sup>1</sup>. The campaign was advertised in the New York City subway system, the commuter rail lines on Long Island and Hudson Valley, and, with the New York State Broadcasters Association statewide over the radio, as well as in ethnic newspapers and over social media. For the first time, the members of the taskforce jointly created the messaging and reviewed the translation for the campaign. This campaign complemented an earlier effort started in 2011 by the U.S. Citizenship and Immigration Service (USCIS) which had been aggressively promoting its messaging in New York. In addition, in July 2014, the Federal Trade Commission (FTC) started publishing fotonovela-style comics that sought to educate consumers about immigration services fraud<sup>2</sup>. Law enforcement agencies, including District Attorneys Offices, the New York State Attorney General, and the various New York City government administrations have also engaged in extensive community outreach through various means, including consumer rights publications and

<sup>1</sup> See Appendix I for examples of the ads in all 6 different languages.

<sup>2</sup> Available at: http://www.consumer.ftc.gov/features/feature-0031-fotonovelas.



community town halls. Many of these agencies, joined by others, plan to continue their commitment to informing the public of frequent or common immigration services scams.

## Successfully advocating for legislation in New York State making it a felony to commit immigrant assistance services fraud

In 2014, community groups worked with the New York State Governor, Bronx County Assemblyman Marcos A. Crespo and the New York State Legislature to pass the "Immigrant Assistance Service Enforcement Act," which made it a felony to commit immigration assistance services fraud, imposed further requirements on non-legal service providers, created a private right of action for victims of fraud, and established the State Office for New Americans.

# Expanding the New York State New Americans Hotline to serve as resource to coordinate immigration assistance fraud complaints & make free referrals

The Protecting Immigrant New Yorkers (PINY) Task Force collaborated in the development of a common complaint referral mechanism for use by the New York State New Americans Hotline. Individuals calling the Hotline can now file a complaint against a provider, and hotline operators in turn, will forward to all relevant law enforcement and government agencies. Hotline operators are trained to handle immigration services fraud complaints. Operators have access to an interpreter bank with close to 200 languages and can also make free referrals to legitimate providers. Additionally, connections with local government 311 operations were strengthened or newly established with the hotline to ensure calls to these numbers are appropriately routed to the Hotline. The Hotline can be reached at **1-800-566-7636**.

# Helping local immigrant-serving not-for-profits become federally accredited to provide certain immigration services by expanding free trainings

In 2012, the New York State government began funding trainings specifically geared towards helping not-for-profits become Board of Immigration Appeals (BIA) recognized and getting their staff accredited. Through BIA Recognition and Accreditation, not-for-profit organizations charging nominal or no fees to immigrants can provide legal representation, even if the organization does not have an attorney. Such organizations, often with powerful ties to the community, can provide an affordable and reliable resource to immigrants, particularly those who are low-income individuals. They also serve as an alternative to unscrupulous providers, who advertise themselves as cheaper than an attorney.



Strengthening enforcement against the unauthorized practice of immigration law (UPIL) by enhancing coordination among the New York State Attorney General's Office, District Attorneys' Offices, local government consumer affairs departments and federal agencies through complaint referrals

Through the work of PINY, collaboration among government offices, law enforcement agencies, and the community has never been stronger. The ability to cross-refer victims to organizations that are among the PINY members makes each individual office's work more efficient and more impactful.



# Why It Is Important To Fight Back Against Immigration Services Fraud

- Focusing on protecting immigrants from consumer fraud is an important means of building better relationships with the community.
- It is especially important for law enforcement agencies to demonstrate a dedication to investigating and prosecuting schemes targeting immigrants. These efforts will encourage immigrants to report and cooperate with local law enforcement when crimes are being investigated.



#### Harm to Immigrants from Immigration Services Fraud

Below are some common consequences of immigration services fraud, though the list is not exhaustive:

- Becoming deportable: A person who was not admissible to the US at the time of entry or application for adjustment of status is deportable. Likewise, someone who falsely claims to be in a bona fide relationship and marries a United States citizen is committing marriage fraud and subject to deportation.<sup>3</sup> There is also a risk that once a person has made himself or herself known to immigration authorities, he or she will be brought to the attention of US Immigration & Customs Enforcement. This is especially likely if the immigrant has a criminal record.
- **Detention**: Immigrants may be detained during the pendency of their immigration court proceedings, or after a removal order is entered. If the immigrant has previously engaged in immigration fraud, he or she may be subject to detention.
- **Ineffective assistance:** Victims of immigration fraud frequently receive ineffective counsel. This may lead to missed opportunities, inaccurate applications, and delays in the rendering of a final decision on the immigrant's adjustment of status application or petition.
- Forfeiture of eligibility for a temporary visa or green card: Any individual "who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible." In other words, immigration fraud can prevent an immigrant from qualifying for a temporary visa or a favorable status adjustment, unless he or she qualifies for a waiver which is uncommon.

Additionally, if an immigrant lies about a material fact on his or her asylum application, he or she will be forever barred from receiving any benefit under the immigration laws<sup>5</sup>.

Loss of money: When a purveyor of immigration fraud files a fabricated or
deficient immigration application, or simply decides not to perform the immigration
services he was retained to conduct, it is frequently the immigrant who suffers
the most harm. In many cases, the victim not only receives subpar legal
representation, but may also lose all the money he or she paid to the ISP.

<sup>3</sup> INA § 237(a)(1)(A) and (G) respectively.

<sup>4</sup> INA § 212(a)(6)(C)

<sup>5</sup> INA § 208 (d)(6)



#### **Who Is Authorized to Provide Legal Services**

#### **Who Can Practice Immigration Law**

The rules governing who can provide immigration legal assistance can be found at 8 C.F.R. §1292.1.

#### <u>Attorneys</u>

Lawyers admitted to the bar of any state in the United States can practice immigration law. Because immigration law is federal law, attorneys can practice – including appearing in Court and before immigration agents – in any of the 50 states so long as they are a member in good standing of at least one state's bar.

However, attorneys practicing in states where they are not licensed must be careful not to give advice concerning other areas of law that often intersect with immigration law, such as criminal or family law, as that would constitute unauthorized practice of law in that state.

Federal regulations also allow for law students and recent law graduates to appear before immigration authorities on behalf of clients, so long as they do so under the supervision of an attorney.

#### BIA Accredited Representatives

Recognizing that there is a lack of access to affordable/low-cost legal service providers practicing immigration law and wanting to increase access to legal help for immigrants who cannot afford full legal fees, the US Department of Justice (DOJ) allows certain non-lawyers to provide legal representation before immigration-only authorities. This program is administered through the Board of Immigration Appeals (BIA), which is part of the USDOJ's Executive Office for Immigration Review (EOIR).

BIA Accredited Representatives are staff or volunteers of not-for-profit organizations who charge no fee or nominal fees for legal services and have undergone extensive training in order to provide legal representation in the immigration context only. Their work can only be done through a BIA Recognized Organization, which must go through an application process to demonstrate it has adequate resources and supervisory staff with immigration law expertise.

The rules governing BIA Recognition & Accreditation can be found at 8 C.F.R. § 1292.2.

Current rosters of recognized agencies and accredited representatives, as well as

6 As of the writing of this Guide, new proposed rules regarding BIA Recognition and Accreditation are pending before EOIR. One proposed change would move the responsibilities from the BIA to EOIR's Office of Legal Access Programs (OLAP). For updated information please go to www.justice.gov/eoir or contact the New York Immigration Coalition at 212-627-2227 or www.nyic.org



an overview of the program, are available at www.justice.gov/eoir/recognition-and-accreditation-program.

For any additional information, you can contact the New York State BIA Trainer at the New York Immigration Coalition: 212-627-2227 or www.nyic.org/training/BIAaccreditation

#### Trusted Person

Federal regulations also allow for a trusted individual ("reputable individuals") to speak on behalf of an immigrant before the immigration authorities, if he or she meets the following criteria:

- 1. The individual is of good moral character;
- 2. He or she is not receiving direct or indirect compensation for services provided (the individual must file a written declaration to that effect);
- 3. There is a trusted, pre-existing relationship with the person he or she is representing (e.g., family member, neighbor, clergyman, business associate, personal friend). This requirement can be waived in the discretion of the immigration official, but only if no other adequate representation is available; and
- 4. The immigration official before who he or she is appearing provides permission for the reputable person to assist the immigrant.

This individual <u>cannot</u> be someone who regularly engages in preparation and practice of immigration filings or holds himself or herself out to the public as someone qualified to do so.

#### Who Cannot Practice Immigration Law

#### Immigrant Service Provider

An Immigrant Service Provider (ISP) is defined and regulated by New York State Law in the General Business Law (GBL) Article 28-C (as amended by the Immigrant Assistance Service Enforcement Act, see Appendix C).

An ISP is a person, organization, company, or other entity providing immigration services but who is not an admitted attorney in good standing, a BIA recognized organization or accredited representative, or government agency or staff of such agency acting under the authority conferred by the social security law. NY GBL § 460-a.

ISPs cannot provide legal advice, including selecting or completing of immigration forms unless they are only transcribing information onto a form pre-selected by the client without providing any explanation of what information is being requested.

#### **Notarios**

In certain countries, predominantly in Latin America (but also elsewhere), "notaries" are allowed to provide legal services. Unscrupulous individuals in the United States prey on the confusion between "Notarios" (or "Notaries") in other countries and



notary publics in the United States. This confuses community members into thinking that notary publics have the lawful ability to assist with immigration status filings. Over time, the word "notario" has come to mean not just those working in Spanish-speaking countries, but any non-lawyer/non-BIA representative purporting to provide immigration legal services when he or she is not authorized to do so.

While some notarios can prepare applications (for a fee) that will ultimately result in a grant of legal status for their clients (whether or not the person actually qualifies for it), they are not authorized to practice law and often use immigration services as a business opportunity (see Chapter 5, "Common Scams").

#### Unscrupulous Attorneys

Sadly, there are attorneys who will take advantage of a vulnerable client base and either take money for applications they never file, or submit applications on behalf of their clients for programs their clients do not qualify for. These actions are unethical, and these attorneys should be reported to their local state bar as well as USCIS and EOIR.

#### "Good Samaritans"

It is also very common for well-intentioned individuals to slip into the unauthorized practice of law while trying to provide help to their communities. Someone connected through a house of worship or community center, for example, may decide to help members apply for certain immigration benefits, and then acquire a reputation for providing immigration assistance that only increases their workload. They may even charge a small fee for the costs or their time. Either way, these "good Samaritans" accumulate such a large client base that they can no longer responsibly service them, and are no longer acting as a "reputable individual" as defined by law. Moreover, the individual often lacks the experience and training to properly assist immigrants, and will not recognize pitfalls or ineligibility grounds that could lead to an immigrant being placed in deportation proceedings.



#### What Constitutes the Practice of Immigration Law

Generally, because nearly every decision or action taken in regard to an immigration matter could directly affect an immigrant's legal rights, both the New York State courts and U.S. federal government define legal advice and legal representation in a way that includes almost every service extending beyond purely clerical duties.

New York courts define <u>legal advice</u> as including the preparation of any forms involving judgment that relates to a legal claim. The practice of law includes the preparation of legal instruments of all kinds, all advice to clients, and all actions taken for clients in matters connected with the law. Similarly, USCIS defines legal advice as: 1) counseling on how to answer questions on your immigration forms; and 2) indicating which immigration options a person may have.

Legal representation includes the concepts of "preparation" and "practice." "Preparation" is very similar to "legal advice." In the context of immigration law, it is defined by the federal government as the research of facts and laws, and any advice relating to the completion of immigration forms, but it does not include merely transcribing verbal responses onto a blank form for fees.<sup>9</sup> Such fees must be nominal at most (extremely small).<sup>10</sup> "Practice" includes preparing any immigration papers.<sup>11</sup>

Thus, if a non-lawyer, such as a notary or "independent paralegal," prepares forms and provides advice on matters involving legal consequences, he or she is engaging in the unauthorized practice of law.<sup>12</sup> Merely including an attorney in this process does not cure this problem. The attorney must remain in contact with the client, maintain control over the case, not be employed by the non-lawyer and not do business with non-lawyers who are providing legal assistance.<sup>13</sup>

In other words, only lawyers or BIA Accredited Representatives can interview clients, decide which application forms should be completed, file an application with the government, retain control of the file, and make judgments about whether the client is eligible for a benefit and what information is required to qualify for the benefit.

The issue of the selection of forms constituting the practice of law, in particular, has always been a source of confusion. For reasons described above, and explained in greater length in Appendix E, the selection of forms *can*, *and most often will*, *constitute the practice of immigration law*.

Rodkin, 692 S.W. 2d 47 (Tex. 1985).

<sup>7</sup> El Gemayel v. Seaman, 533 N.E. 2d 245, 248 (N.Y. 1988).

<sup>8</sup> http://www.uscis.gov/USCIS/Avoid%20Scams/Educational%20Tools/UPIL%20Brochure/UPIL%20Brochure\_UPIL%20Brochure

<sup>9</sup> In re Am Paralegal Acad., 19 I&N Dec. 386, 387 (BIA 1986).

<sup>10 8</sup> C.F.R. §§ 1.1(k), 1001.1(k) (2012)

<sup>11 8</sup> C.F.R. §§ 1.1(i), 1001.1(i). (2012)

<sup>12</sup> People v. Alfani, 125 N.E. 671 (N.Y. 1919), Sussman v. Grado, 746 N.Y.S. 2d 548 (Dist. Ct. 2002). 13 In re Muto, 739 N.Y.S. 2d 67 (App. Div. 2002), In re Meltzer, 741 N.Y.S. 2d 240 (App. Div. 2002). In re



#### Commonly Recognized Forms of Immigration Fraud and Scams

#### **NOTARIO FRAUD:**

In certain Latino communities, fraud occurs because of a misunderstanding regarding the authority of a "notary public", which translates to "notario" or "notario publico" in Spanish. In many Latin American countries, a "notario" refers to someone who has the authority to render legal services. Unscrupulous "notarios" who are not attorneys often rely on this misunderstanding to exploit immigrants. Furthermore, they charge immigrants excessive application fees without ever submitting applications to the immigration authorities, or may induce deportation by submitting applications for relief for which the immigrant is not eligible for or did not request

#### **DECEPTIVE ADVERTISING:**

Language and cultural barriers make immigrants a target community for deceptive advertising. Misleading advertising makes it difficult for immigrants to access accurate, reliable information and ultimately places immigrants at risk for substantial financial loss.

#### FAILURE TO EXPLAIN PROCESS OR EXPLAIN RISKS TO CLIENT

Fraudulent attorneys (and in some instances non-authorized practitioners) will give assurances that someone qualifies for a benefit without noting the difficulties in the process or explaining the risk, so as to give the client the impression they are guaranteed a green card or other desirable result.

#### Real Life Example

Jesus, an undocumented person from Mexico with more than 20 years in the U.S., heard through the rumor mill about the "ten year visa." Several of his friends had recently met an attorney who, eight months and several thousand dollars later, got them a work permit. It seemed miraculous: after so many attorneys said no, here was an attorney who said yes. All you need is ten years in the U.S., to pay your taxes, and to have kids who are born here, his friends told him. Jesus met with the attorney who confirmed that he offered the service for \$8,000. The attorney told Jesus to bring in evidence of his ten years in the U.S., his paid taxes, his children's birth certificates, etc. He had Jesus sign some forms in English and then told him to come back in five months. Five months later, Jesus went back in and filled out some more paperwork. In just a few more-months - voilá, a work permit arrived.

What Jesus didn't realize is that he had applied for asylum. Moreover, the fact he had a pending asylum application is the only reason that he had received the work permit. Since Jesus is not asylum eligible, when the Asylum Office refers his application to an immigration judge, he will be put into deportation proceedings. He learns that there is a defense to deportation that requires having more than ten years in the U.S., but it also has other elements such as proving "exceptional and extremely unusual hardship" to certain qualifying U.S. citizen relatives - a really high standard. His case is still pending before the Asylum Office and he's not sure what to do.



#### Real Life Example

José went to an immigration service provider to apply for DACA. Jose's application was approved and he received his benefits. After a few months, Jose's friend told him that he was able to receive advance parole as a DACA recipient. Jose consulted with an attorney about advance parole with the hopes of going to Mexico. After reviewing Jose's application, the attorney discovered that Jose was actually not eligible for DACA. When Jose signed the DACA application, the immigration service provider did not explain the terms of application, and he was not given the opportunity to review the final application before filing. Jose was not aware that he had signed a fraudulent application. Jose is very concerned about the fraudulent DACA application that was filed by the immigration service provider because there are serious consequences that can result from these actions. In particular, Jose fears that should immigration reform pass in the future or a better form of relief present itself, he might have issues applying given the fraudulent application the immigration service provider filed on his behalf and, worse, Jose fears he could one day end up in removal proceedings due to the fraud.

#### MISREPRESENTING LEGAL CREDENTIALS:

This involves individuals who falsely claim to be attorneys, or wrongly suggest that they are able to appear before the immigration agencies or court. They take advantage of immigrants who will unknowingly pay exorbitant fees for their services. Their lack of real qualifications and skills may cause them to miss deadlines or file incorrect and incomplete forms, as well as false claims with the government. Simply stated, by misrepresenting their qualifications, these individuals can have a detrimental impact on the immigrants with whom they work. For example, immigrants who take advice from and work with these individuals may waive their right to obtain legal residency, be unnecessarily deported, or become subject to civil and/or criminal liability for the filing of false claims.

#### IMMIGRATION AFFINITY FRAUD

This involves providers who target immigrants belonging to their same ethnic or racial group. Accordingly, they seek to gain advantage over other providers by claiming to identify with the ethnic, racial, national origin or community-based affiliations of the immigrant group.

#### CHARGING FEES FOR SERVICES THAT ARE NEVER PROVIDED

This involves providers promising to perform services in exchange for money but never doing the work once payment has been made. This scam is all the more problematic because immigrants, particularly undocumented immigrants, often do not have access to bank accounts and pay cash without knowing to ask for a receipt.

#### Real-life example:

Karina learned of a "service center" in the neighborhood that does taxes and also helped her friend obtain a work permit. A deportation order has recently been issued against her and she is desperate for help. She is also married to a US citizen. She visits the center and the notario promises to help fight the deportation ordered issued against her, file a family petition on her behalf based on her marriage, and assist



her in bringing her son to the United States with a visa. Her son is in Honduras, a country ridden with violence and gang activity, and she wants to bring him to live with her as soon as possible. The notario charges \$10,000 for everything. Karina makes an initial deposit of \$3,000 and several \$300 monthly payments to the service center as a membership fee, ultimately paying a total of \$4,500. She never receives correspondence from USCIS, and the notario stops answering her inquiries as to the status of her case. She still has an order of deportation in her name and her son's life is at risk in Honduras.

#### FRAUDULENT PROMISES TO EXPEDITE PROCESS:

This type of fraud concerns individuals who contend that they know employees at immigration offices who can expedite the processing of their clients' applications. Accordingly, they request high fees for this special service, but fail to provide it.

FALSE PROMISES OF PERMANENT RESIDENCY AND CITIZENSHIP: Organizations claim that for a set fee, they can guarantee immigrants a visa, green card, or other employment authorization document. They often have immigrants complete applications that they never actually file with the United States government. This slows down the entire process as immigrants await a decision on their applications that will never arrive.

#### Real life example

Franco's employer highly values Franco and tells him that he is willing to submit a visa petition for Franco if he finds a lawyer to process the application and pays all associated fees. Franco is a dishwasher at a local restaurant. Franco hires a lawyer who was recommended by a friend. The lawyer charges a \$3,500 retainer fee. A few months later, the lawyer tells Franco that the Department of Labor has approved their labor certification and charges him an additional \$2,000 as a legal fee and \$3,000 to cover costs incurred in obtaining the labor certification. The lawyer sends an "approval" letter from the Department of Labor, but Franco never receives anything directly from that agency. The lawyer subsequently tells Franco that immigration has approved the employee petition and charges him another \$5,000. Again, the lawyer sends an "approval" letter from immigration. Franco waits for months and never receives his green card. When he calls his lawyer, she tells him that he has to continue to wait for the green card. This goes on for months until the lawyer stops answering his calls and moves out of her office.

PREPARATION OF APPLICATIONS FOR INELIGIBLE PERSONS OR UPIL:

Scammers purportedly help immigrants who are clearly ineligible for naturalization or permanent residency status to complete their applications. Not only do they charge a high fee for a false promise, but by submitting these applications, they jeopardize the immigrants' legal status.

#### Real life example:

Abioye, a legal permanent resident, saw a notario's advertisement on TV and called him for advice on how to obtain a green card for his son. The notario advised him to



file a 245(i) adjustment of status application so that his son could obtain his green card in the United States rather than travelling back to their country of origin to interview for the green card there. The notario knew that Abioye's son did not meet the 245(i) requirements, and thus could not change his status here. He nevertheless charged Abioye \$6,500 to file a frivolous 245(i) application, which was ultimately denied.

#### SALE OF IMMIGRATION FORMS THAT ARE AVAILABLE FOR FREE:

Some websites claim to be affiliated with the United States government. These websites charge immigrants for forms that are available free of charge through official government websites. All official websites end in ".gov" and have free, downloadable forms.

#### FALSE IMPERSONATION OF IMMIGRATION OFFICIALS:

Scammers contact immigrants by phone, mail, and/or e-mail claiming to be immigration officials. They claim the immigrants' legal status is at risk and request personal information such as social security numbers, passports, credit cards, and bank information. This information is then used to steal immigrants' identities, establish new credit cards, and access the victims' bank accounts. In other instances, the scammers claim to be able to expedite someone's application or extract special favors from immigration authorities.

#### UNAUTHORIZED PRACTICE OF LAW:

This concerns individuals who are not licensed to practice law, but present themselves as attorneys or immigration law experts capable of providing legal advice and services

#### VISA LOTTERY:

Once a year, 50,000 diversity visas (DVs) are available via lottery from the U.S. Department of States. Visa-recipients from the lottery are chosen at random, and only those individuals meeting very specific requirements are eligible. When the lottery opens, scammers target immigrants claiming they can guarantee their selection in the lottery for a set fee.

#### UNWARRANTED THREATS OF DEPORTATION

For a variety of reasons, individuals may threaten to report an immigrant (undocumented or not) to authorities unless they pay a bribe or otherwise perform some service they would otherwise not do willingly.

#### EMPLOYMENT-RELATED SCAMS

Scammers promise that for a fee they will sponsor immigrants for employment-based green cards, and/or provide them with job training to allow them to work in the United States.

#### EMPLOYMENT AGENCY SCAMS

Employment agency scams involve companies that charge a fee to to secure employment for individuals, often promising them green cards or other immigration sponsorships as well. Immigrants will pay the fee but get nothing in return.



#### DACA/DAPA SCAMS

Since 2012, President Barack Obama has taken several executive actions regarding immigration. Such announcements included the creation of a Deferred Action for Childhood Arrival (DACA) program, and subsequently, expanding DACA and creating a similar program called Deferred Action for Parents (DAPA). As of the publishing of this report, expanded DACA and DAPA are subject to a temporary injunction and on hold pending litigation in federal courts. Unscrupulous providers however, continue to exploit the confusion caused by the announcements by taking money as advance payments for the applications, or assuring that the programs are in effect – going so far as to promise that a "new law" now permits victims to apply for immigration status that did not previously exist.

#### "HARDSHIP" CASES OR "10-YEAR" CASES

An increasing common scam is to offer to help individuals apply for "the ten year case" or Cancellation of Removal. This allows undocumented immigrants to obtain a green card if they lived in the United States for a minimum of ten years before the initiation of immigration proceedings, have no criminal record, and have green card holding or US Citizen relatives who would suffer exceptional or extremely unusual hardship if the person was deported from the United States. Unfortunately, because this case can only be adjudicated through the immigration courts which currently have years-long backlogs, it often can take 5 years or more to realize a scam took place. The most common scam is placing the immigrant in removal proceedings without explaining the risks (deportation if they lose the case), and/or initiating such a case for a person who has not been in the United States long enough, or does not have the qualifying relatives.

#### OTHER SCAMS TARGETING IMMIGRANTS

- Construction companies or other employers hiring immigrants and refusing to pay them, or paying them far below the minimum wage.
- Housing scams where the same apartment is rented to numerous individuals.
- Sale of falsely-produced identity documents such as green cards, driver's licenses, state IDs and social security numbers.
- Financial and investment scams such as pyramid schemes, fake investment opportunities, or fake bank services.
- Health care enrollment services by non-authorized individuals.

For more examples, one source is the report: "Dreams and Schemes in Queens, New York: Immigrant Struggles to Find Work and Get Status in the Face of Consumer Fraud" put out in 2012 by New Immigrant Community Empowerment (NICE) and the Community Development Project at the Urban Justice Center (UJC)<sup>14</sup>



#### **Examples of Law Enforcement Cases**

## DA VANCE ANNOUNCES INDICTMENT OF MARTIN MANNERT FOR DEFRAUDING FOREIGN VICTIMS OF IMMIGRATION SCAM

Defendant Preyed On Victims from Poland and elsewhere in Europe, Asia, and South America

August 21, 2013: Manhattan District Attorney Cyrus R. Vance, Jr., today announced the indictment of MARTIN MANNERT, 41, for stealing tens of thousands of dollars from victims of an immigration scam after falsely representing himself as someone qualified to provide assistance with benefit application forms. The defendant is charged in New York State Supreme Court with Criminal Possession of a Forged Instrument in the Second Degree, Grand Larceny in the Third Degree, Forgery in the Second Degree, Scheme to Defraud in the First Degree, and Prohibited Conduct by an Immigration Assistance Service.[1]

"Many of New York's immigrant communities depend on service providers for proper assistance with various applications, proceedings, and filings," said District Attorney Vance. "Martin Mannert is accused of representing himself as someone who could provide these services and then lying to his clients about the benefits for which they qualified. Instead of preying on a single immigrant community, the defendant took advantage of vulnerable victims from all different backgrounds. I encourage anyone who may have been in contact with the defendant or who feels that he or she may have been the victim of a similar scam to call my Office's Immigrant Affairs Hotline at 212-335-3600, regardless of immigration status."

According to the indictment and statements made on the record in court, between January 2010 and April 2013, MANNERT, a naturalized United States citizen from Austria and president of a company called Consulting Services of New York, falsely represented himself as a legal advisor and immigration consultant to numerous victims from several countries, seeking to adjust their status in the United States. Based on his fraudulent representation, victims paid MANNERT, who is not an attorney, an average of \$10,000 dollars apiece. After accepting their money, the defendant sent his victims forged documents purporting to be from the U.S. Department of Homeland Security and the U.S. Department of Labor, falsely suggesting that victims' applications for benefits, such as work authorization, had been approved. In fact, no applications were filed for any of the defendant's victims during the period that they worked with MANNERT. The investigation into this case is ongoing.

Assistant District Attorney Rosemary Yu, Co-Director of the Immigrant Affairs Program, is handling the prosecution of the case, under the supervision of Assistant District Attorneys Archana Rao, Deputy Chief of the Special Prosecutions Bureau, Thomas Wornom, Chief of the Special Prosecutions Bureau, and Executive Assistant District Attorney David Szuchman, Chief of the Investigation Division. Program Coordinators Bridgett Smith and Jacob Pang of the Special Prosecutions Bureau provided valuable assistance with the case.



District Attorney Vance thanked the United States Department of Homeland Security and Homeland Security Investigations, the United States Department of Labor Office of the Inspector General, the Fraud Detection and National Security Directorate, and the New York/New Jersey High Intensity Drug Trafficking Areas ("HIDTA") United States Marshals, Pacific Southwest Regional Fugitive Task Force, for their assistance with the investigation.

[1] The charges contained in the indictment are merely allegations, and the defendant is presumed innocent unless and until proven guilty.



## DA VANCE: JUAN VALOY SENTENCED TO 1 1/3-TO-4 YEARS IN STATE PRISON FOR WASHINGTON HEIGHTS APARTMENT SCAM

Defendant Targeted the Hispanic Community and Stole Thousands of Dollars from Victims by Charging Fraudulent Fees

Manhattan District Attorney Cyrus R. Vance, Jr., today announced the sentencing of JUAN VALOY, 36, to 1 1/3-to-4 years in state prison for stealing thousands of dollars from the victims of a Washington Heights apartment scam. On June 10, 2015, VALOY pleaded guilty in New York State Supreme Court to Grand Larceny in the Third Degree and Scheme to Defraud in the First Degree.

"Exploiting trust in order to commit theft is not capitalization—it's a crime," said District Attorney Vance. "In this case, the defendant preyed on a community of immigrants, stealing thousands of dollars and leaving his victims broke and without a place to live. Unfortunately, housing scams like this one are increasingly common in densely populated cities like New York, and I encourage anyone who believes that he or she may have been the victim of a similar scam to call my Office's Immigrant Affairs Hotline at 212-335-3600, regardless of immigration status."

According to his guilty plea and documents filed in court, VALOY distributed flyers in the Hispanic community and fraudulently offered to rent multiple apartments in Washington Heights. Posing as a broker, the defendant showed his victims apartments that he claimed were available to lease, and then accepted payments of as much as \$5,500 for supposed application fees and security deposits. However, after collecting his victims' money, VALOY delayed move-in dates, ignored victims' repeated calls, or severed contact entirely.

In multiple cases, the apartments shown to victims by VALOY were, in fact, already occupied by other residents. In total, more than 20 complaints were filed against VALOY and his co-defendants for fraudulent fees and payments.

Assistant District Attorney Mayerling Rivera handled the prosecution of the case, under the supervision of Assistant District Attorney Archana Rao, Principal Deputy Chief of the Financial Frauds Bureau, Assistant District Attorney Michael Sachs, Chief of the Financial Frauds Bureau, and Executive Assistant District Attorney David Szuchman, Chief of the Investigation Division. Principal Financial Investigator Biagio Rosano, of Forensic Accounting and Financial Investigations, provided additional assistance with the case.



# QUEENS COUNTY DISTRICT ATTORNEY'S CALL TO PUBLIC RESULTS IN ARREST OF RIDGEWOOD TRAVEL AGENT ON ADDITIONAL IMMIGRANT FRAUD CHARGES

Defendant Allegedly Stole Thousands Of Dollars From Undocumented Victims With Promise Of Legal Status; D.A. Cites Proactive Action Of His Office of Immigrant Affairs

Wednesday November 25, 2015: Queens District Attorney Richard A. Brown today announced that a Ridgewood, Queens, travel agent who alleged bilked an undocumented alien out of thousands of dollars in return for purportedly procuring legal immigrant status for the individual has been charged with perpetrating a similar scheme on a dozen other individuals after the District Attorney urged members of the public who believed that they may have been a victim of the defendant's alleged scheme to call his Office of Immigrant Affairs.

District Attorney Brown said, "Earlier this year, I established an Office of Immigrant Affairs to assist members of Queens County's various immigrant communities in navigating and accessing the criminal justice system because it has been my office's experience that immigrants are often specifically targeted for fraud and exploitation due to their unfamiliarity with the law and their heavy reliance on finding someone to assist them in navigating the process of obtaining the necessary documents to work and remain in the United States. This case clearly proves the need for such an office here in the county of immigrants as my office received many calls in the wake of the defendant's initial arrest."

District Attorney Brown continued, "Confidence artists in general are illusionists who do not like having their schemes aired in public. In this particular case, as a result of publicizing the defendant's alleged scheme, other victims who might not have come forward did and the defendant now faces additional felony charges."

The District Attorney identified the defendant as Dariusz (a.k.a. Darius) Buczynski, 44, of 53-49 65<sup>th</sup> Place in the Maspeth section of Queens. Buczynski is the owner of Anka Travel and Consulting Services, located 65-14 Fresh Pond Boulevard, Ridgewood, Queens, and formerly at 71-20 Fresh Pond Road, Ridgewood, Queens, and 683 Manhattan Avenue in Brooklyn. Buczynski was arraigned last week in Queens Criminal Court on a criminal complaint charging him with third- degree grand larceny and first-degree scheme to defraud. Buczynski, who faces up to seven years in prison if convicted, was released on his own recognizance and the case was adjourned to December 15, 2015, to join the related matter.

District Attorney Brown said that, according to the criminal charges, three couples separately went to Buczynski's business, Anka Travel, and met with Buczynski and asked for assistance in securing government documents granting legal status, including work documents and legal resident status. At various times between October 17, 2009, and February 15, 2013, they allegedly paid him a total of \$27,840, although none had received any documents or letters from the United States Immigration Service regarding any application for legal status or work authorization. A review of immigration application fillings by the United States Department of



Homeland Security, Immigration and Customs Enforcement allegedly revealed that no applications for legal status or work authorization had been filed on behalf of any of the couples. It is alleged that when the three couples individually demanded the return of their money, Buczynski either did not return telephone calls and texts or simply told them that he no longer had the money. Nine other individuals also made similar allegations against Buczynski.

The District Attorney noted that his Office of Immigrant Affairs, which is under the direction of Assistant District Attorney Carmencita Gutierrez, serves as a liaison to immigrant communities and New Americans in Queens, both to ensure that they are aware of and know how to access the criminal justice system if they are victimized and to assist community members and groups with questions, concerns or complaints and direct them to the appropriate bureaus and divisions within the Queens District Attorney's Office. District Attorney Brown stressed that immigrants who have been victimized and are undocumented should not be afraid to come forward, as his office is not concerned with their immigrations status in this country and the office does not report their status to any outside agencies.

The Office of Immigrant Affairs can be reach through its support hotline (718-286-6690) or by email at OIA@queensda.org. Additional information about the Immigrant Affairs office can be found on its facebook page: Queens District Attorney's Office of Immigrant Affairs.

The investigation was conducted by Special Agent Peter Giannakos, of the United States Department of Homeland Security, Immigration and Customs Enforcement, and by Assistant District Attorney Carmencita N. Gutierrez, Director of District Attorney Brown's Office of Immigrant Affairs, who is under the supervision of Special Prosecutions Executive Assistant District Attorney Jesse J. Sligh.

Senior Assistant District Attorney Daniel J. O'Leary, of the District Attorney's Integrity Bureau, is prosecuting the case under the supervision of Assistant District Attorney James M. Liander, Bureau Chief, and under the overall supervision of Executive Assistant District Attorney for Investigations Peter A. Crusco and Deputy Executive Assistant District Attorney Linda M. Cantoni.

It should be noted that a criminal complaint is merely an accusation and that a defendant is presumed innocent until proven guilty.



# FAKE LAWYER WHO FALSELY CLAIMED BROOKLYN BAR ASSOCIATION AS HIS OFFICE INDICTED FOR OFFERING BOGUS IMMIGRATION SERVICES FOR A FEE

Defendant is the First to be Charged in New York State Under New Law That Protects Immigrants from Fraudulent Assistance Services

June 2, 2015: Brooklyn District Attorney Ken Thompson announced today that a Sunset Park man was indicted for allegedly posing as an attorney and charging thousands of dollars for immigration assistance services, but delivering nothing but forged documents in return. Among the counts he was indicted for is immigrant assistance services fraud, a new law that went into effect four months ago and is being used by prosecutors in New York State for the first time.

District Attorney Thompson said, "We will aggressively investigate and prosecute any and all con artists, especially fake lawyers, who prey on undocumented immigrants to steal their hard-earned money through fraud."

The District Attorney identified the defendant as Howard Seidler, 69, of 336 51<sup>st</sup> Street, in Sunset Park, Brooklyn. Between November 2014 and May 2015, the defendant posted advertisements in Sunset Park, identifying himself as an attorney who provides immigration services. The ads and his business card included the titles "Esq.," PhD" and "J.D."

According to the indictment, a detective investigator from the District Attorney's Office, working undercover, met with Seidler in the library of the Brooklyn Bar Association at 123 Remsen Street in Downtown Brooklyn, which he claimed to be his office. On April 8, 2015, the detective paid Seidler \$3,085 to act as his attorney and help him obtain a green card and a social security card. The undercover was then provided with a written retainer contract.

The District Attorney said that on April 24, 2015, the undercover had another meeting with Seidler, who gave him a social security card and immigration paperwork purportedly filed on his behalf with the United States Citizenship and Immigration Service. The investigation found that the social security card was allegedly forged, that the social security number did not belong to the name used by the detective and that no application was filed on his behalf with United States immigration authorities. The investigation also revealed that the defendant is neither licensed nor registered to practice law in New York and that he is not licensed or accredited by the Board of Immigration Appeals to provide any services with immigration authorities.

Seidler was charged with one count each of practicing or appearing as an attorney-at-law without being admitted and registered, first-degree forgery, criminal possession of a forged instrument, third-degree grand larceny and first-degree immigrant assistance services fraud. The last felony count went into effect in February 2015. He faces up to 15 years in prison for the top forgery count and up to four years on immigrant assistance services fraud.

The defendant was arrested May 26, 2015 and arraigned in front of Brooklyn



Criminal Court Judge Sharon Clarke who set bail at \$20,000 bond or \$10,000 cash. An indictment was subsequently voted and filed on Monday, June 1, 2015.

DA Thompson thanked the U.S. Immigration and Customs Enforcement's Homeland Security Investigations, the Fraud Detection and Nationality Security, a division of the U.S. Citizenship and Immigration Services, and the Office of the Inspector General at the Social Security Administration for assisting in the investigation.

The case was investigated by Detective Investigator Rommie Woolcock, under the supervision of Supervising Detective Investigator Thomas Farley and the overall supervision of Richard Bellucci, Chief of the District Attorney's Investigations Bureau. Special Agent Matthew Macchiaroli of the U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) New York and Neisha Samaroo, a Special Agent with the Social Security Administration, Office of the Inspector General, assisted in the investigation.

The case is being prosecuted by Assistant District Attorney Jose Interiano, under the supervision of Assistant District Attorney Kin Ng, Chief of the Immigrant Fraud Unit, and the overall supervision of Executive Assistant District Attorney William E. Schaeffer, Chief of the Investigations Division.

An indictment is an accusatory instrument and not proof of a defendant's guilt.



### UNLICENSED INSURANCE BROKER ARRESTED FOR STEALING FROM IMMIGRANTS AND INSURANCE AGENCIES

Erika Garcia Cruz, 37, facing up to seven years in prison for multi-state scam

MINEOLA, N.Y. (October 2, 2015) – Acting Nassau County District Attorney Madeline Singas announced the arrest today of a Uniondale woman in connection with an insurance scam in which she profited off of immigrant clients by securing fraudulent insurance policies using false Virginia addresses.

Erika Garcia Cruz, 37, is charged with Grand Larceny in the 3rd Degree (a D felony), Scheme to Defraud in the 1st Degree (an E felony) and Criminal Possession of a Forged Instrument in the 2nd Degree (a D felony). If convicted on the top count, she face up to seven years in prison.

Garcia Cruz was arraigned before Nassau County District Court Judge Paul Meli and remanded. She is due back in court on October 6.

"The defendant allegedly targeted a vulnerable community and made money off of them by securing fraudulent insurance policies," Acting DA Singas said. "Thanks to the hard work of our prosecutors and investigators, the scheme was uncovered and my office is working to uncover more scams that target immigrant communities here in Nassau County."

"The National Insurance Crime Bureau would like to applaud the staff of the Nassau County District Attorney's Office for their continued efforts in addressing insurance fraud in Nassau County. The cost of insurance fraud is shared by all consumers and this investigation sends a strong message to others who may be contemplating engaging in insurance fraud. We look forward to our continued partnership in combatting insurance fraud for all New Yorkers," said Kevin Gallagher, New York Regional Director of the National Insurance Crime Bureau.

Acting DA Singas said that the defendant, who worked for Ismarlin Multiservice, a Hempstead company, was operating as an unlicensed insurance broker, misrepresenting to undocumented immigrants that valid automobile insurance policies could be obtained for them for a fee, and then fraudulently obtaining the policies using false Virginia addresses causing lower premiums to be charged than would have been charged if the true New York addresses were provided.

The defendant would apply for the auto insurance either on the internet or by phone. In at least one instance, Garcia Cruz told a client that the car insurance would come from Virginia, since they provided "national insurance" so that the client could drive in all 50 states. According to her, New York did not have "national insurance" so the client would not be covered if he decided to drive out of state. She would also explain that only the state of Virginia had that type of insurance.

The defendant would then use her personal bank credit and debit cards to make the six month payment for the policy. The defendant would then cause clients to pay the alleged monthly payment for the policy in spite of the fact that the clients had already paid an upfront amount sufficient for the policy.



One company, National General Insurance, issued 58 policies based on the false representation of the defendant and/or others working at Ismarlin resulting in loss in excess of \$3,000.

The investigation initially arose from a complaint received by the NCDA Immigrant Fraud Investigations Office hotline.

The case is being prosecuted by ADA Vickie Curran and ADA Jennifer Contreras of Acting DA Singas' Government & Consumer Frauds Bureau, and ADA Silvia Finkelstein, Director of Immigrant Fraud Investigations. Also assisting in the investigation are the National Crime Insurance Bureau and National General Insurance, Co. Garcia Cruz was represented at arraignment by Legal Aid. The charges are merely accusations and the defendant is presumed innocent until and unless found guilty.



#### A.G. SCHNEIDERMAN SECURES LANDMARK AGREEMENT THAT PERMANENTLY SHUTS DOWN TWO OF THE NATION'S LARGEST IMMIGRATION SERVICES ORGANIZATIONS FOR DEFRAUDING IMMIGRANTS

Attorney General Schneiderman Secures Agreement That Dissolves Large Fraudulent Immigrant Services Organizations and Will Provide Restitution for Victimized Immigrants

NEW YORK, NY (May 13, 2013) – Attorney General Eric T. Schneiderman today announced a settlement agreement shuttering two of the nation's largest immigration services organizations and their principal. Operating in New York City as 501(c)(3) entities, the International Immigrants Foundation, Inc. ("IIF") and the International Professional Association, Inc. ("IPA") both defrauded immigrants with false promises of citizenship and residency, engaged in the unauthorized practice of law, illegally charged exorbitant fees for services, and violated laws governing not-for-profit corporations. The agreement brings to a close a lawsuit that had been filed against the two organizations and their President Edward Juarez.

In addition to shutting down both organizations, the settlement requires that all remaining assets of the entities, approximately \$2 to \$3 million, be used to provide restitution to immigrants who were defrauded or overcharged by the organizations, with any amount remaining going to organizations providing immigration legal services. IPA will shut down immediately. IIF will shut down over the next two years, and is prohibited from providing immigration legal services during that period. In addition, the agreement prohibits the organizations' former President, Edward Juarez, from engaging in immigration legal services or serving as a fiduciary for any not-for-profit corporation in New York or any entity that solicits charitable contributions.

"In shutting down organizations that defrauded thousands and obtaining restitution for the victims, justice has been done for the many immigrant communities of the State of New York," said **Attorney General Schneiderman.** "Organizations like IIF and IPA prey upon vulnerable individuals who seek a better life in this country, siphoning their hard earned money and sometimes destroying their chances to regularize their legal status here. My office is committed to combating immigration services fraud and ensuring that fraudulent organizations such as these no longer operate in our State."

The Attorney General's Office will soon issue a statement providing information on the restitution process, and outline the process for submitting claims and supporting documentation for restitution.

The Attorney General's lawsuit alleged that IIF and IPA misrepresented their ability and qualifications to provide immigration-related legal services, made false promises guaranteeing specific legal results, and illegally charged excessive fees for their services. In addition, the lawsuit alleged that the entities and Mr. Juarez violated various laws governing the operations of not-for-profit corporations by wasting the entities' assets and engaging in self-dealing transactions. The Attorney General's Office found that IIF lured immigrants to purchase "memberships" with the organization by promising members they would receive special privileges such



as free or low cost legal fees. Individuals were required to pay a \$100 registration fee plus \$30 per month. Once members requested legal representation, however, they were directed to IPA, where they were generally required to pay at least several thousand dollars more to have immigration papers prepared and filed - often by non-attorneys who were unqualified to do such work.

The illegal actions of IIF and IPA caused disastrous - and sometimes irreversible - problems for New York's immigrant families. In addition to paying substantial fees, clients were put at risk of permanent damage to their and their families' status as a result of receiving incorrect immigration-related legal advice. IIF and IPA solicited victims through newspaper advertisements, articles, conferences, and television and radio shows, amassing thousands of clients for this scheme. In one instance, an individual was eligible to obtain a Green Card, but lost his opportunity due to the organizations' delay and negligence, despite paying more than \$18,000 in fees and costs to them. Other clients were subject to deportation. Others paid thousands of dollars more than necessary for services.

New York State law prohibits a non-lawyer from practicing law, appearing as or purporting to be an attorney-at-law, or providing legal advice of any kind. Non-lawyers can only provide clerical services, such as translating or mailing documents, unless they have been accredited and their organization has been recognized by the federal Board of Immigration Appeals. IIF and IPA engaged in all such prohibited conduct. Further, by charging excessive fees for the services purportedly provided, IIF and IPA acted inconsistently with the charitable purpose for which they were formed, in violation of the New York State Not-For-Profit Corporation Law.

Chung-Wha Hong, Executive Director of the New York Immigration Coalition, said, "We are pleased that the Attorney General arrived at this settlement for the immigrant community. Too often, immigrants looking to change their status in this State happen upon scams that put them worse off, financially and legally. The Attorney General's commitment to putting an end to these practices confirms his dedication to improving the lives of immigrants in the State of New York."

Angela Fernandez, Esq. Executive Director of Northern Manhattan Coalition for Immigrant Rights, said, "This settlement agreement sends the message loud and clear to fraudulent immigration services providers that the unauthorized practice of law will not be tolerated. The Attorney General's ongoing effort to combat immigration fraud continues to protect immigrant communities throughout this State, and warns other would-be predators that the costs of such illegality will be high."

To date, the Office of the Attorney General has conducted numerous investigations and filed several lawsuits against organizations that have engaged in the unauthorized practice of law and defrauded immigrant communities, helping to shutter fraudulent businesses across the state.

The case against IIF, IPA, and Mr. Juarez is being handled by Assistant Attorneys General Allegra Chapman and Steven Shiffman, under the supervision of Civil Rights Bureau Chief Kristen Clarke, Charities Bureau Enforcement Section Chief



David Nachman, Charities Bureau Chief Jason Lilien, and First Deputy of Affirmative Litigation Janet Sabel, with assistance from Investigators John McManus and David Negron and Angel Laporte.

The Attorney General's Office is committed to combating unlawful immigration service's fraud carried out by organizations and individuals. If you have been a victim of immigration fraud, please contact the Attorney General's Immigration Services Fraud Unit Hotline at (212) 416-6149 or email <a href="mailto:civil.rights@ag.ny.gov">civil.rights@ag.ny.gov</a>.

The New York Legal Assistance Group (NYLAG), which had been appointed as temporary receiver in the Attorney General's case, has been reviewing former IIF/IPA client files and referring active matters to legal services providers or providing representation, as necessary.

If you are in need of an attorney or BIA-accredited representative in an immigration matter, please contact either the New York State Bar Association at 1-800-342-3661 (<a href="www.nysba.org">www.nysba.org</a>) or the American Immigration Lawyers Association at 202-507-7600 (<a href="www.aila.org">www.aila.org</a>) for a referral. Depending on your income, you may be eligible for low-cost or free immigration legal services.



#### FTC WINS COURT JUDGMENT AGAINST IMMIGRATION SERVICES SCAM

Court Bans Baltimore-based Defendants from Providing Immigration Services

April 11, 2014

A federal court has ordered the operators of a Baltimore-based immigration services scam to pay as much as \$616,000 in refunds to Spanish-speaking immigrants, who were deceived into paying the defendants for immigration services that they were not qualified or authorized to provide. The order bans the defendants from providing or promoting these services in the future.

The court found that some customers "suffered severely" for relying on the defendants. Several were deported and one was arrested and jailed for almost 11 months, according to the court.

In March 2013, the court found Manuel Alban, his wife Lola Alban, and their company, Loma International Business Group, Inc., liable for violating the FTC Act. Targeting Spanish speakers from El Salvador and Honduras, the Albans misled immigrants to believe they were authorized to provide immigration services for a fee, according to the court. Under federal regulations, except for attorneys, only authorized providers may accept money in exchange for preparing immigration forms on someone else's behalf.

The court found that although the defendants were not authorized providers, they took in an estimated \$479,000 to \$753,000 from unsuspecting immigrants. The Court also noted that according to United States Citizenship and Immigration Services data, the agency denied or rejected more than 60 percent of the immigration applications handled by the Albans.

"Misleading people to steal their money and destroy their dreams crosses the line," said Jessica Rich, Director of the FTC's Bureau of Consumer Protection. "The FTC is here to protect people from just these kinds of scams."

The court order requires Manuel Alban and his wife Lola Alban to pay the refund judgment in installments totaling up to \$616,000, depending on the number of victims the FTC is able to locate to receive a refund.

In addition to banning the defendants from providing immigration services, the order prohibits them, their employees, and others representing them from misrepresenting anything about goods or services they are promoting – including that they are qualified or authorized to provide immigration or tax preparation services. It also requires all customer information held by the defendants to be destroyed, and all customer information held by a court-ordered monitor to be turned over to the FTC.

#### **Consumer Information**

Spanish-speaking immigrants often are targeted by scammers who call themselves "immigration consultants" or "notarios" — or falsely claim that they are attorneys. The FTC has information in Spanish that explains how to find legitimate free or low-cost immigration advice from authorized providers, and where to report immigration



services fraud. Because scammers target immigrants from around the world, the FTC's immigration-related materials also are in Chinese, Korean, Creole, and Vietnamese.

The Federal Trade Commission works for consumers to prevent fraudulent, deceptive, and unfair business practices and to provide information to help spot, stop, and avoid them. To file a complaint in English or Spanish, visit the FTC's online Complaint Assistant or call 1-877-FTC-HELP (1-877-382-4357). The FTC enters complaints into Consumer Sentinel, a secure, online database available to more than 2,000 civil and criminal law enforcement agencies in the U.S. and abroad. The FTC's website provides free information on a variety of consumer topics. Like the FTC on Facebook, follow us on Twitter, and subscribe to press releases for the latest FTC news and resources.



## FORMER POLICE OFFICER PLEADS GUILTY TO DEFRAUDING IMMIGRANTS

NEW YORK (July 17, 2013)— A former police officer pleaded guilty to conning immigrants seeking driver's licenses and immigration assistance out of thousands of dollars Tuesday in Dutchess County Court. The guilty plea follows an investigation by U.S. Immigration and Customs Enforcement's (ICE) Homeland Security Investigations (HSI), the Wappingers Falls Police Department and the New York State Department of Motor Vehicles.

Miguel A. Rodriguez, 53, carried out the scheme while serving as a police officer and a liaison to the Latino community in the Village of Wappingers Falls. Under the terms of his plea agreement, Rodriguez is expected to be sentenced to one year imprisonment and to be subject to an order of restitution in the amount of \$13,862.

"Abusing the public trust to prey on the hopes and dreams of hardworking immigrants is despicable. A crime like this undermines cooperation between law enforcement and the community, and erodes the public's faith in government," said New York Attorney General Eric T. Schneiderman. "It's a fundamental responsibility of my office to bring to justice those who engage in public corruption or defraud vulnerable New Yorkers, and we will continue to root out these crimes wherever they occur."

"Miguel Rodriguez was entrusted to serve the community but instead he robbed thousands of dollars from the very people he was sworn to protect. He preyed upon the necessity and hope of individuals seeking immigration assistance and legitimate government documents," said James T. Hayes Jr., special agent in charge of HSI New York. "HSI and its law enforcement partners work to dismantle fraud schemes that undermine the integrity of official state and U.S. government documentation."

Rodriguez admitted in court that, between October 2010 and August 2012, he charged immigrants \$300 each to enter a state lottery he falsely claimed could garner them valid New York State driver's licenses. Rodriguez admitted to charging victims \$500 to \$1,000 for "asylum and withholding of removal" applications, falsely promising that the applications would be reviewed by an attorney and filed with the appropriate immigration authorities – without even determining whether the victims could be eligible for the immigration benefits at all. In all, Rodriguez admitted to defrauding victims out of more than \$13,000. As part of his fraudulent scheme, Rodriguez visited religious congregations and preyed upon unsuspecting churchgoers, portraying himself as a compassionate individual with official connections to help them get driver's licenses and other services. In reality, he had no such authority to provide the documents or services he purported to offer and instead he stole their money.

Rev. Alvin Bridgewater, of Poughkeepsie Vassar Road Church of the Nazarene, said, "These hardworking immigrants put their faith in Mr. Rodriguez and paid for what they were told was an honest and legal service only to find out that he was taking them for a ride. I commend Attorney General Schneiderman for sending a clear message that abusing unsuspecting and vulnerable communities will not be tolerated."



For additional and updated examples of prosecutions related to immigration services fraud, please visit the following agencies' press pages:

- Bronx County District Attorney: http://bronxda.nyc.gov/html/pr/pressreleases.shtml
- Brooklyn District Attorney: <a href="http://brooklynda.org/newsroom/">http://brooklynda.org/newsroom/</a>
- Federal Trade Commission: https://www.ftc.gov/news-events
- Immigration Customs Enforcement Homeland Security Investigations: https://www.ice.gov/news/all
- Nassau County District Attorney: http://www.nassaucountyny.gov/2898/News-Releases
- New York County District Attorney: http://manhattanda.org/media-center
- New York State Attorney General: http://www.ag.ny.gov/press-releases
- Queens County District Attorney: http://www.queensda.org/pressreleases.html



#### **Consumer Complaint Mechanisms**

- New York State New Americans Hotline: 1-800-566-7636 (from a NY area code) or 212-419-3737 (from an area code outside of New York State).
  - Languages: 200 (via operator or language line)
  - Hours: Monday-Friday, 9:00 a.m. to 8:00 p.m.
  - Services: Free referrals to legal services, accepts complaints against fraudulent practitioners and forwards them to appropriate law enforcement and government agencies<sup>15</sup>.
  - Note: Agencies wishing to be referred complaints from the hotline should contact Raluca Oncioiu at raluca.oncioiu@archny.org.
- New York State Attorney General's Office: 1-866-390-2992
  - Languages: 200 (via language line)
  - Hours: 24 hour messaging system
- Bronx County District Attorney Immigrant Affairs Unit Helpline: 1-844-590-SCAM (7226) or bximmigrant@bronxda.nyc.gov
  - · Languages: English, Spanish, French
  - Hours: Monday-Friday, 9:00 a.m. to 5:00 p.m.
- Kings County District Attorney Immigrant Fraud Unit Helpline: 718-250-3333 or IFU@brooklynda.org or visit the District Attorney's Action Center at 350 Jay Street, 16Th Floor; Brooklyn, NY 11201
  - Languages: English, Spanish
  - Hours: Monday-Friday, 9:00 a.m. to 5:00 p.m. (last walk-in at 4pm)
- Nassau County District Attorney's Office of Immigrant Affairs:
   516-571-7756 or OIA@nassauda.org or visit the Complaints Unit, East Wing Building, at 272 Old Country Road, Mineola, NY 11501
  - Languages: English, Spanish and other languages via language line.
  - Hours: 9:00 a.m. to 4:45 p.m.
- New York (Manhattan) District Attorney's Office Immigrant Affairs Unit: 212-335-3600
  - Languages: English, Spanish, Chinese (access to language line with all languages available).
- Queens County District Attorney's Office of Immigrant Affairs:

Hotline: 718-286-6690 or OIA@queensda.org

- Languages: English, Spanish, Chinese, Russian, Polish (30 plus languages in house and use of language line and interpreters)
- Hours: Monday-Friday, 9:00 a.m. to 5:00 p.m.
- New York City Public Advocate's Office: 212-669-7250 or gethelp@pubadvocate.nyc.gov or http://pubadvocate.nyc.gov/need-help
  - Address: 1 Centre Street, 15 Floor North. New York, NY 10007
  - Walk-In Office Hours: Monday-Friday From 9:00 a.m. to 4:30 p.m.
  - Fax: (212) 669-4701
- First Department Committee On Character Fitness, New York Supreme Court
- Federal Trade Commission: 1-877-ftc-help (I-877-4357)

15 Current agencies receiving complaints from the NYS New Americans Hotline: New York County District Attorney, Brooklyn District Attorney, Queens County District Attorney, Nassau County District Attorney, Bronx County District Attorney, New York State Attorney General. Complaints are also uploaded to the Federal Trade Commission's Consumer Sentinel Database.



- Languages: English, Spanish
- Online: www.ftc.gov/complaint
- U.S. Immigration and Customs Enforcement: 1-866-dhs-2-ice
  - Languages: English, Spanish and other languages via language line.
  - Hours: 24 hours
  - Online: https://www.ice.gov/webform/hsi-tip-form
- Board of Immigration Appeals:
  - File Form EOIR-4416 or submit a written statement. Either should be mailed to:

Office of the General Counsel

Attn: Disciplinary Counsel

Executive Office for Immigration Review

5107 Leesburg Pike, Suite 2600

Falls Church, VA 22041

- Information on the EOIR disciplinary mechanisms is also available via factsheet on their website<sup>17</sup>.
- EOIR also maintains a list of currently disciplined practitioners, including attorneys and BIA Accredited Representatives.<sup>18</sup>

EOIRsDisciplinaryProgramFactSheet02272013.pdf

<sup>16</sup> Available at <a href="http://www.justice.gov/eoir/formslist.htm">http://www.justice.gov/eoir/formslist.htm</a>.

<sup>17</sup> Available at <a href="http://www.justice.gov/sites/default/files/eoir/legacy/2013/02/27/">http://www.justice.gov/sites/default/files/eoir/legacy/2013/02/27/</a>

<sup>18</sup> Available at <a href="http://www.justice.gov/eoir/list-of-currently-disciplined-practitioners">http://www.justice.gov/eoir/list-of-currently-disciplined-practitioners</a>.



#### **Federal Laws**

#### **FTC Act**

15 U.S.C. § 45 makes it unlawful to engage in "unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce." It grants the Federal Trade Commission (FTC) jurisdiction over investigating and seeking appropriate relief against the perpetrators of such acts<sup>19</sup>.

#### **Mail & Wire Fraud Act**

- 18 U.S.C. § 1343: Prohibits the use of wire, radio, or television services in the perpetration of interstate or foreign commerce fraud.
  - Individuals who wire money to others as payment for a fraudulent scheme are also liable under this act.
- 18 U.S.C. §1957: Forbids parties from knowingly engaging in criminal activity and then using the ill-gotten money for personal gain. This statute only pertains to fraudulent actions involving monies equal or in greater value than \$10,000.
- 8 U.S.C., § 1306(c), Application for or Procurement of an Alien Registration Card through Fraud
- 8 U.S.C. § 1324(a)(1)(A)(iv), Encouraging/Inducing Aliens to Enter or Reside in
- the United States in Violation of Law
- 18 U.S.C. § 371, Conspiracy
- 18 U.S.C. § 1001(a)(1), False Statements/Fraud
- 18 U.S.C. § 1028, Document/Identity Fraud
- 18 U.S.C. § 1028A, Aggravated Identity Theft
- 18 U.S.C. § 1505, Obstruction of Proceedings before Departments, Agencies, and Committees
- 18 U.S.C. § 1546, Fraud and Misuse of Visas, Permits, and Other Documents
- 18 U.S.C. § 1956, Money Laundering



## **New York State Immigration Fraud Enforcement Statutes**

## Penal Law Sections Used to Prosecute Immigration Services Fraud

- § 155.05: Larceny by False Promise & Larceny by Extortion
- § 155.25: Petit Larceny
- §§ 155.30-155.42: Grand Larceny
- §§ 170.20 170.35: Criminal Possession of a Forged Instrument
- §§ 170.00 170.15: Forgery
- §§ 175.30 175.35: Offering a False Instrument for Filing in the First Degree
- §§ 190.60 190.65: Scheme to Defraud
- §§ 190.87 190.89: Immigrant Assistance Services Fraud
- § 195.05: Obstructing Governmental Administration

## Summary of General Business Law Section 28C<sup>20</sup>

- § 460-a Defines "Immigrant Assistance Service Providers" ("IASP") as individuals, organizations or businesses who, for a fee, offer services related to legal immigration issues.
- § 460-b Specifies contract requirements<sup>21</sup>.
- § 460-c Specifies signage and advertising requirements<sup>22</sup>.
- § 460-d States that IASPs are prohibited from:
  - Providing legal advice;
  - Assuming or using the title of lawyer or equivalent (including but not limited to "notary", "notario" or "notario publico", "accredited representative of the board of immigration appeals," and "immigration specialist");
  - Stating directly or indirectly that the IASP has special influence with or can obtain special favors from USCIS, Department of Homeland Security, EOIR, or any other governmental entity;
  - Threatening to report the immigrant consumer to U.S immigration authorities;
  - Demanding or retaining a fee for work not performed, future work, or costs not incurred;
  - Counseling an immigrant-consumer to make a false statement to a governmental officer or on a federal immigration form;
  - Submitting information to a government official on behalf of an immigrant-consumer without his or her knowledge or consent, except where required by law;
  - Failing to return or provide a copies of the immigrant's immigration file upon request or upon termination of the contract;
  - Making any direct or indirect misrepresentations or false statements to

20 The Section 28C of the General Business Law was amended in 2014 by the Immigrant Assistance Services Enforcement Act. For full text of the Act, please see Appendix C. 21 See Appendix D: Checklist for ISP contracts.

22 ld.



- the immigrant-consumer;
- Promising or guaranteeing a specific outcome relating to the immigration process, unless there is a factual basis to support such a statement;
- Demanding a fee in exchange for New York State government immigration forms or for a referral to a qualified legal service providers;
- Referring a customer for a fee to an attorney, individual or entity that can provide services the IASP cannot;
- Counseling a person on his or her eligibility for immigration status, including how to fill out answers on immigration forms;
- Promising to expedite the immigration applications or leverage special relationships that will expedite the immigration status adjustment process;
- Knowingly providing false or misleading information about an immigrant's eligibility for immigration status or other government benefits, with the intention of inducing a customer to employ the IASP's services.
- § 460-e: All immigration application materials must be preserved for at least three years after the execution of a contract even if the contract is voided later on.
- § 460-f: IASPs must maintain a surety in the form of a "bond, contract of indemnity, or irrevocable letter of credit payable to the people of New York" for \$50,000 or 20% of total fees if the amount of total fees in a 12 month period is greater than \$250,000.
- § 460-g: An immigrant fraud victim may bring a private right of action to enjoin the IASP's unlawful act or practice, and/or to recover actual damages or \$2,500, whichever is greater, in addition to any other remedy available. Courts may also award costs and reasonable attorney fees to prevailing plaintiffs;
- § 460-h: The New York State Attorney General has the authority to seek injunctive relief, restitution, and/or civil penalties for any violations listed in General Business Law Article 28-C:
- § 460-i: Violations of this section are a Class A misdemeanor;
- § 460-j: Other remedies under law may also be sought beyond what is provided for in this section;
- § 460-k: A supplemental penalty of up to \$10,000 may be imposed.

## **NOTARY PUBLIC ADVERTISING REGULATIONS**

- NYCRR § 200.1: A notary public cannot represent himself or herself to be an attorney unless he or she is licensed to practice law in New York.
- Non-lawyer notary advertising must include the following statement:
  - "I am not an attorney licensed to practice law and may not give legal advice about immigration or any other legal matter or accept fees for legal advice."

## **JUDICIARY LAW**

- § 478: Falsely holding oneself to the public as an attorney or firm.
- § 483: Advertising that an attorney is available to provide legal representation without including the name of the attorney or law firm.



- § 484: Accepting compensation to represent another person in court unless said person is admitted to practice law.
- § 485: All of the above are Class A felonies unless the offender is representing himself or herself as an attorney and there is over \$1,000 monetary loss to victims, in which case it is a Class E felony.
- § 750: The Supreme Court can punish a person who unlawfully practices law by finding that person in criminal contempt.



## **Private Right of Action in New York State**

The Immigration Assistance Service Enforcement Act (IASEA) creates a private right of action for individuals defrauded by Immigration Service Providers.

IASEA states that "an individual who is harmed by a provider as a result of a provider's violation of this article may bring an action in his or her own name against a provider to enjoin such unlawful act or practice, an action to recover his or her actual damages or twenty five hundred dollars, whichever is greater, or both such actions, in addition to any remedy available in law or equity. The Court may award costs and reasonable attorney's fees to a prevailing plaintiff."

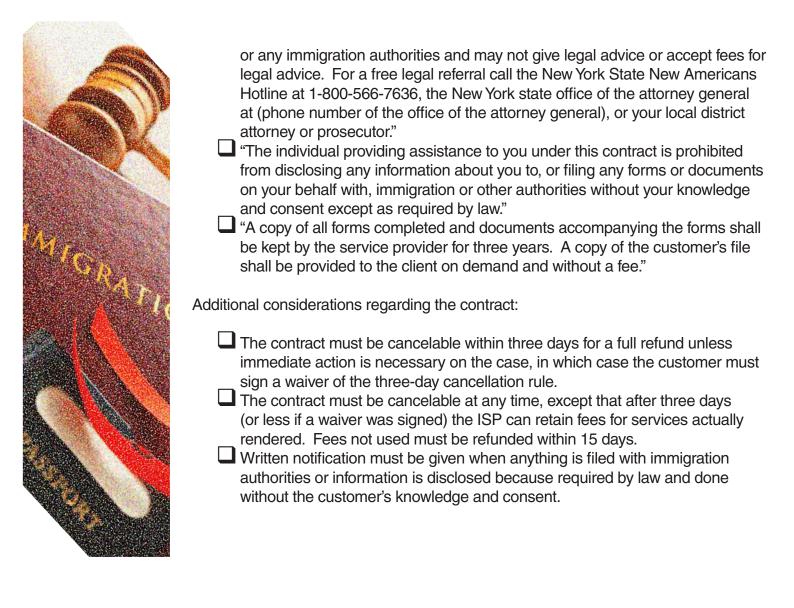
For an overview on the civil law remedies available to victims of immigrant services fraud, see the Georgetown Law Community Project and Ayuda's comprehensive guide entitled "Notario Fraud Remedies: A Practical Manual for Immigration Practitioners."<sup>23</sup>



# **Checklist: Sign, Contract & Advertising Requirements for Immigrant Service Providers**

Checklist: Contract Requirements Immigrant Service Providers (NY GBL 460-b)

☐ An executed contract in the language understood by the customer and in





## Checklist: Signage Requirements for Immigrant Service Providers (NY GBL 460-c)

- ☐ Signs in every location where customer meetings occur and visible to customers. Signs in English and every language services are provided in. Separate sign for each language. One sign at least 11 inches by seventeen inches with following language in 60 point type: "THE INDIVIDUAL PROVIDING ASSISTANCE TO YOU UNDER THIS CONTRACT IS NOT AN ATTORNEY LICENSED TO PRACTICE LAW OR ACCREDITED BY THE BOARD OF IMMIGRATION APPEALS TO PROVIDE REPRESENTATION TO YOU BEFORE THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES, THE DEPARTMENT OF HOMELAND SECURITY, THE EXECUTIVE OFFICE FOR IMMIGRATION REVIEW, THE DEPARTMENT OF LABOR, THE DEPARTMENT OF STATE OR ANY IMMIGRATION AUTHORITIES AND MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE, FOR A FREE LEGAL REFERRAL CALL THE OFFICE FOR NEW AMERICANS HOTLINE AT 1-800-566-7636. TO FILE A COMPLAINT ABOUT AN IMMIGRANT ASSISTANCE SERVICE PROVIDER CALL THE OFFICE FOR NEW AMERICANS HOTLINE AT 1-800-566-7636, THE NEW YORK STATE OFFICE OF ATTORNEY GENERAL AT (phone number of the office of attorney general), OR YOUR LOCAL DISTRICT ATTORNEY OR PROSECUTOR'S OFFICE AT (phone number of the local district attorney). Separate sign in visible location in conspicuous size that includes schedule of
  - Separate sign in visible location in conspicuous size that includes schedule of fees and "YOU MAY CANCEL ANY CONTRACT WITHIN 3 BUSINESS DAYS AND GET BACK YOUR DOCUMENTS AND ANY MONEY PAID."



## Checklist: Advertising Requirements for Immigrant Service Providers (NY GBL 460-c)

Notice in any advertising, in conspicuous size stating: ""THE INDIVIDUAL OFFERING TO PROVIDE IMMIGRANT ASSISTANCE SERVICES IS NOT AN ATTORNEY LICENSED TO PRACTICE LAW OR ACCREDITED BY THE BOARD OF IMMIGRATION APPEALS TO PROVIDE REPRESENTATION BEFORE THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES, THE DEPARTMENT OF HOMELAND SECURITY, THE EXECUTIVE OFFICE FOR IMMIGRATION REVIEW, THE DEPARTMENT OF LABOR, THE DEPARTMENT OF STATE OR ANY IMMIGRATION AUTHORITIES AND MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE."



## **Basics of Immigration Law**

NOTE: THIS IS NOT INTENDED AS LEGAL ADVICE, NOR IS IT AN EXHAUSTIVE RESOURCE ON IMMIGRATION LAW. IMMIGRATION LAW IS COMPLICATED AND FACT-SPECIFIC. FOR QUESTIONS ABOUT IMMIGRATION LAW OR TO INQUIRE ABOUT AVAILABLE TRAININGS, PLEASE CONTACT THE NEW YORK IMMIGRATION COALITION AT 212-627-2227.

For more comprehensive information on immigration law:

- An easy to use resource is available at www.uscis.gov/HowDol
- The American Immigration Lawyers Association: www.aila.org
- The New York State Defender's Association: www.nysda.org/imm-trainingresources.html
- The New York Immigration Coalition: www.nyic.org

## Who are Today's Immigrants?

## US Citizens

- Born in the United States; or
- Born abroad and one or both parents are US Citizens; or
- Naturalized (applied for, and was granted, US Citizenship); or
- Derivative citizenship (for minor children of naturalized citizens).

To qualify for naturalization, a person must have had a green card for five years (see below); have been a resident of the United States for five years; have been physically present in the United States for half of that time (30 months); be a person of good moral character; pass an English language and US civics test; and take an oath. Individuals married to US citizens can apply after having a green card for three years if they were a resident of the US that entire time; were physically present in the United States half of that time (18 months); their spouse was a US citizen for all three years and they meet all other requirements.

Members of the military can apply after a year of service, or immediately if they served in an active conflict.

Lawful Permanent Residents (LPRs or "green card" holders).

Lawful Permanent Residents (commonly referred to as "green card holders" because they have a green card as proof of their status) are foreign born individuals who have the right to live in the United States permanently, work for any employer they choose, and travel freely out of the United States. LPR status is the ONLY way by which someone can become a US Citizen.



To become an LPR, most individuals must first be sponsored for an immigrant<sup>24</sup> visa. The following categories of individuals can be sponsored:

## Family based sponsorship:

- -Parents, spouses, and minor children of US Citizens;
- -Adult unmarried & married children of US Citizens\*;
- -Spouses and children of Lawful Permanent Residents\*;
- -Siblings of US citizens\*.

## Employment based-sponsorship:

- -Individuals of extraordinary ability, outstanding researchers/academics, multi-national executives/managers (can sponsor themselves);
- -Professionals with advanced degrees, individuals of exceptional activities\*\*;
- -Professional, skilled, or unskilled workers\*;
- -Special immigrants;
- -Investors\*\*
- \* These categories are currently backlogged, meaning there are wait times of one or several years before the person holding the visa can apply for the green card. Professional, skilled, or unskilled workers are backlogged for individuals from India, Mexico, and the Philippines.
- \*\*These categories are backlogged, but only for individuals from China.

In addition to sponsorship categories, there is also the Diversity Visa, more commonly known as the "Green Card Lottery". Nationals of countries with low immigration rates to the United States can apply for the lottery if they have a high school diploma or satisfy other work requirements and otherwise qualify to either adjust their status in the United States or consular process (see paragraph below). Lottery applications must be submitted via the internet in the period prescribed by the Department of State (generally 30 days starting with the first Monday of October). The entire application process must be completed within the year. Although only 55,000 green cards are available through the lottery every year, upward of 100,000 applications are selected on the presumption that many will not meet all qualifying requirements. Generally, the higher the number assigned to a selected applicant, the less likely it is that the applicant will actually receive a visa number available to them and be able to complete the process within the year.<sup>25</sup>

Other individuals who can apply for a LPR status (a green card) without needing an immigrant visa are: victims of domestic violence<sup>26</sup>, asylees, U visa holders and children who cannot be reunited with one or both parents because of abuse, neglect, or abandonment. Individuals can apply for a green card in the United States through a process called "adjustment of status" or abroad via "consular processing". To be eligible for adjustment of status, an individual must have been admitted into the U.S. (i.e. gone through a

<sup>24</sup> Immigrants are individuals planning to settle permanently in the United States.

<sup>25</sup> More information is available on the diversity visa (green card lottery) on the Department of State website: http://travel.state.gov/content/visas/en/immigrate/diversity-visa/entry.html

<sup>26</sup> Pursuant to the Violence Against Women's Act, victims of domestic violence who could have been sponsored by a family member under one of the family-based sponsorship categories can self-petition for an immigrant visa as a result of the abuse.



border inspection checkpoint, even if with fraudulent documents) and must meet certain other requirements. The most common disqualifiers for adjustment of status are illegal entry ("Entry Without Inspection") or being undocumented in the United States (unless the green card application is for the spouse, parent, or minor child of a US Citizen). All individuals can present themselves to a consulate for processing, but if they have previously had violations of immigration laws, been in the United States unlawfully for a certain period of time, and/or been deported from the United States, they may be subject to bars that would prevent them from entering the United States.

## Non-Immigrant Statuses

Immigration laws have a large number of visas available for individuals wishing to come to the United States for a specific purpose<sup>27</sup>. These include a wide variety of work-related visas (H1-B for professional occupations; O & P visas for artists, entertainers, athletes; L visas for inter-company transferees or managers; and A, E or G visas for diplomats etc.). They also include visit visas for tourists and business purposes, student visas, exchange or vocational students, etc. These visas are meant to be temporary and, while some can be renewed for long periods of time, do not lead to permanent resident status in and of themselves. Some can be applied for and obtained from within the United States, but most require a visit to a consulate abroad. Those tied to employment also allow for authorization to work in the United States, though not all will extend that to the spouses of the visa holder.

## Humanitarian Benefits

The United States, through its own policy as well as obligations under international law, offers protections to those fleeing harm. This includes resettling refugees who have been processed abroad, as well as permitting individuals in the United States or at its borders to apply for asylum. Those who do not meet statutory requirements for asylum may still have orders of removal withheld pursuant to the Immigration and Nationality Act or the United Nations Convention Against Torture, to which the US is a party. Unlike refugee or asylee status, which leads a year later to permanent resident status and from there, US citizenship, withholding orders only protect the individual from being removed to their country of origin. While they allow for work authorization in the United States, they do not grant status. Meaning that any person granted withholding of removal who leaves the United States will not be able to return.

Beyond the above, there are a few other statuses or protections that fall under the category of humanitarian benefits. When there is a natural disaster or armed conflict in another country, the US government can extend certain rights to nationals of that country, such as deferred enforcement of departure or extensions of stay, to allow them to stay longer than originally intended. In certain instances, the Secretary of Homeland Security can designate countries for Temporary Protected Status (TPS), allowing nationals of that country to obtain protection from deportation, work authorization, and sometimes permission to travel for periods of up to 18 months, renewable indefinitely at the discretion of DHS. Nepal was designated in June, 2015 after a devastating earthquake, and Yemen was designated in August due to ongoing

27 See Appendix J, chart of non-immigrant statuses.



civil conflict. Haiti has been designated since 2010 and Honduras and El Salvador since the early 1990s, each country being re-designated every 18 months.

Finally, when a person shows strong equities and a compelling case why immigration laws should not be enforced against that person, her or she can request deferred action. A grant of deferred action simply means that the government has agreed to defer taking any action on the person's case for at least the time period specified in the grant (usually a year), and allows the recipient to apply for work authorization. In 2012, President Barack Obama formalized the application process for individuals who had been brought to the United States as children and were at that time under 30 years old. The program, known as Deferred Action for Childhood Arrivals (DACA), had its eligibility requirements expanded in November 2014, at the same time as a new program was created for certain parents (Deferred Action for Parents of American Citizens or Lawful Permanent Residents –or "DAPA"). At the time of this writing, however, both the expansion of the original DACA as well as the DAPA program are on hold, and subject to an injunction by a US District Court Judge in Brownsville, Texas.

## <u>Undocumented Immigrants</u>

In addition to the various categories detailed above, the United States currently has an estimated population of about 11 million undocumented immigrants. Many – over half – entered the United States lawfully but overstayed their visas while others came to the U.S. over the borders. Over half have been in the United States between 5 and 15 years. Many are part of "mixed status" families, i.e. where some members are US citizens or have some lawful status and others do not. A third have minor US citizen children (under the age of 18).

## **Entering & Leaving the United States**

Several agencies oversee the administration of immigration laws in the United States (see Chapter 8 for a description of the various agencies and their roles). While many play a role in deciding the outcome of applications made for benefits outlined earlier in this chapter, others are tasked with making sure a person either does not enter the US without permission, or does not remain if he or she has violated immigration laws.

The concept of "admission" is an important one in immigration law. Individuals seeking to enter the United States must show that they are admissible – i.e. that none of the grounds of inadmissibility apply to them – upon being inspected by a border patrol agent (at the airport, at a land border crossing, or at a ship terminal). Once allowed to enter the United States, a person is deemed to have been "admitted" and, if the US government wants to force them to leave, it will have to deport them. An individual who was not inspected and admitted when they first physically arrived in the United States (Entered Without Inspection or "EWI") is considered an "arriving alien" (versus an "admitted alien") similar to a person presenting themselves at a border point of entry, regardless of how long they have actually been in the US. One slight variation is called "parole", which applies when a person is not admissible to the United States immediately, but is nonetheless permitted to enter the US to resolve some question about his or her status. A common example is a person seeking



protection who may not have had a valid visa to enter the US, but will be allowed in to apply for asylum.

Arriving aliens must not be subject to any grounds of inadmissibility, which can be found in INA s. 215. These grounds are divided into six main categories:

- Health related grounds
- Criminal related grounds (including, but not limited to, persons who have either been convicted or admitted to committing crimes involving moral turpitude, drugrelated crimes, and/or aggravated felonies as defined by the INA and not state law.)
- Security related grounds (national security, terrorist activity, membership in communist or Nazi parties, for example.)
- Public charge grounds (no one likely to require welfare assistance will be admitted to the US.)
- Labor certification related grounds (immigrants coming to work in the US must pass a labor market test overseen by the Department of Labor.)
- Illegal entrants, immigration law violators, other breaches of immigration law (including false claims to US citizenship or voting in an election.)

Important note: An LPR ("green card holder") is not considered to be seeking admission upon returning from a trip abroad <u>unless</u> the LPR has been convicted of a crime or has been out of the United States for over a year. If the LPR has been out of the United States over six months, the LPR will have to show that her or she did not abandon his or her residence in the US or the LPR will also be deemed to be seeking admission. All other non-citizens are considered to be seeking admission every time they enter the United States, no matter how brief their time outside of it was. In practice, that means that if something is revealed while the individual is outside the United States (e.g. past criminal conviction) or a border patrol officer at the border determines the individual no longer meets the requirements for the visa, the individual will not be allowed back into the United States, no matter how brief their time abroad was.

Non-citizens admitted into the United States may find themselves deported if they fall under one of the following deportation grounds, which can also be divided into five general categories:

- Violations of immigration laws, including terms of the individual's status in the US.
- Criminal related grounds (including, but not limited to, persons who have either been convicted or admitted to committing crimes involving moral turpitude, drugrelated crimes, and/or aggravated felonies as defined by the INA and not state law.)
- False claims to US citizenship or voting in an election.
- Security related grounds (national security, terrorist activity, membership in communist or Nazi parties, for example)
- Public charge grounds (if a non-citizen obtained welfare benefits, except if the benefits eligibility was based on events that happened after the non-citizen arrived in the United States).

Important note: Everyone, including LPRs, are subject to deportation grounds. The only true way to be safe from deportation is by becoming a US citizen.



Certain grounds of inadmissibility can be excused through a waiver process. Waiver applications usually require having a relative – most commonly a spouse or parent – who is a US citizen or LPR and who will suffer extreme hardship if the non-citizen is forced to leave the United States or prevented from returning. The most common bars that have waivers available are:

- 3/10 year bar: Individuals who have over 180 days of unlawful presence in the United States (i.e. time period when they are in the US without authorization) and leave before removal proceedings are initiated are inadmissible for 3 years. Individuals who have over a year of unlawful presence in the United States are inadmissible for 10 years. The time periods only start running once the person has left the US territory.
- Fraud: Individuals who have committed fraud to obtain an immigration benefit are inadmissible to the United States, but can apply for a waiver.

## **Procedures**

Non-citizens wishing to travel to the United States apply for visas at US consulates abroad. Nationals of certain countries<sup>28</sup> do not need visas if they are coming for a short visit – in exchange for dispensing with these requirements, individuals are only permitted to enter for a maximum of 90 days and waive their right to a hearing before a judge if they are alleged of violating immigration laws. Consulates handle both non-immigrant and immigrant visa petitions.

Once in the US, non-citizens can apply for most benefits through US Citizenship and Immigration Services (USCIS). If an application is denied or a non-citizen comes to the attention of Immigration and Customs Enforcement (ICE) for having violated immigration laws, that person will be placed in removal proceedings before an immigration judge. The judge will decide whether the person has some ability to remain in the United States or should be removed. In recent years, the various agencies have issued guidance as to which cases they will prioritize for referral to immigration courts, meaning that not all denied applications or encounters with ICE will necessarily lead to deportation.

If a non-citizen has an order of removal entered against him or her, ICE will ask the individual to appear at their offices on a certain day with luggage and a plane ticket. Only if the individual is detained will ICE make travel arrangements and get the person on a plane to leave the United States. ICE has the authority to detain any immigrants they deem a flight risk or threat to safety. Non-citizens can be detained by ICE upon entry into the United States, if arrested by ICE within the US territory, or after a removal order is entered again them. Detention centers are either county jails or correctional facilities run by private contractors.

<sup>28</sup> Citizens of these countries must go through the Electronic System for Travel Authorization (ESTA) and receive pre-approval to come to the US. A list of countries participating in the visa waiver program is available on the Department of State website at http://travel.state.gov/content/visas/en/visit/visa-waiver-program.html.



## **Overview of Immigration Agencies & Roles**

## DEPARTMENT OF HOMELAND SECURITY

**USCIS**: The U.S. Citizenship and Immigration Services (USCIS) is the government agency that oversees immigration in the United States. USCIS provides accurate and useful information regarding granting immigration and citizenship benefits, promoting awareness and understanding of citizenship, and ensuring the integrity of our immigration system. USCIS's strategic goals include:

- Strengthening the security and integrity of the immigration system.
- Providing effective customer-oriented immigration benefit and information services.
- Supporting immigrants' integration and participation in American civic culture.
- Promoting flexible and sound immigration policies and programs.
- Strengthening the infrastructure supporting the USCIS mission.
- Operating as a high-performance organization that promotes a highly talented workforce and a dynamic work culture.

Within USCIS, the **Fraud Detection and National Security (FDNS) Unit** is a specialized unit that works to resolve background check information and other concerns that surface during the processing of immigration benefit applications and petitions. Resolution often requires communication with law enforcement or intelligence agencies to make sure that the information is relevant to the applicant or petitioner at hand and if so, whether the information would have an impact on benefit eligibility for the benefit.

USCIS has formed a partnership with Immigration and Customs Enforcement (ICE) in which FDNS pursues administrative inquiries into most application and petition fraud, while ICE conducts criminal investigations into major fraud conspiracies.

FDNS officers are located in every USCIS Service Center, District, Field and Asylum Offices. FDNS officers are also located in other government agencies.

**ICE:** U.S. Immigration and Customs Enforcement's (ICE) primary mission is to promote homeland security and public safety through the criminal and civil enforcement of federal laws governing border control, customs, trade and immigration. This mission is executed through the enforcement of more than 400 federal statutes and focuses on smart immigration enforcement, preventing terrorism and combating the illegal movement of people and goods.

Within ICE, the **Enforcement and Removal Operations (ERO)** enforces the nation's immigration laws in a fair and effective manner. It identifies and apprehends removable immigrants, detains individuals when necessary, and removes unauthorized immigrants from the United States. ERO prioritizes the apprehension, arrest and removal of convicted criminals, those who pose a threat to national security, fugitives and recent border entrants. Individuals seeking asylum also work with ERO. In addition, ERO transports removable immigrants from point to point, manages immigrants in custody or in an alternative to detention program, provides access to legal resources and representatives of advocacy groups, and removes individuals from the United States who have been ordered deported.



Also within ICE, the **Office of the Principal Legal Advisor (OPLA)** represents the U.S. government in exclusion, deportation and removal proceedings before the U.S. Department of Justice's Executive Office for Immigration Review. OPLA attorneys prosecute immigrants who have committed crimes, terrorists and human rights abusers. It also provides critical legal support to ICE components focusing on customs, worksite enforcement, ethics, employment law, tort claims and administrative law issues.

**CBP**: The U.S. Customs and Border Protection (CBP) has 60,000 employees making it one of the world's largest law enforcement organizations. The CBP is responsible for protecting the U.S. against terrorists and facilitating international travel and trade. As the world's first full-service border entity, CBP takes a comprehensive approach to border management and control, while combining customs, immigration, border security, and agricultural protection into one coordinated and supportive activity.

## US DEPARTMENT OF JUSTICE – EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

The primary mission of the Executive Office for Immigration Review (EOIR) is to fairly, expeditiously and uniformly adjudicate immigration cases. The U.S. Attorney General has empowered the EOIR to conduct immigration court proceedings, appellate reviews and administrative hearings.

**BIA**: The Board of Immigration Appeals (BIA) is located at EOIR headquarters in Falls Church, Virginia and is the highest administrative body for interpreting and applying U.S. immigration law. It is directed by a chairman and vice chairman and consists of approximately 15 board members. The BIA usually resolves appeals by conducting a "paper review" of cases which usually do not require court proceedings. However in some cases, the BIA may order oral hearings if it requires additional information before rendering a decision.

The BIA has nationwide jurisdiction to hear immigration and Department of Homeland Security appeals from certain decisions rendered by immigration judges and by district directors of the DHS. These are appeals for a wide variety of proceedings in which the United States is one party and the other party is an immigrant, citizen, or business firm. In addition, the BIA is responsible for the recognition of organizations and accreditation of representatives requesting permission to practice before DHS, the immigration courts, and the BIA.

BIA decisions are binding unless modified or overruled by the U.S. Attorney General or a federal court decision. The majority of appeals reaching the BIA involve orders of removal and applications for relief from removal. Other common cases before the BIA include the exclusion of immigrants applying for admission to the United States, petitions to classify the status of immigrant relatives for the issuance of preference immigrant visas, fines imposed upon carriers for the violation of immigration laws, and motions for reopening or reconsidering BIA decisions.



**OCIJ**: The Office of the Chief Immigration Judge (OCIJ) is headed by the chief immigration judge who establishes operating policies for the immigration courts and oversees policy implementation in each of those courts. OCIJ supervises and directs the immigration courts, which handle more than 300,000 immigration matters annually. OCIJ sets policies for more than 230 immigration judges located in over 55 U.S. immigration courts.

Immigration judges preside over cases involving the removal of undocumented immigrants. Their decisions are final, but they can be appealed or certified to the Board of Immigration Appeals. For incarcerated individuals, the OCIJ has launched the "Criminal Aliens Institutional Hearing Program" aimed at determining the immigration status of detained immigrants. This program is available in all 50 states, as well as Puerto Rico, the District of Columbia, select municipalities, and federal prisons.



## Relevant Government & Law Enforcement Agencies

## **FEDERAL**

Homeland Security Investigations (HSI): HSI, a component within ICE, is a critical investigative arm of the Department of Homeland Security and is a vital U.S. asset in combating criminal organizations illegally exploiting America's travel, trade, financial and immigration systems. HSI's workforce includes special agents, analysts, auditors and support staff. Its men and women are assigned to cities throughout the United States and to offices around the world. HSI's international force is the department's largest investigative presence abroad and gives HSI one of the largest international footprints in U.S. law enforcement. HSI has broad legal authority to enforce a diverse array of federal statutes. It uses this authority to investigate all types of cross-border criminal activity, as well as crimes involving immigrant exploitation and immigration related scams and fraud.

Federal Trade Commission (FTC): Section 5 of the FTC Act, 15 U.S.C. § 45 prohibits unfair and deceptive acts and practices in commerce. Under this statute, the FTC has brought cases against companies and individuals that:

(a) defrauded immigrants by deceiving them into paying the defendants for immigration services that they were not qualified or authorized to provide; (b) defrauded immigrants into paying for free immigration forms; and (c) targeted immigrants and other non-English-speaking consumers with mortgage relief scams and other fraudulent schemes. The FTC also provides outreach to immigrant groups online and in person to counsel them on how to avoid frauds and scams.

## **STATE**

New York State Attorney General: The New York State Attorney General's Office is the top law enforcement office for the State. It is charged with statutory and common law powers, which it uses to protect consumers and investors, charitable donors, the public health and environment, civil rights, the rights of wage-earners and businesses, and other areas of enforcement. The Attorney General's Office prosecutes individuals and companies that target immigrant communities with false promises of residency and citizenship, as well individuals who provide ineffective representation to unsuspecting immigrants without the legal authority to do so.

New York State Office for New Americans (ONA): The New York State Office for New Americans assists newcomers in the State who are eager to contribute to the economy and become part of the family of New York. The cornerstone of ONAs effort is the creation of a network of 27 neighborhood-based Opportunity Centers located throughout New York State where immigrants are assisted with English-for-Speakers-of-Other-Languages training; naturalization and DACA assistance; federal immigration law and policies information and referrals; and business development training. ONA also funds the New York State New Americans Hotline (formerly known as the New York State Immigration Hotline.) The Hotline can be access at 800-566-7636 and responds to immigration and citizenship related questions, provides



referrals to reputable non-profit service providers, and facilitates the reporting of schemes to defraud immigrants.

New York State Division of Consumer Protection: The New York State Division of Consumer Protection protects, educates and represents consumers in an everchanging economy. From educating the public on marketplace scams prevention to advocating consumer's interest before legislative and regulatory bodies, the Division of Consumer Protection protects the interest of New York State consumers. The Division also resolves thousands of consumer complaints through voluntary mediation between the public and businesses. This includes immigration assistance fraud issues.

## CITY/COUNTY

**NYC Department of Consumer Affairs:** The Department of Consumer Affairs (DCA) is the largest municipal consumer protection agency in the country, licensing 80,000 businesses across 55 different industries. NYC's DCA inspects businesses, mediate consumer complaints, and helps New Yorkers manage and protect their money. DCA protects consumers from predatory and deceptive practices through subpoena power and aggressive investigations. Part of DCA's mandate is to enforce New York City laws regarding signage and advertising of immigration service providers.

**NYC Mayor's Office of Immigrant Affairs:** The New York City Mayor's Office of Immigrant Affairs (MOIA) promotes the well-being of immigrant communities by recommending policies and programs that facilitate the successful integration of immigrant New Yorkers into the civic, economic, and cultural life of the City of New York. As part of that work, MOIA is a proud member of PINY and is dedicated to protecting immigrant populations from fraudulent and unscrupulous immigration service providers. MOIA combats immigration services fraud by working to increase public awareness, collaborating with community-based organizations to help create a pipeline of complaints to law enforcement, and by working to increase access to credible, safe immigration legal services in New York City.

NYC Mayor's Office of Criminal Justice: The Mayor's Office of Criminal Justice (MOCJ) advises the Mayor and First Deputy Mayor on criminal justice policy and is the Mayor's representative to the courts, district attorneys, defenders, and state criminal justice agencies, among others. The office designs, deploys, and evaluates citywide strategies to drive down crime, reduce unnecessary arrests and incarceration, and improve the system's fairness. MOCJ addresses immigration services fraud by working with law enforcement and city agencies, non-profits, foundations, and others to implement strategies that address current crime conditions and to connect immigrant defendants to credible legal services that will ensure enduring safety.

**NYC Public Advocate:** New York City Public Advocate Letitia James serves as a direct link between New Yorkers and their government, acts as a watchdog over City agencies, and investigates complaints about City services. The Office of the Public Advocate assists with complaints and inquiries involving government-related services and regulations. From ensuring services for new immigrants to protecting immigration fraud, the Office helps thousands of New Yorkers annually by improving transparency and accountability in City government.



## **DISTRICT ATTORNEYS (LAW ENFORCEMENT)**

District Attorneys are responsible for investigating and prosecuting crimes that occur within their jurisdictions. The district attorney offices listed below have designated units or assigned staff members responsible for prosecuting immigration services fraud or addressing immigrant issues in their respective counties.

- Bronx County District Attorney
- Brooklyn District Attorney's Immigrant Affairs Unit
- Nassau County District Attorney's Office of Immigrant Affairs
- New York County (Manhattan) District Attorney Office's Immigrant Affairs Unit
- Queens County District Attorney Office of Immigrant Affairs



## Considerations When Working With Immigrant Victims

- Immigrants often have very specific fears of government and law enforcement
  officials. They fear being reported to immigration authorities or being blamed for
  the same criminal activity they are victims of. If possible, offer assurances that
  your top priority is assisting the immigrant not reporting him or her to federal
  authorities.
- This fear extends to when immigrants witnessing crimes or when the immigrants are the victims themselves.
- Immigrants often do not make distinctions between different types of government or law enforcement agencies. It is not uncommon for immigrants to believe that all government agencies are linked and equally interested in reporting them to immigration authorities.
- Immigrant witnesses may be reluctant to report immigration fraud, especially if
  the fraudulent parties are members of their community or were referred to them
  by a family member or friend. Reassure them that you recognized the sensitivity
  of the information they are providing and if possible, state that you will protect the
  confidentiality of the information.
- Victims of immigration services fraud are frequently unaware that they have been defrauded.
- Be aware of language access issues. Immigrants often do not speak English, so try to have immigration materials available in the appropriate languages for your community. Also be patient when communicating with someone who may not speak English very well.
- Recognize that immigrant victims may not have a lot of written evidence. Often
  immigrants, especially undocumented immigrants, live concealed lives and
  purposely omit their names from documents. As a result, they may not have proper
  identification or may conduct most of their business transactions in cash.
- Be mindful that fraudulent or ill-meaning immigrant service providers frequently try to withhold a client's immigration file in order to impede the immigrant from seeking outside help.
- Be aware that some immigrant applications (e.g. Violence Against Women Act and asylum applications) may be subject to strict confidentiality rules and therefore, be harder to obtain from government agencies.
- Do not promise any immigration benefits in exchange for witness cooperation. Instead, refer them to the New York State New Americans hotline for a free referral and to legitimate legal help (and have them sign a U visa certification if you can!).



## **How to Build Coalitions**

Immigrants have a complex relationship with government. Because of the particular sensitivity related to working with immigrant communities, one of the best ways to achieve success is to build collaboration involving some combination of trusted community leaders, community-based organizations, government agencies and law enforcement. These collaborations prove to be useful in bridging the community-government/law enforcement 'trust gap' and help provide the avenue for more hesitant immigrant victims to come forward to seek assistance.

Below steps partners can take to create these collaborations

- Identify a leading entity, such as a non-services not-for-profit organizations with experience with immigration affairs that can spearhead the coalition, handle administrative duties, and facilitate group conversations and projects.
- Identify potential partners who specialize in helping immigrants (e.g. community groups, law enforcement, political offices, etc.). Including political offices in your coalition can be advantageous, especially if they are also key decision makers on immigration policy issues.
- Encourage members to discuss the work of the coalition with others and keep group members and interested parties informed of your achievements.
- Highlight the individual successes of the different agencies in your coalition. Where possible, assist in promoting their individual messages as well.
- Collaborate with community-based groups to promote a common message.
- Identify "spokespersons" who can be ambassadors for your coalition's mission.
- Be flexible in messaging and branding. Also, be respectful of each office's communications protocols and mindful that not all information can be shared.
- Identify common ground where all the different coalition members can work together and use their respective expertise to make a meaningful impact.



## Overview of Grounds for Immigration Attorney Misconduct

For a full overview of ethical and malpractice issues facing immigration attorneys, please see "The Immigration Lawyer's Nightmare" by Sherry K. Cohen published January 31, 2013 in the New York Law Journal<sup>29</sup>.

Attorneys are regulated by the courts and by professional bar associations that interpret and apply ethics rules, federal regulations, and federal law. The American Bar Association has promulgated Model Rules of Professional Conduct, which have largely been adopted by most states. The Executive Office for Immigration Review (EOIR) has promulgated its own Federal Rules of Practitioner Conduct, and the Immigration and Nationality Act, Code of Federal Regulations,<sup>30</sup> and other federal statutes that contain criminal provisions governing attorney conduct. Attorneys who fail to conform their conduct to these standards and laws are subject to a variety of professional disciplinary measures, including disbarment.<sup>31</sup>

Under federal regulations, an attorney can be disciplined for providing immigration assistance that involves excessive fees, for improperly soliciting business, for frivolous arguments or applications, or for facilitating the unauthorized practice of law by delegating control of a case to a non-lawyer.<sup>32</sup>

Because disciplinary committees rarely initiate investigations absent complaints, and because immigration judges may only submit complaints to the Board of Immigration Appeals, the onus for reporting attorney misconduct at the local level falls on immigrant clients, their advocates, and their representatives.

## **Examples of Typical Immigration Attorney Misconduct**

Typical ways that an attorney may have engaged in misconduct are when they:

- Did not let clients know about an upcoming court date or other appointment:
- Did not let the court know about a client's eligibility for relief, or told the court that the client qualified for something when that wasn't the case;
- Did not submit documents, briefs, or any other required materials on time;
- Did not keep the client up to date on important issues or deadlines affecting the case;
- Did not prepare the client for trial;
- Did not follow up a crucial line of questioning at trial or preserved an issue for appeal; or

<sup>29</sup> New York Law Journal, Professional Discipline: The Immigration Lawyer's Nightmare, Sherry K. Cohen, January 31, 2013.

<sup>30</sup> Professional Conduct for Practitioners--Rules and Procedures: 8 CFR § 292.3

<sup>31</sup> For the rules that regulate New York lawyers, please see the Rules of Professional Conduct for the New York State Unified Court System, at <a href="http://www.nysba.org/Content/NavigationMenu/ForAttorneys/ProfessionalStandardsforAttorneys/NYRulesofProfessionalConduct4109.pdf">http://www.nysba.org/Content/NavigationMenu/ForAttorneys/ProfessionalStandardsforAttorneys/NYRulesofProfessionalConduct4109.pdf</a>
32 8 C.F.R.§ 1003.102 (2012)



• Did not properly explain the consequences of a particular course of action.<sup>33</sup> No one single instance of these examples is sufficient to lead to discipline, but repeat offenders could and should be disciplined.

For single or less egregious offenses, attorneys may be disciplined privately rather than publicly, in which case the attorneys will likely see their malpractice insurance premiums rise and may find themselves unable to gain admission to other jurisdictions. Public discipline often involves reprimand by the courts, the imposition of corrective measures, and/or a bar on the ability to file new cases.

More egregious violations by attorneys include:

- Accepting fees for work that is not performed;
- Not appearing at court dates or other appointments;<sup>34</sup>
- Not providing a copy of the file to the client upon request; or
- Filling out and submitting forms on behalf of a client in a manner that is clearly fraudulent.

Systematic evidence of attorneys treating their clients in a rude or uncivil manner reflects on an attorney's fitness to practice and may result in public censure for the firm and/or individual attorneys.<sup>35</sup>

If a client believes the attorney pursued a completely meritless legal remedy or otherwise neglected the case, the fees charged for such may be called into question. If the complaint is a pure fee dispute, the attorney may be subject to mandatory arbitration before any disciplinary procedures.

## Matter of Lozada

A complicating factor in determining the validity of claims regarding ineffective assistance of counsel in immigration court proceedings is the BIA's decision in <u>Matter of Lozada</u>, 19 I. & N. Dec. 63 (BIA 1988). In that case, the BIA held that to prevail on such a claim, the client ("Respondent") must meet certain requirements, including that a grievance has been filed with the appropriate authorities.

It is a common scam in and of itself for an attorney to promise they can "fix" what a previous attorney did wrong and thereby get rid of a deportation order. Often, there are no merits to such a promise, but the unfortunate side effect is that, in order to show compliance with <u>Lozada</u>, complaints get filed frequently and overwhelm disciplinary bodies unfamiliar with the intricacies of the practice of immigration law.

## **Attorneys and Unauthorized Practice of Law**

Any attorney in good standing with the bar of any state can practice immigration law

<sup>33</sup> New York Law Journal, Professional Discipline: The Immigration Lawyer's Nightmare, Sherry K. Cohen, January 31, 2013.

<sup>34</sup> Before immigration court or any federal court, an attorney has an obligation to appear until released by the judge, regardless of whether they have received payment for the appearance.

<sup>35</sup> Matter of Wilens and Baker, 9 A.D.3d 213 (1st Dept. 2004)



nationwide. Attorneys who improperly associate with non-attorneys are engaging in the unauthorized practice of law (UPL) and are subject to public discipline by the appropriate Departmental Disciplinary Committee (DDC).<sup>36</sup> Attorneys engaging in UPL may be suspended <sup>37</sup> and/or subject to investigation by law enforcement authorities.<sup>38</sup> Non-attorneys engaging in UPL may be referred to the appropriate office of the district attorney or attorney general.

## Attorneys shall not:

- Inadequately supervise a paralegal or other support staff, who may be using the attorney's name or office for their own business purposes;<sup>39</sup>
- Form a partnership with non-lawyers;<sup>40</sup>
- Split fees or pay a referral fee (including commission) to any non-lawyer.

Inadequate supervision occurs when the attorney merely reviews an application or petition prepared by a non-attorney. To avoid this, the attorney must reveal his or her name on the form and also include an additional signed form designating representation before the appropriate court or agency.<sup>42</sup>

There is no mens rea requirement for a finding that an attorney engaged in UPL.

## How to File a Complaint Against An Attorney

Allegations of professional misconduct against attorneys should be filed with the appropriate DDC. Allegations of misconduct including working with or for non-lawyers (such as notarios, travel agents, independent paralegals, etc.) who may be engaged in the unauthorized practice of law should be referred to the appropriate office of the district attorney or attorney general, as in many states UPL and/or the act of falsely holding oneself out as an attorney are crimes. The DDC and law enforcement agency may enter into a cooperative arrangement or parallel investigation where appropriate.

## **The Disciplinary Process**

Complaints undergo an initial screening at the DDC, then the complaint is either closed or referred to a staff attorney for investigation. Often, complaints are closed for jurisdictional purposes. A complaint is more likely to be referred if there is a history of complaints against a particular attorney. If the case is referred, then the attorney is notified and has a limited time to respond. The case is then screened a second time,

<sup>36</sup> New York State Unified Court System Rules of Professional Conduct, Rules 5.3 – 5.5

<sup>37</sup> In re Thalasinos 2014 N.Y. Slip Op. 01680 (N.Y. App. Div. 2014); Matter of Rodkin, 21 AD3d at 112-113; In re Rodkin, 598 F.3d 111 (2010), Matter of Muto, 291 AD2d 188 (1st Dept 2002).

<sup>38</sup> Matter of Muto, 291 A.D.2d 188 (1st Dept. 2002); Matter of Rodkin, 21 A.D.3d 111 (1st Dept. 2005); Matter of Lefkowitz, 47 A.D.3d 326 (1st Dept. 2007).

<sup>39</sup> Rule 5.4(d), See also New York State Bar Association Committee on Professional Ethics, Opinion 1038 (12/6/14)

<sup>40</sup> Rule 5.4(b)

<sup>41</sup> Rule 5.4(a).

<sup>42</sup> See Appendix XX, Forms G-28, EOIR-27 and EOIR-28



during which the attorney's answer is forwarded to the complainant for his or her reply.

## **Reciprocal Discipline**

Under the doctrine of reciprocal discipline, once an attorney has been publicly disciplined within the Second Circuit Court of Appeals, the attorney may be further disciplined by the state courts and/or by the Department of Justice. For example, the Executive Office of Immigration Review and/or the Department of Homeland Security can bar the disciplined attorney from practicing immigration law at federal administrative, trial and appellate levels.

## **Client Bill of Rights**

(See Appendix G, Page xxvi)



## **Resources for Community Groups**

Organizations wishing to provide legal services to immigrants should consult the section on BIA Recognition and Accreditation in chapter 4. More information is also available at <a href="http://www.thenvic.org/training/biaaccreditation">http://www.thenvic.org/training/biaaccreditation</a>.

Here are some helpful links on immigration services fraud and related resources from PINY Task Force partners:

- New York Attorney General
  - www.ag.ny.gov/feature/immigration-services-fraud
- Brooklyn District Attorney Immigrant Fraud Unit
  - http://www.brooklynda.org/immigrant-fraud-unit/
- Nassau County District Attorney Office of Immigrant Affairs http://www.nassaucountyny.gov/543/District-Attorney
- New York County District Attorney
  - http://www.manhattanda.org/search/node/immigrant%20affairs
- Queens County District Attorney Office of Immigrant Affairs
  - http://www.queensda.org/Office\_Immigrant\_Affairs.html
  - https://www.facebook.com/Queens-District-Attorneys-Office-of-Immigrant-Affairs-1617889155149720/?fref=ts
- Federal Trade Commission
  - General information on immigration services fraud: <a href="http://www.consumer.gov/">http://www.consumer.gov/</a> articles/1017-scams-against-immigrants
  - Links to Fotonovelas: <a href="http://www.consumer.ftc.gov/features/feature-0031-fotonovelas">http://www.consumer.ftc.gov/features/feature-0031-fotonovelas</a>
  - Scams relating to refugees: <a href="http://www.consumer.ftc.gov/blog/scam-spotting-help-recent-refugees">http://www.consumer.ftc.gov/blog/scam-spotting-help-recent-refugees</a>
- US Citizenship and Immigration Services
  - www.uscis.gov/avoid-scams
- US Department of Justice
  - www.justice.gov/sites/default/files/eoir/legacy/2009/10/06/

WhoCanRepresentAliensFactSheet10022009.pdf

- <u>www.justice.gov/eoir/list-pro-bono-legal-service-providers</u>
- www.justice.gov/eoir/recognition-accreditation-roster-reports

#### Some other resources include:

- www.StopNotarioFraud.org (American Immigration Lawyers Association)
- <a href="http://apps.americanbar.org/legalservices/findlegalhelp/lris.cfm?id=NY">http://apps.americanbar.org/legalservices/findlegalhelp/lris.cfm?id=NY</a> (American Bar Association)
- www.americanbar.org/groups/public services/immigration/projects initiatives/ fightnotariofraud/victimresources.html (American Bar Association)



## **APPENDIX A: Glossary**

**Adjustment of Status:** The legal process by which someone obtains a green card while in the United States.

**Aggravated Felonies:** Refers to a broad categories of crimes specifically defined in the Immigration and Nationality Act (INA) as aggravated felonies regardless of how they are classified under State or Federal Law, that have serious immigration consequences (usually including deportation and lengthy bar from returning to the US).

**Asylum:** The process by which someone fleeing harm can obtain protection when making the request in the United States (as opposed to refugees, who go through the entire process abroad).

**BIA (Board of Immigration Appeals):** Appellate level court for the immigration system, housed within the US Department of Justice. Only hears appeals of immigration court decisions in removal (deportation) proceedings and certain denials of immigration applications (usually based on family relationship sponsorship). Also oversees the Recognition and Accreditation Process for non-lawyers.

**Consular Processing:** Legal Process by which someone obtains a green card when they are living abroad.

**Crimes Involving Moral Turpitude:** Certain types of crimes requiring a depraved state of mind and which can have serious immigration consequence. Whether a particular conviction qualifies as a CIMT depends on a fact-specific and sophisticated legal analysis.

**DACA (Deferred Action for Childhood Arrivals):** Program announced by President Obama in 2012 that allows individuals brought to the United States as children to request a protection from deportation and work authorization. A policy change that would have expanded eligibility for the program is currently subject to a preliminary injunction and is on hold.

**Deportation:** The mechanism by which someone who was previously admitted into the United States is now kicked out. The term was combined with "Exclusion" (when a person is refused admission to the US) in 1996 and the correct legal term for someone forced to leave the United States is now "Removal".

**Diversity Visa (also Green Card Lottery):** A lottery for green cards available every year to individuals of countries who have low immigration rates to the United States. Restrictions apply.

**EOIR (Executive Office for Immigration Review):** The agency within the US Department of Justice that oversees all administrative judicial processes relating to immigration.

EWI (Entry Without Inspection): An entry that does not go through a border entry checkpoint.

Green Card: The card that acts as evidence of someone's status as a lawful permanent resident.

Green Card Lottery: See "Diversity Visa"

**Illegal Entry:** See "EWI (Entry Without Inspection)

**Immigrant:** A person who is coming to the United States with the intention of permanently settling here.

**Immigrant Service Providers:** A person, organization, or corporation who provides services to immigrants for a fee but is not authorized to provide legal services, as defined in NY General Business Law § 28-C

**Immigration Courts:** Administrative courts within the US Department of Justice that oversee and adjudicate removal proceedings against non-US Citizens.



**Inadmissibility:** Grounds by which a person may be refused admission into the United States, either at time of travel to the United States (upon arrival), or when they are applying for a green card from within the United States (adjustment of status).

**Lawful Permanent Resident (LPR):** A person who can live and work indefinitely in the United States with no restrictions. Permanent Resident status allows for travel outside to the United States and can lead to US Citizenship. However, LPRs are also subject to grounds of deportation and can lose his or her status in some instances. Most commonly referred to as "green card holders."

**Non-Immigrant:** A person who travels to the United States without having an intent to permanently settle here.

**Notarios:** Colloquial term referring to non-lawyers/non-BIA Accredited Representatives who deceive immigrants into believing they can provide legal assistance and often file fraudulent applications, give wrong advice, or take money but perform no services in exchange.

**Recognition & Accreditation:** The process by which a not-for-profit organization and their staff can provide legal services to immigrants for no or low fees even if they are not attorneys.

**Removal Proceedings:** Proceedings held before the Executive Office for Immigration Review to determine whether a person can remain in the United States or must be removed.

**Undocumented Immigrant:** A non-US Citizen present in the United States without immigration status.

**VAWA (Violence Against Women Act):** Law enacted in 1994 that created many new immigration recourses for victims of domestic violence (regardless of gender), including U visas for victims of crime, self-petitions for green cards and more.



## APPENDIX B: Directory of Offices/Agencies in New York State

## **United States Citizenship and Immigration Services (USCIS)**

http://www.uscis.gov/

http://www.uscis.gov/avoid-scams/report-immigration-scams

26 Federal Plaza )

New York, New York 10278

1-800-375-5283 - Main (Customer Service)

## Federal Trade Commission (FTC)

http://www.ftc.gov

reichen@ftc.gov (FOR GOVERNMENT/LAW ENFORCEMENT USE ONLY)

Consumers can call: 1-877-FTCHELP

#### Homeland Security Investigation - New York City Field Office

http://www.ice.gov/

601 W. 26th Street 7th Floor

New York, NY, 10001

Phone: (646) 230-3200

Fax: (646) 230-3255

## **New York State Office of the Attorney General**

http://www.ag.ny.gov/

120 Broadway

New York, New York 10271

1-800- 771-7755 - Main (NYC office (212) 416-8000)

1(866) 390-2992 - Immigrant Fraud Hotline

#### New York State Office for New Americans (ONA)

http://www.newamericans.ny.gov/

or http://www.newamericans.ny.gov/Hotline/hotline.html

1-800-566-7636 - New Americans Hotline (Toll Free)

### Departmental Disciplinary Committee - NY Supreme Court, Appellate Division

http://www.nycourts.gov/courts/ad1/committees&programs/ddc/index.shtml

61 Broadway

New York, New York 10006

(212) 401-0800 - Main

#### American Immigration Lawyers Association

http://www.aila.org/

Suite 300, 1331 G Street, NW

Washington, DC 20005

(202) 507-7600 - Main

## **NYC Public Advocate Leticia James**

http://pubadvocate.nyc.gov/ or http://pubadvocate.nyc.gov/constituent-help-desk

1 Centre Street, 15th Floor North

New York, New York 10007

(212) 669-7250 - Main

(212) 669-4701 - Fax

GetHelp@publicadvocate.nyc.gov



## NYC Mayor's Office for Immigrant Affairs (MOIA)

http://www.nyc.gov/html/imm/html/victims/resources.shtml http://www1.nyc.gov/311/ - online complaint form

311 – Main

#### **Bronx County District Attorney's Office Immigrant Affairs Unit**

http://bronxda.nyc.gov/html/home/home.shtml

198 E. 161st Street

Bronx, New York 10451

(718) 590-2000 - Main

(844) 590-SCAM (7226) - Immigrant Affairs Unit Helpline

bximmigrant@bronxda.nyc.gov - Immigrant Affairs Unit Email

## **Brooklyn District Attorney's Immigrant Fraud Unit**

http://brooklynda.org/immigrant-fraud-unit/

350 Jay Street, 16th Floor

Brooklyn, New York 11201

(718) 250-2000 - Main

(718) 250-3333 - Immigrant Fraud Unit Helpline

IFU@BrooklynDA.org – Immigrant Fraud Unit Email

### New York County District Attorney's Office Immigrant Affairs Unit

http://www.manhattanda.com/resources-victims-immigration-fraud

One Hogan Place

New York, New York 10013

(212) 335-9000 - Main

(212) 335-3600 - Immigrant Affairs Unit

### Nassau County District Attorney's Office of Immigrant Affairs

http://www.nassaucountyny.gov/543/District-Attorney

262 Old Country Road

Mineola, New York 11501

(516) 571-3800 - Main

(516) 571-7756 -- Office of Immigration Affairs

#### Queens County District Attorney's Office of Immigrant Affairs

http://www.queensda.org/index2.html

125-01 Queens Boulevard

Kew Gardens, New York 11415

(718) 286-6000 - Main

(718) 286-6690 - Office of Immigrant Affairs

#### **Catholic Charities Community Services**

http://catholiccharitiesny.org/what-we-do/welcoming-integrating-immigrants-refugees

80 Maiden Lane

New York, New York

(212) 419-3700 - Main

(212) 419-3737 - New York State New Americans Hotline

#### **Immigrant Justice Corps.**

http://justicecorps.org/

(212) 844-4600 - Main

## Legal Aid Society – Manhattan (Headquarters)

http://www.legal-aid.org/en/ineedhelp/ineedhelp/civilproblem/immigrationlawunit.aspx

199 Water Street

New York, New York 10038

(212) 577-3300 - Main



#### Make the Road New

http://www.maketheroadny.org/index-home.php 301 Grove Street Brooklyn, New York 11237 (718) 418-7690 – Main (Brooklyn) (718) 565-8500 – Main (Queens)

New York Immigration Coalition (NYIC) <a href="http://www.thenyic.org/">http://www.thenyic.org/</a>

131 W. 33rd Street, Suite 610 New York, NY 10001 (212) 627-2227 – Main

**New York Legal Assistance Group (NYLAG)** 

http://nylag.org/ 7 Hanover Square, 18th Floor New York, New York 10004 (212) 613-5096 – Main



## **APPENDIX C: Immigrant Assistance Services Enforcement Act**

General Business Law Article 28C

§ 460-a. Definitions and applicability.

For the purpose of this article the following terms shall have the following meanings:

- 1. "Immigrant assistance service" means providing assistance, for a fee or other compensation, to persons who have, or plan to, come to the United States from a foreign country, or their representatives, in relation to any proceeding, filing or ac- tion affecting the non-immigrant, immigrant or citizenship status of a person which arises under the immigration and nationality law, executive order or presidential proclamation, or which arises under actions or regulations of the United States citi- zenship and immigration services, the United States department of homeland security, the United States department of labor, or the United States department of state.
- 2. "Provider" means any person, including but not limited to a corporation, partnership, limited liability company, sole proprietorship or natural person, that pro- vides immigrant assistance services, but shall not include (a) any person duly admit- ted to practice law in this state and any person working directly under the supervision of the person admitted; (b) any not-for-profit tax exempt organization that provides immigrant assistance without a fee or other payment from individuals or at nominal fees as defined by the federal board of immigration appeals, and the employees of such organization when acting within the scope of such employment; (c) any organi- zation recognized by the federal board of immigration appeals that provides services via representatives accredited by such board to appear before the United States citi- zenship and immigration services and/or executive office for immigration review.

that does not charge a fee or charges nominal fees as defined by the board of immi- gration appeals; (d) any authorized agency under subdivision ten of section three hundred seventy-one of the social services law and the employees of such organiza- tion when acting within the scope of such employment; or (e) any individual provid- ing representation in an immigration-related proceeding under federal law for which federal law or regulation establishes such individual's authority to appear.

§ 460-b. Immigrant assistance service contracts

- 1. No immigrant assistance service shall be provided until the customer has executed a written contract with the immigrant assistant service provider. The contract shall be in a language understood by the customer, either alone or with the assistance of an available interpreter, and, if that language is not English, an English language version of the contract must also be provided. A copy of the contract shall be provided to the customer upon the customer's execution of the contract. The interpreter shall provide an attestation affirming the accuracy of his or her translation, to be attached to the contract. 2. (a) The customer has the right to cancel the contract within three business days after his or her execution of the contract, without fee or penalty. The right to cancel the contract within three days without payment of any fee may be waived when services must be provided immediately to avoid a forfeiture of eligibility or other loss of rights or privileges, and the customer furnishes the provider with a sep- arate dated and signed statement, by the customer or his or her representative, describing the need for services to be provided within three days and expressly ac- knowledging and waiving the right to cancel the contract within three days.
- (b) The contract may be cancelled at any time after execution. If the contract is cancelled more than three days after it was signed, or within three days after it was signed if the right to cancel without fee has been waived, the provider may retain fees for services rendered, and any additional amounts actually expended on behalf of the customer. All other amounts must be returned to the customer within fifteen days af- ter cancellation.
- 3. The written contract shall be in plain language, in at least twelve point type and shall include the following:
- (a) The name, address and telephone number of the provider.
- (b) Itemization of all services to be provided to the customer, as well as the fees and costs to be charged to the customer for each service.
- (c) A statement that original documents required to be submitted in connection with an application made to the United States citizenship and immigration ser-vices or for other certifications, benefits or services provided by government may not be retained by the immigrant assistance service provider for any reason, including failure of the customer to pay fees or costs or other fee dispute.
- (d) A statement that the provider shall give the customer a copy of each document prepared with the provider's assistance.



- (e) A statement that the customer is not required to obtain supporting docu- ments through the immigrant assistance service provider, and may obtain such docu- ments himself or herself, along with the statement: "The U.S. government provides information on required forms and documentation for free online and by phone".
- (f) The statement: "You may cancel this contract at any time. You have three
- (3) business days to cancel this contract without fee or penalty and get back any fees that you have already paid. Notice of cancellation may be made by completing the cancellation form included in this contract, or otherwise notifying the provider in writing and delivering such form or notification to the provider in person or by Unit- ed States mail to (specify address). If you cancel this contract you will get back any documents you submitted to the provider.
- (g) Each contract shall contain a separate final page titled "Cancellation Form." The cancellation form shall contain the following statement: "I hereby cancel the contract of (date of contract) between (name of provider, address of provider, and phone number of provider) and (name of customer)." Below the statement shall be a customer signature and date line. Below the signature and date line, the form shall contain the statement required by paragraph (h) of this subdivision, printed in twelve point or larger text.
- (h) A statement that the immigrant assistance service provider has financial surety in effect for the benefit of any customer in the event that the customer is owed a refund, or is damaged by the actions of the provider, together with the name, ad- dress and telephone number of the surety.
- (i) The statement: "The individual providing assistance to you under this contract is not an attorney licensed to practice law or accredited by the board of im- migration appeals to provide representation to you before the United States citizen- ship and immigration services, the department of homeland security, the executive office for immigration review, the department of labor, the department of state or any immigration authorities and may not give legal advice or accept fees for legal advice. For a free legal referral call the office for new Americans hotline at (phone number of the office for new Americans), the New York state office of the attorney general at (phone number of the office of the attorney general), or your local district attorney or prosecutor." The service provider shall be responsible for providing the accurate and up-to-date phone numbers required in such statement.

  (j) The statement: "The individual providing assistance to you under this contract is prohibited from disclosing any information about you to or filing any forms or documents on your behalf with
- disclosing any information about you to, or filing any forms or documents on your behalf with, immigration or other authorities without your knowledge and consent except as required by law. A provider shall promptly notify the customer in writing when such provider has disclosed any information to or filed any form or document with immigration or other authorities when such disclosure or filing was required by law and done without the knowledge and consent of the customer.
- (k) The statement: "A copy of all forms completed and documents accompa- nying the forms shall be kept by the service provider for three years. A copy of the customer's file shall be provided to the customer on demand and without fee.
- (I) On the same page as the signature line, the statement: "The individual provid- ing assistance to you under the terms of this contract must explain the contents of this contract to you and answer any questions about it that you may have."

### § 460-c. Required notices

- 1. Posting of signs. Every provider shall post signs, at every location where such pro-vider meets with customers, setting forth information in English and in every other language in which the person provides or offers to provide immigrant assistance ser-vices. There shall be a separate sign for each language, and each shall be posted in a location where it will be visible to customers.
- (a) One sign shall be at least eleven inches by seventeen inches, and shall contain the following in not less than sixty point type:
- Click here to view image.
- (b) A separate sign shall be posted in a location visible to customers in con- spicuous size type and which contains the schedule of fees for services offered and the statement: "YOU MAY CANCEL ANY CONTRACT WITHIN 3 BUSINESS DAYS AND GET BACK YOUR DOCUMENTS AND ANY MONEY YOU PAID."
- 2. Notice in advertisements. Every provider who advertises immigrant assistance services, whether by signs, pamphlets, newspapers, or any other written communica-tion shall post or otherwise include with such advertisement a notice in the language in which the advertisement appears. This notice shall be of a conspicuous size and shall state: "THE INDIVIDUAL OFFERING TO PROVIDE IMMIGRANT AS- SISTANCE SERVICES IS NOT AN ATTORNEY LICENSED TO PRACTICE LAW OR ACCREDITED BY THE BOARD OF IMMIGRATION APPEALS TO PROVIDE REPRESENTATION BEFORE THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES, THE DEPARTMENT OF HOMELAND SE- CURITY, THE EXECUTIVE OFFICE FOR IMMIGRATION REVIEW, THE DE- PARTMENT OF LABOR, THE DEPARTMENT OF STATE OR ANY IMMIGRA-TION AUTHORITIES AND MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES



#### FOR LEGAL ADVICE."

460-d. Prohibited acts

No provider shall:

- 3. Give legal advice, or otherwise engage in the practice of law.
- 4. Assume, use or advertise the title of lawyer or attorney at law, or equiva- lent terms in the English language or any other language, or represent or advertise other titles or credentials, including but not limited to "notary public", "accredited representative of the board of immigration appeals," "notario public", "notario", "im- migration specialist" or "immigration consultant," that could cause a customer to be- lieve that the person possesses special professional skills or is authorized to provide advice on an immigration matter; provided that a notary public licensed by the secre- tary of state may use the term "notary public."
- 5. State or imply that the provider can or will obtain special favors from or has special influence with the United States citizenship and immigration services, the United States department of Homeland Security, the executive office for Immigration review or any other governmental entity.
- 6. Threaten to report the customer to immigration or other authorities or threaten to undermine in any way the customer's immigration status or attempt to se- cure lawful status.
- 7. Demand or retain any fees or compensation for services not performed, services to be performed in the future, or costs that are not actually incurred.
- 8. Advise, direct or permit a customer to answer questions on a government document, or in a discussion with a government official, in a specific way where the provider knows or has reasonable cause to believe that the answers are false or mis- leading.
- 9. Disclose any information to, or file any forms or documents with, immi- gration or other authorities on behalf of a customer without the knowledge or consent of the customer except where required by law. A provider shall promptly notify the customer in writing when such provider has disclosed any information to or filed any form or document with immigration or other authorities when such disclosure or fil- ing was required by law and done without the knowledge and consent of the customer.
- 10. Fail to provide customers with copies of documents filed with a govern-mental entity or refuse to return original documents supplied by, prepared on behalf of, or paid for by the customer, upon the request of the customer, or upon termination of the contract. Original documents must be returned promptly upon request and upon cancellation of the contract, even if there is a fee dispute between the immigration as- sistance service provider and the customer.
- 11. Make any misrepresentation or false statement, directly or indirectly.
- 12. Make any guarantee or promise to a customer, unless there is a basis in fact for such representation, and the guarantee or promise is in writing.
- 13. Represent that a fee may be charged, or charge a fee for the distribution, provision or submission of an official document or form issued or promulgated by a state or federal governmental entity, or for a referral of the customer to another per- son or entity that is qualified to provide services or assistance which the immigrant assistance service provider will not provide.
- 14. For a fee or other compensation refer a customer to an attorney or any other individual or entity that can provide services that the immigrant assistance ser- vice provider cannot provide.
- 15. Give advice on the determination of a person's immigration status, in-cluding advising him or her as to answers on a government form regarding such de-termination.
- 16. Promise to expedite immigration or other immigration related govern- mental benefit processes, through claims to have special relationships with or special access to government employees who will expedite applications or issue favorable decisions for any reason other than the merits of the application.
- 17. Knowingly provide misleading or false information to a noncitizen about his or her individual or family's eligibility for immigration benefits or status, or to noncitizens or citizens about their individual or family's eligibility for other govern-ment benefits, with the intent to induce an individual to employ the services of the service provider to obtain such immigration benefits or status, or such other government benefits.

460-e. Retention of documents [Renumbered from § 460-f]

A provider shall retain copies of all documents prepared or obtained in connection with a customer's request for assistance for a period of three years after a written con-tract is executed by the provider and the customer, whether or not such contract is subsequently cancelled.

§ 460-f. Surety requirement [Renumbered from § 460-g]

Every provider shall maintain in full force and effect for the entire period during which the provider



provides immigrant assistance services and for one year after the provider ceased to do business as an immigrant assistance service provider, a bond, contract of indemnity, or irrevocable letter of credit, payable to the people of the state of New York, in the principal amount of fifty thousand dollars; provided, however, that every provider that receives in excess of two hundred fifty thousand dollars in total fees and other compensation for providing immigrant assistance service during any twelve-month period shall maintain in full force and effect a bond, contract of indemnity, or irrevocable letter of credit, payable to the people of the state of New York, in the principal amount of twenty percent of such total fees and compensation. Such surety shall be for the benefit of any customer who does not receive a refund of fees from the provider to which he or she is entitled, or is otherwise injured by the provider. The attorney general on behalf of the customer or the customer in his or her own name, may maintain an action against the provider and the surety.

#### § 460-g. Action

An individual who is harmed by a provider as a result of a provider's violation of this article may bring an action in his or her own name against a provider to enjoin such unlawful act or practice, an action to recover his or her actual damages or twenty-five hundred dollars, whichever is greater, or both such actions, in addition to any other remedy available in law or equity. The court may award costs and reasonable attor- ney's fees to a prevailing plaintiff.

#### § 460-h. Enforcement

Upon any violation of this article, an application may be made by the attorney general in the name of the people of the state to a court having jurisdiction to issue an injunc- tion, and upon notice to the respondent of not fewer than five days, to enjoin and re- strain the continuance of the violation. If it shall appear to the satisfaction of the court or justice that the defendant has, in fact, violated this article, an injunction may be is- sued by such court or justice, enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. In any such proceeding, the court may make allowances to the attorney general as provided in paragraph six of subdivision (a) of section eighty-three hundred three of the civil practice law and rules, and direct restitution. Whenever the court shall determine that a violation of this article has occurred, the court may impose a civil penalty of not more than ten thousand dollars for each violation.

#### § 460-i. Violations.

Any violation of any provision of this article shall be a class A misdemeanor, and upon conviction thereof, shall be punishable by a fine of not more than one thousand dollars, or by imprisonment for not more than one year, or by both such fine and im- prisonment; provided however, a second or subsequent offense shall be punishable by a fine of not more than three thousand dollars or by imprisonment for not more than one year, or by both such fine and imprisonment. In addition, the court may order as part of the sentence imposed restitution or reparation to the victim of the crime pursuant to section 60.27 of the penal law. The attorney general shall have the power to prosecute any violation of this article.

### § 460-j. Other remedies

The civil and criminal remedies set forth in this article shall not preclude any indi- vidual or entity or government authority from seeking relief under any other statutory or common law right to relief.

§ 460-k. Additional civil penalty for consumer frauds committed against users of immigrant assistance services

- 1. (a) In addition to any liability for damages or a civil penalty imposed pursuant to sections three hundred forty-nine, three hundred fifty-c and three hundred fifty-d of this chapter, regarding deceptive practices and false advertising, and subdivision twelve of section sixty-three of the executive law, regarding proceedings by the at- torney general for equitable relief against fraudulent or illegal consumer fraud, a per- son or entity who engages in any conduct prohibited by said provisions of law, and whose conduct is perpetrated against one or more persons seeking or using immigrant assistance services, may be liable for an additional civil penalty not to exceed ten thousand dollars, in accordance with paragraph (b) of this subdivision.
- (b) In determining whether to impose a supplemental civil penalty pursuant to paragraph (a) of this subdivision, and the amount of any such penalty, the court shall consider, in addition to other appropriate factors, the extent to which the fol-lowing factors are present:



- (1) Whether the defendant knew that his or her conduct was directed to one or more persons seeking or using immigrant assistance services or whether the defendant knowingly acted with disregard for the rights of a person seeking or using immigrant assistance services;
- (2) Whether the defendant's conduct: (i) caused a person seeking or using immigrant assistance services to suffer loss or encumbrance of a primary residence, loss of employment or source of income, substantial loss of property or assets essen- tial to the health or welfare of the person seeking or using immigrant assistance ser- vices; or (ii) whether one or more persons seeking or using immigrant assistance ser- vices were substantially more vulnerable to the defendant's conduct because of im- paired understanding, or any other perceived disadvantage, and actually suffered physical or economic damage resulting from the defendant's conduct.
- 2. Restitution ordered pursuant to the provisions of law listed in subdivision one of this section or pursuant to any other section of law shall be given priority over the imposition of civil penalties ordered by the court under this section.



#### APPENDIX D: Form Selection as the Practice of Law

#### **MEMORANDUM**

To: Protecting Immigrant New Yorkers Task Force

From: Camille Mackler (NY Immigration Coalition) & Matthew Blaisdell (NY City Bar Association

Committee on Immigration)

Re: Selection of Immigration Forms as Practice of Law

Date: October 27, 2015

One of the most complex issues that frequently comes up in investigations, prosecutions, and legal challenges to the unauthorized practice of immigration law is whether form selection itself constitutes the practice of law. As explained in this memorandum, when read together federal regulations, agency guidance, state law, and common practices inevitably lead to the conclusion that the selection of forms itself requires an exercise of legal judgment, rendering it practice of law. Federal regulations, Legacy Immigration and Naturalization Service (Legacy INS), and the Department of Homeland Security (DHS) have crafted and adhered to strict definitions of the practice of immigration law. This is due mainly to the complexity of immigration law and the high stakes that immigrants face when in immigration proceedings before DHS and before the Immigration Courts. Bad advice can lead to loss of significant sums of money, eligibility for future immigration benefits and, in many cases, deportation from the United States, making it necessary to strictly limit and regulate who can practice immigration law.

### A. FEDERAL LAW AND AGENCY GUIDANCE Federal Regulations

Federal Regulations define "practice of law" in the immigration context as "the act or acts of any person appearing in any case, either in person or through the preparation or filing of any brief or other document, paper, application, or petition on behalf of another person or client before or with DHS, or any immigration judge, or the Board" (emphasis added).

Moreover "[t]he term preparation, constituting practice, means the study of the facts of a case and the applicable laws, coupled with the giving of advice and auxiliary activities, including the incidental preparation of papers." (Emphasis added). To protect notary publics, the regulations exclude from this definition "the lawful functions of a notary public." (Emphasis added).

Similarly, to protect family members or friends lending assistance, the regulations also exclude "service consisting solely of assistance in the completion of blank spaces on printed Service forms by one whose remuneration, if any, is nominal and who does not hold himself out as qualified in legal matters or in immigration and naturalization procedure." (Emphasis added).

Finally, the regulations define "representation" in terms of the preceding definitions: "[t]he term representation before the Board and the Service includes practice and preparation as defined in paragraphs (i) and (k)."<sup>5</sup>

While Federal Regulations on their face do not specifically state that the selection of forms constitute practice of law, in practice it is difficult, if not impossible, to prepare a form without first selecting it. Moreover, agency guidance has further elaborated on this subject and made it clear that at a minimum form selection may constitute practice of law.

18 C.F.R § 1001.1(i)

28 C.F.R § 1001.1(k)

3 ld.

4 ld.

5 8 C.F.R § 1001.1(m) (2015)



#### Agency Guidance

In a 1993 administrative adjudication, INS general counsel Grover Joseph Rees wrote that the "mere selection of an INS Form I-130 by a visa consultant for a client's use could a satisfy the 'advice element' in the term 'preparation" because this could "constitute a legal judgment that the client and/or his alien relatives are not eligible to apply for any other immigration benefits." If a visa consultant helps a client by "selecting a Form I-130 for a lay client, translating it, transcribing the responses, and then assisting in securing supporting documentation," that visa consultant "implicitly suggests to a client that this is the form that will best satisfy the request of securing legal status for his or her relative."

In a 1995 opinion, the INS again stated that practice of law included the selection, completion, and filing of forms, not just appearing before an INS officer, again because the selection of a form may depend on making legal conclusion about whether the client is eligible for that immigration benefit.<sup>7</sup>

More recent publications by US Citizenship and Immigration Services, one of the successor agencies to legacy INS, implicitly show that the agency has not changed its position on this issue in more recent years. In its publication entitled "How to Become an Authorized Immigration Service Provider," the USCIS stated that under federal law only a BIA-accredited representative working for a recognized organization or an attorney in good standing was authorized to represent clients before USCIS.8 These individuals are authorized to "select what form an applicant should submit, provide legal advice about documents to submit, explain immigration options, and communicate with USCIS about an applicant's case." (Emphasis added).

Thus, the agency has concluded that the preparation of immigration forms, as understood by the federal regulations and as included in the definition of practice of immigration, must at least in certain circumstances include the selection of forms. Practical experience, however, shows that in most common scenarios the selection of forms includes the exercise of legal judgment and, thus, qualifies as the practice of law.

#### New York State Law

Although federal rules and guidance inform what is considered the practice of immigration law, 1992 guidance by legacy INS also indicates that state case law and statutes hold their own definitions for preparation such that someone who is not authorized to practice law by federal law may still be subject to state regulations.<sup>10</sup>

New York courts define legal advice in a manner that includes the preparation of forms involving judgment regarding a legal claim, <sup>11</sup> and they include within the practice of law the preparation of legal instruments of all kinds, all advice to clients, and all actions taken for clients in matters connected with the law. <sup>12</sup>

#### **B. PRACTICAL CONSIDERATIONS**

In practice, the selection of forms by someone seeking remuneration, whether nominal or not, must involve the exercise of legal judgment to determine which immigration benefit the non-citizen qualifies for, and which form is the proper vehicle to obtain such benefit. Some common examples include:

1. Individuals wanting to apply for a "green card" need first to obtain an immigrant visa. Forms I-130 and I-140 are both petitions for immigrant visas (based on family and

<sup>6</sup> Grover Joseph Rees III, General Counsel, Genco opinion 93-25 CO 202.2, April 20, 1993.

<sup>7</sup> Office of the Commissioner: "Practice of law by unlicensed "immigration brokers"", January 18, 1995

<sup>8 .</sup> See "How to Become an Authorized Immigration Service Provider," USCIS website, Avoid Scams, Education Tools, available at <a href="http://www.uscis.gov/avoid-scams/educational-tools">http://www.uscis.gov/avoid-scams/educational-tools</a>.

<sup>10</sup> Office of the General Counsel, Legal Opinion: "Role of Visa Consultants in the Practice of Immigration Law", June 09, 1992.

<sup>11</sup> Sussman v. Grado, 746 N.Y.S. 2d 548, 553 (Dist. Ct. 2002).

<sup>12</sup> El Gemayel v. Seaman, 533 N.E. 2d 245, 248 (N.Y. 1988).



employer sponsorship respectively). However, not all employment positions or family relationships qualify an intending immigrant for sponsorship. Determining whether the individual's particular situation meets one of the sponsorship categories is applying the facts of that person's specific situation to the law to determine whether an employer or a family member qualify as a sponsor, and then choosing between at a minimum those two forms requires an exercise of legal judgment that renders it the practice of law.<sup>13</sup>

- 2. Certain family relationships must be further analyzed before determining whether they meet immigration law requirements for sponsorship. A step-parent may sponsor a step-child for a green card only if the relationship was created before the child's 18<sup>th</sup> birthday. An adoptive parent may sponsor an adopted child only if the relationship was created before the child's 16th birthday.14 Whether an individual qualifies as a child, or a "son and daughter" for family petition or other purposes requires an application of facts to legal definitions, and as such are the practice of law.
- 3. Individuals who can show that they have strong equities may be granted deferred action in the discretion of USCIS District Directors.15 Whether they must make a request by submitting a letter and supporting evidence, or complete form I-821D request for Deferred Action for Childhood Arrivals (DACA) depends on whether or not they meet the requirements for DACA as articulated in the 2012 memorandum by DHS Secretary Janet Napolitano.16 Making the distinction between both requires a legal analysis of the requirements, which constitutes the practice of law.
- 4. A victim of domestic violence may qualify for relief under the Violence Against Women Act by, for example, self-petitioning for a special immigrant visa or applying for a U visa as the victim of a crime. Both options will ultimately lead to permanent resident status (a "green card".) However, which option the victim qualifies for will depend, at a minimum, on the relationship between them and his or her abuser. Thus, selecting between form I-360, Petition for Special Immigrant, and Form I-918, Petition for U nonimmigrant status, is an exercise of legal judgment because it requires the preparer to determine which path to permanent residency the applicant must use.

While these examples represent some of the simpler issues that frequently occur in immigration practice, this non-exhaustive list clearly illustrates that the selection of an immigration form necessarily requires as a first step the determination of which immigration benefit an individual qualifies for, and then the selection of which form, amongst the approximately ninety forms commonly available on the US Citizenship and Immigration Services (USCIS) website will help the individual apply for that status.<sup>17</sup>

#### CONCLUSION

When read together, federal regulations and agency guidance state that the selection of forms may require the practice of law. Common, practical scenarios, however, illustrate how a person or organization who is charging a fee and including the selection of appropriate forms as part of their service is in fact, practicing immigration law. Such person or organization is therefore subject to the restrictions and requirements imposed by state and federal law as to who can practice law.

<sup>13</sup> See generally INA § 201(a) and INA § 203(a) - (b).

<sup>14</sup> See INA § 101(b).

<sup>15</sup> See Standard Operating Procedures for Enforcement Officers: Arrest, Detention, Processing, and Removal (Standard Operating Procedures), Part X.; Meissner, Comm., Memo, HQOPP 50/4 (Nov. 17, 2000). 16 DHS, Memo, Napolitano, Secretary, Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children (June 15, 2012).

<sup>17</sup> See, generally, <u>www.uscis.gov/forms</u>.



#### **APPENDIX E: Know Your Rights Flyers**

#### **GETTING IMMIGRATION HELP: TIPS FOR AVOIDING FRAUD**

Only Lawyers and certain Legal Representatives who work for non-profit organizations are allowed to represent immigrants

- Only lawyers and BIA accredited representatives (who work for certain non-profit organizations) can give legal advice.
- Never pay a "notario," travel agent, tax preparer, or forms' preparer to tell you which applications you need or to help prepare them for you.
- Filing the wrong application is not only a waste of money -- it could get you deported.

#### **Never Pay in Cash**

- When paying a lawyer or an application fee, use a check or money order.
- Always get receipts for any payments you make to a lawyer.

#### If It Sounds Too Good to be True, It Probably is

• Scammers often promise immigration benefits you are not eligible for, just to get your money. Lawyers and BIA accredited representatives are required to be honest, even if it is bad news.

All immigration forms are available for free at www.uscis.gov

### **Never Pay for Blank Immigration Forms**

#### Never Sign a Blank Form or let Someone Keep your Original Documents

- Never sign a form that is blank or has false information.
- Carefully read all documents before signing -- you are responsible for anything with your signature that is submitted to the government.
- Do not leave your original documents with anybody else.
   Make copies if you need to.

#### DON'T GET SCAMMED - GET HELP

Call the New York State New Americans Hotline (800-566-7636) for help finding a free or low-cost lawyer or legal representative.













#### **APPENDIX E: Know Your Rights Flyers (Cont.)**

#### OBTENER AYUDA DE INMIGRACION : CONSEJOS PARA EVITAR EL FRAUDE

Sólo los abogados y ciertos representantes legales que trabajan para organizaciones sin fines de lucro pueden legalmente representar a los inmigrantes

- Sólo los abogados y representantes acreditados (por el Board of Immigration Appeals y que trabajan para ciertas organizaciones sin fines de lucro) pueden dar consejos legales .
- Nunca le pague a un 'notario ', agente de viajes , preparador de impuestos , o preparador de formas para decirle qué aplicaciones necesita o para ayudarle a prepararlas.
- Submitir una aplicación erronea no es sólo una pérdida de dinero puede causar que lo deporten

#### Nunca Pague en Efectivo

- Cuando le pague a un abogado o pague por una aplicación, use un cheque o un money order
- Siempre obtenga recibos por cualquier pago que le haga a un abogado.

Si suena demasiado bueno para ser cierto, probablemente lo es

Los estafadores prometen beneficios de inmigración para los cuales no es elegible solo para obtener su dinero. Para los abogados y representantes acreditados por el BIA es obligatorio ser honestos, incluso si son malas noticias.

Todas las aplicaciones de inmigración están disponibles gratuitamente en www.uscis.gov

#### Nunca Pague por Aplicaciones de Inmigración en Blanco

#### Nunca firme una Aplicación en Blanco o deje que Alguien se Quede con sus Documetos Originales

- Nunca firme una aplicación en blanco o que contiene información falsa
- Lea los documentos cuidadosamente antes de firmarlos--usted es responsable por cualquier documento que contenga su firma y sea submitido al gobierno
- No deje documentos originales con nadie. Haga copias si es necesario

#### NO SEA ESTAFADO -Consiga ayuda

Llame a la línea informativa estatal de Nuevos Americanos al (800-566-7636) para que le ayuden a encontrar un abogado o representate legal a bajo costo













#### **APPENDIX E: Know Your Rights Flyers (Cont.)**

## **If You Have a Lawyer**

#### **Your Lawyer Must:**

- Explain the law and what your options are so that you can make the important decisions in your case
- Keep you informed about your case, including any court dates or appointments
- Sign all papers he or she prepares and submits to the government on your behalf
- Provide you with copies of all papers submitted to the government if you ask for them (even if you owe money)
- Explain, in writing, any fees he or she is charging you
- Return your phone calls or emails promptly
- Treat you with courtesy
- Keep your information confidential

#### You Have the Right to:

- Ask for proof that your representative is a lawyer or a Board of Immigration Appeals "accredited representative" who works for a non-profit organization
- Get a receipt for any money paid (it is always better to pay by check or money order)
- Fire your lawyer and look for another one

### Your Lawyer Should Never:

- Ask you to lie
- Ask you to sign blank forms or sign forms with untrue information
- Fail to appear at your court date or interview without letting you know in advance
- Ask you to submit fraudulent (fake) documents
- Keep your original documents

### If You Need help:

Call the New York State New
Americans Hotline at 800-566-7636.
The Hotline can provide referrals to non-profit agencies that have immigration attorneys on staff or are recognized by the Board of Immigration Appeals. The Hotline can also help you make a complaint if you think you have been the victim of fraud or a non-lawyer is taking your money to provide legal services.













#### **APPENDIX E: Know Your Rights Flyers (Cont.)**

## Si Usted Tiene un Abogado

#### Su Abogado Tiene que:

- Explicarle la ley y cuales son sus opciones para que usted pueda tomar las deciciones importantes en su caso
- Mantenerlo informado sobre su caso, incluyendo citas y fechas en la corte
- Firmar todos los documentos que el o ella prepare y submita al gobierno departe suya
- Proveerle con copias de los documentos submitidos al gobierno, si usted las pide (aunque usted le deba dinero)
- Explicar, por escrito, los honorarios que el o ella le cobre
- Devolverle llamadas o correos electrónicos de manera puntual
- Tratarlo con cortesía
- Mantener su información confidencial

#### Usted Tiene el Derecho a:

- Pedir prueba de que su representante es un abogado o un 'representate acreditado' por el Board of Immigration Appeals que trabaja para una organización sin fines de lucro
- Obtener un recibo por cualquier suma que usted pague (siempre es mejor pagar con cheque o money order)
- Despedir a su abogado y encontrar otro

#### Su Abogado Nunca Debe:

- Pedirle que mienta
- Pedirle que firme aplicaciones en blanco o aplicaciones con información falsa
- Fallar a presentarse a su cita en la corte o entrevista sin dejarle saber de antemano
- Pedirle que submita documentos fraudulentos (falsos)
- Quedarse con sus documentos originales

### Si Usted Necesita Ayuda:

Llame a la línea informativa estatal de Nuevos Americanos al 800-566-7636. Allí le pueden proporcionar referencias a agencias sin fines de lucro que tienen abogados de inmigración o representantes acreditados por el Board of Immigration Appeals. También pueden ayudarle a presentar una queja si usted cree que ha sido víctima de un fraude o de un estafador que está tomando su dinero para proveer servicios legales.













**G-28: Notice of Entry of Appearance Before USCIS (**<u>www.uscis.gov/g-28</u>)
Page 1 of 4



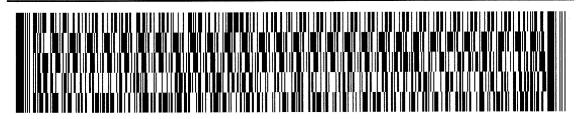
## Notice of Entry of Appearance as Attorney or Accredited Representative

DHS Form G-28

Department of Homeland Security

OMB No. 1615-0105 Expires 03/31/2018

| 100000000000000000000000000000000000000 | eredited Representative                               | Accredited Representative  |
|---|---|--|
| 1.                                      | USCIS ELIS Account Number (if any)                    | This appearance relates to immigration matters before (Select only one box): |
|   | was full of a 1 o 1 o 1 o 1 o 1 o 1 o 1 o 1 o 1 o 1   | 1.a. USCIS   |
|   | me and Address of Attorney or Accredited presentative | 1.b. List the form numbers   |
| 2.a.                                    | Family Name (Last Name)                               | 2.a.   |
| 2.b.                                    | Given Name (First Name)                               | <ul><li>2.a.</li></ul>   |
| 2.c.                                    | Middle Name   |  |
| 3.a.                                    | Street Number and Name                                | 3.a. CBP   |
| 3.b.                                    | Apt.  | 3.b. List the specific matter in which appearance is entered                 |
| 3.c.                                    | City or Town  | I enter my appearance as attorney or accredited representative a             |
| 3.d.                                    | State 3.e. ZIP Code                                   | the request of:  |
| 3.f.                                    | Province  | 4. Select only one Lox:  |
| J.1.                                    | Trovince  | Applicant Petitioner Requestor   |
| 3.g.                                    | Postal Code   | Respondent (ICE, CBP)  |
| 3.h.                                    | Country   | Information About Applicant, Petitioner,<br>Requestor, or Respondent         |
| 4.                                      | Daytime Telephone Number                              | 5.a. Family Name (Last Name)   |
| 5.                                      | Fax Number  | 5.b. Given Name (First Name)   |
|   |   | 5.c. Middle Name   |
| 6.                                      | E-Mail Address (if any)                               | 6. Name of Company or Organization (if applicable)                           |
| 7.                                      | Mobile Telephone Number (if any)                      |  |
|   |   |  |



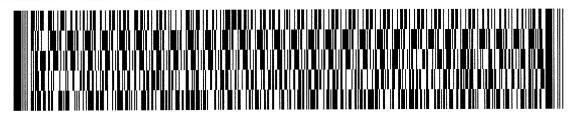
Form G-28 03/04/15 N

Page 1 of 4



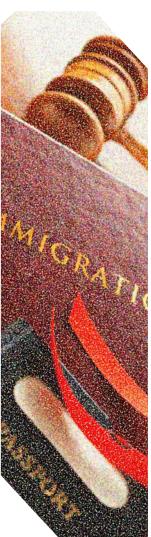
**G-28: Notice of Entry of Appearance Before USCIS (www.uscis.gov/g-28)** Page 2 of 4

| Part 2. Notice of Appearance as Attorney or Accredited Representative (continued)  | Part 3. Eligibility Information for Attorney or Accredited Representative   |  |
|--|---|--|
| Information About Applicant, Petitioner, Requestor, or Respondent (continued)  7. USCIS ELIS Account Number (if any)  8. Alien Registration Number (A-Number) or Receipt Number  | Select all applicable items.  1.a. I am an attorney eligible to practice law in, and a member in good standing of, the bar of the highest courts of the following states, possessions, territories, commonwealths, or the District of Columbia. (If you need additional space, use Part 6.)  Licensing Authority  |  |
| 9. Daytime Telephone Number  10. Mobile Telephone Number (if any)  | 1.b. Bar Number (if applicable)   |  |
| 11. E-Mail Address (if any)  | 1.c. Name of Law Firm   |  |
| Mailing Address of Applicant, Petitioner, Requestor, or Respondent  NOTE: Provide the mailing address of the applicant, petitioner, requestor, or respondent. If the applicant, petitioner, requestor, or respondent has used a safe mailing address on the application. | 1.d. I (choose one) am not am subject to any order of any court or administrative agency disbarring, suspending, enjoining, restraining, or otherwise restricting me in the practice of law. If you are subject to any orders, explain in the space below. (If you need additional space, use Part 6.)  |  |
| petition, or request being filed with this Form G-28, provide it in these spaces.  12.a. Street Number and Name  12.b. Apt. Ste. Flr. Flr.   | 2.a.   I am an accredited representative of the following qualified nonprofit religious, charitable, social service, or similar organization established in the United States, so recognized by the Department of Justice, Board of Immigration Appeals, in accordance with 8 CFR 292.2. Provide the name of the organization and the expiration date of accreditation. |  |
| 12.c. City or Town         12.d. State       12.e. ZIP Code  | 2.b. Name of Recognized Organization  |  |
| 12.f. Province  12.g. Postal Code  | 2.c. Date accreditation expires  (mm/dd/yyyy) ►   |  |
| 12.h. Country  |   |  |



Form G-28 03/04/15 N

Page 2 of 4



| 3        | rt 3. Eligibility Information for Attorney or credited Representative (continued)    I am associated with   |                         | If you do not want to receive original notices or secure identity documents directly, but would rather have such notices and documents sent to your attorney of record or accredited representative, please select all applicable  |
|----------|---|-------------------------|--|
|          | the attorney or accredited representative of record who previously filed Form G-28 in this case, and my appearance as an attorney or accredited representative is at his or her request.  NOTE: If you select this item, also complete Item Numbers 1.a 1.b. or Item Numbers 2.a 2.c. in                                | 2.a                     | boxes below:  I request DHS send any notice (including Form I-94) on an application, petition, or request to the business address of my attorney of record or accredited representative as listed in this form. I understand that I may change this election at any future date through written notice to DHS.   |
| 4.a.     | Part 3. (whichever is appropriate).   | 2.b.                    | I request that DHS send any secure identity document, such as a Permanent Resident Card, Employment Authorization Document, or Travel Document, that I am approved to receive and authorized to possess, to the business address of my attorney of record or accredited representative as listed in this form. I consent to having my secure   |
| Pa<br>Re | rt 4. Applicant, Petitioner, Requestor, or espondent Consent to Representation, Contact formation, and Signature  | 3.a.                    | identity document sent to my attorney of record or accredited representative and understand that I may request, at any future date and through written notice to DHS, that DHS send any secure identity document to me directly.  Signature of Applicant, Petitioner, Requestor, or Respondent   |
| Co       | nsent to Representation and Release of Information  | 2.1                     | D. L. CC: The state of the stat |
| 1.       | I have requested the representation of and consented to being represented by the attorney or accredited representative named in <b>Part 1.</b> of this form. According to the Privacy Act of 1974 and DHS policy, I also consent to the disclosure to the named attorney or accredited                                  | Par                     | Date of Signature (mm/dd/yyyy)   rt 5. Signature of Attorney or Accredited presentative  |
|          | representative of any record pertaining to me that appears in any system of records of USCIS, ICE or CBP.  When you (the applicant, petitioner, requestor, or respondent) are represented, DHS will send notices to both you and your attorney or accredited representative either through mail or electronic delivery. | repre<br>I dec<br>State | re read and understand the regulations and conditions ained in 8 CFR 103.2 and 292 governing appearances and essentation before the Department of Homeland Security. Hare under penalty of perjury under the laws of the United as that the information I have provided on this form is true correct.  |
|          | DHS will also send the Form I-94, Arrival Departure Record, to you unless you select Item Number 2.a. in Part 4. All secure identity documents and Travel Documents will be sent to you (the applicant, petitioner, requestor, or respondent) unless you ask us to send those   | 1.                      | Signature of Attorney or Accredited Representative  Signature of Law Student or Law Graduate   |
|          | documents to your attorney of record or accredited representative.  | 3.                      | Date of Signature (mm/dd/yyyy)▶  |



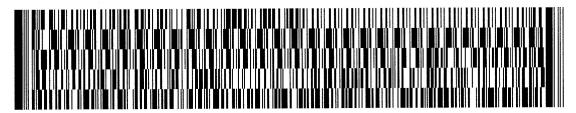
Form G-28 03/04/15 N

Page 3 of 4



**G-28: Notice of Entry of Appearance Before USCIS (www.uscis.gov/g-28)** Page 4 of 4

| se the space below to provide additional information entaining to Part 3., Item Numbers 1.a 1.d. |  |
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Form G-28 03/04/15 N

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EOIR-27: Entry of Appearance Before the Board of Immigration Appeals (<a href="http://www.justice.gov/eoir/formslist.htm">http://www.justice.gov/eoir/formslist.htm</a>)

Page 1 of 2

U.S. Department of Justice

Executive Office for Immigration Review Board of Immigration Appeals OMB#1125-0005

Notice of Entry of Appearance as Attorney or Representative Before the Board of Immigration Appeals

| (Type or Print)<br>NAME AND ADDRES  | SS OF REPRESENTED PARTY  |  | ALIEN ("A") NUMBER<br>(Provide A- number of the party represented or<br>the visa beneficiary in this case.)   |
|---|--|--|---|
| (First)   | (Middle Initial)   | (Last)   | USCIS Visa Appeal (Provide beneficiary name)  |
| (Numb   | er and Street)   | (Apt. No.)   | Fine (Provide fine number)  |
| (City)  | (State)  | (Zip Code)   | Disciplinary case (Provide docket number)   |
| I am an attorney elig<br>states(s), possession(<br>necessary) and I am  | s), territory(ies), commonwealth(s), o   | in good standing of, the<br>r the District of Columb<br>spending, enjoining, res   | bar of the highest court(s) of the following in (use additional space on reverse side if training or otherwise restricting me in the x and explain on reverse). |
| Full Name of Court  |  | Bar Number (if a   | applicable)   |
|   | accredited to appear before the Exect<br>e following recognized organization:  | utive Office for Immigra   | ation Review as defined in 8 C.F.R. §   |
| I am a reputable indi I am an accredited fo   | law graduate of an accredited U.S. lavidual as defined in 8 C.F.R. § 1292.1 reign government official, as defined as authorized to practice on Decembe | (a)(3).<br>in 8 C.F.R. § 1291.1(a)   | (5), from(country).   |
| I hereby enter my ap EOIR has ordered th I have read and understa governing appearances a laws of the United States |  | for, and at the request of<br>tive for the party named<br>everse side of this form<br>of Immigration Appeals<br>and correct. |   |
| X   |  |  |   |
| NAME OF ATTORNE   | EY OR REPRESENTATIVE, ADI  | DRESS, FAX & PHO   | NE NUMBERS, & EMAIL ADDRESS   |
| Name:   | (First)  | (Middle Initial)   | (Last)  |
| Address:  | (1131)   | (Middle Illidar)   | (Last)  |
| , tauress   |  | (Number and Street)  | *   |
| -   | (City)   | (State)  | (Zip Code)  |
| Telephone:  | Facsimile:   | Email:   |   |
|   |  |  | Check here if new address   |

Form EOIR - 27 Rev. July 2015



EOIR-27: Entry of Appearance Before the Board of Immigration Appeals (<a href="http://www.justice.gov/eoir/formslist.htm">http://www.justice.gov/eoir/formslist.htm</a>)

Page 2 of 2

| Indicate Type of Appearance:  |  |  |  |  |
|---|--|--|--|--|
| ☐ Primary Attorney/Representative ☐ Non-Primary Attorney/Representative |  |  |  |  |
| I am providing pro bono representation. Check one:  yes no              |  |  |  |  |
| Proof of Service  |  |  |  |  |
| I (Name) mailed or delivered a copy of this Form EOIR-27 on (Date)      |  |  |  |  |
| to the DHS (U.S. Immigration and Customs Enforcement – ICE) at          |  |  |  |  |
| DHS (U.S. Citizenship and Immigration Services – USCIS) at              |  |  |  |  |
| EOIR Disciplinary Counsel at  |  |  |  |  |
| X   |  |  |  |  |
| Signature of Person Serving   |  |  |  |  |

APPEARANCES - An appearance for each represented party shall be filed on a separate Form EOIR-27 by the attorney or representative appearing in each appeal or motion to reopen or motion to reconsider before the Board of Immigration Appeals (see 8 C.F.R. § 1003.38(g)), even though the attorney or representative may have appeared in the case before the Immigration Judge or the U.S. Citizenship and Immigration Services. If information is omitted from the Form EOIR-27 or it is not properly completed, the appearance may not be recognized and the accompanying filing may be rejected. When an appearance is made by a person acting in a representative capacity, his/her personal appearance or signature constitutes a representation that, under the provisions in 8 C.F.R. part 1003, he/she is authorized and qualified to represent individuals and will comply with the EOIR Rules of Professional Conduct in 8 C.F.R. § 1003.102. Thereafter, substitution or withdrawal may be permitted upon approval by the Board of a request of the attorney or representative of record in accordance with *Matter of Rosales*, 19 I&N Dec. 655 (1988). Please note that appearances for limited purposes are not permitted. *See Matter of Velasquez*, 19 I&N Dec. 377, 384 (BIA 1986). Attorneys and Accredited Representatives (with full accreditation) must first update their address in eRegistry before filing a Form EOIR-27 that reflects a new address.

**FREEDOM OF INFORMATION ACT** - This form may not be used to request records under the Freedom of Information Act or the Privacy Act. The manner of requesting such records is in 28 C.F.R. §§ 16.1-16.11 and appendices. For further information about requesting records from EOIR under the Freedom of Information Act, see How to File a Freedom of Information Act (FOIA) Request With the Executive Office for Immigration Review, available on EOIR's website at http://www.justice.gov/eoir.

PRIVACY ACT NOTICE - The information requested on this form is authorized by 8 U.S.C. § 1362 and 8 C.F.R. § 1003.3 in order to enter an appearance to represent a party before the Board of Immigration Appeals. The information you provide is mandatory and required to enter an appearance. Failure to provide the requested information will result in an inability to represent a party or receive notice of actions in a proceeding. EOIR may share this information with others in accordance with approved routine uses described in EOIR's system of records notice, EOIR-001, Records and Management Information System, 69 Fed. Reg. 26,179 (May 11, 2004), or its successors and EOIR-003, Practitioner Complaint-Disciplinary Files, 64 Fed. Reg. 49237 (September 1999).

CASES BEFORE EOIR - Automated information about cases before EOIR is available by calling (800) 898-7180 or (240) 314-1500.

ADDITIONAL INFORMATION:

Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a valid OMB control number. We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. The estimated average time to complete this form is six (6) minutes. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to the Executive Office for Immigration Review, Office of the General Counsel, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041.

Form EOIR - 27



EOIR-28: Entry of Appearance Before the Immigration Court (http://www.

justice.gov/eoir/formslist.htm)

Page 1 of 2

U.S. Department of Justice

Executive Office for Immigration Review Immigration Court OMB#1125-0006

Notice of Entry of Appearance as Attorney or Representative Before the Immigration Court

| (Type or Print)<br>NAME AND ADDRE  | ALIEN ("A") NUMBER<br>(Provide A-number of the party<br>represented in this case.)                            |   |   |
|--|---|---|---|
| (First)  | (Middle Initial)  | (Last)  |   |
| (Num   | ber and Street)   | (Apt. No.)  |   |
| (City)   | (   | State) (Zip Code)   |   |
| I am an attorney eli states(s), possession necessary) and I am practice of law in an Full Name of Coun     | n(s), territory(ies), commonwer<br>not subject to any order disba<br>ny jurisdiction (if subject to suc<br>rt | nember in good standing of, the dith(s), or the District of Columbring, suspending, enjoining, rech an order, do not check this be Bar Number (if the Executive Office for Immigr | e bar of the highest court(s) of the following bia (use additional space on reverse side if straining or otherwise restricting me in the box and explain on reverse).  applicable)  ation Review as defined in 8 C.F.R. § |
| I am a reputable inc   | lividual as defined in 8 C.F.R. foreign government official, as   | d U.S. law school as defined in \$ 1292.1(a)(3). defined in 8 C.F.R. \$ 1291.1(a)   | o(5), from (country).   |
| I hereby enter my a EOIR has ordered to have read and unders governing appearances aws of the United State | he provision of a Qualified Rep<br>tand the statements provided   | entative for, and at the request<br>presentative for the party named<br>on the reverse side of this for<br>Board of Immigration Appeal<br>g is true and correct.                  | of, the party named above.  I above and I appear in that capacity.  In that set forth the regulations and conditions is. I declare under penalty of perjury under the number DATE   |
| X  |   |   |   |
|  | EY OR REPRESENTATIV   | E, ADDRESS, FAX & PHO   | ONE NUMBERS, & EMAIL ADDRESS  |
| Name:  | (First)   | (Middle Initial)  | (Last)  |
| Address:   |   | (Number and Street)   | -   |
| -  | (City)  | (State)   | (Zip Code)  |
| Геlephone:   | Facsimile:  | Email:  |   |
|  |   |   | Check here if new address   |

Form EOIR - 28 Rev. July 2015



EOIR-28: Entry of Appearance Before the Immigration Court (http://www.

justice.gov/eoir/formslist.htm)

Page 2 of 2

| Indicate Type of Appearance:   |   |  |  |
|--|---|--|--|
| Primary Attorney/Representative  | Non-Primary Attorney/Representative   |  |  |
| On behalf of   | (Attorney's Name) for the following hearing:(Date)  |  |  |
| I am providing pro bono representation. Check one:  ups ups ups ups ups ups ups ups ups up |   |  |  |
|  |   |  |  |
|  | Proof of Service  |  |  |
| I (Name) mailed or delivered a copy of this Form EOIR-28 on (Date)                         |   |  |  |
| to the DHS (U.S. Immigration and Customs Enforcement – ICE) at                             |   |  |  |
| X  |   |  |  |
| Signature of Per   | rson Serving  |  |  |
| ADDEAD ANCES An appropriate what   | I be filed on a Form FOID 28 by the attempty or representative emerging in each en-   |  |  |
| before an Immigration Judge (see 8 C.F.F   | 1 be filed on a Form EOIR-28 by the attorney or representative appearing in each cas R. § 1003.17). When an appearance is made by a person acting in a representative capacity e constitutes a representation that, under the provisions of 8 C.F.R. part 1003, he/she is |  |  |

APPEARANCES - An appearance shall be filed on a Form EOIR-28 by the attorney or representative appearing in each case before an Immigration Judge (see 8 C.F.R. § 1003.17). When an appearance is made by a person acting in a representative capacity, his/her personal appearance or signature constitutes a representation that, under the provisions of 8 C.F.R. part 1003, he/she is authorized and qualified to represent individuals and will comply with the EOIR Rules of Professional Conduct in 8 C.F.R. § 1003.102. Thereafter, substitution or withdrawal may be permitted upon the approval of the Immigration Judge of a request by the attorney or representative of record in accordance with 8 C.F.R. § 1003.17(b). Please note that appearances for limited purposes are not permitted. See Matter of Velasquez, 19 I&N Dec. 377, 384 (BIA 1986). A separate appearance form (Form EOIR-27) must be filed with an appeal to the Board of Immigration Appeals (see 8 C.F.R. § 1003.38(g)). Attorneys and Accredited Representatives (with full accreditation) must first update their address in eRegistry before filing a Form EOIR-28 that reflects a new address.

**FREEDOM OF INFORMATION ACT** - This form may not be used to request records under the Freedom of Information Act or the Privacy Act. The manner of requesting such records is in 28 C.F.R. §§ 16.1-16.11 and appendices. For further information about requesting records from EOIR under the Freedom of Information Act, see How to File a Freedom of Information Act (FOIA) Request With the Executive Office for Immigration Review, available on EOIR's website at http://www.justice.gov/eoir.

PRIVACY ACT NOTICE - The information requested on this form is authorized by 8 U.S.C. §§ 1229(a), 1362 and 8 C.F.R. § 1003.17 in order to enter an appearance to represent a party before the Immigration Court. The information you provide is mandatory and required to enter an appearance. Failure to provide the requested information will result in an inability to represent a party or receive notice of actions in a proceeding. EOIR may share this information with others in accordance with approved routine uses described in EOIR's system of records notice, EOIR-001, Records and Management Information System, 69 Fed. Reg. 26,179 (May 11, 2004), or its successors and EOIR-003, Practitioner Complaint-Disciplinary Files, 64 Fed. Reg. 49237 (September 1999).

CASES BEFORE EOIR - Automated information about cases before EOIR is available by calling (800) 898-7180 or (240) 314-1500.

**FURTHER INFORMATION** - For further information, please see the *Immigration Court Practice Manual*, which is available on the EOIR website at <a href="https://www.justice.gov/eoir">www.justice.gov/eoir</a>.

ADDITIONAL INFORMATION:

Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a valid OMB control number. We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. The estimated average time to complete this form is six (6) minutes. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to the Executive Office for Immigration Review, Office of the General Counsel, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041.

Form EOIR - 28 Rev. July 2015



#### **APPENDIX G: Client Bill of Rights**

Promulgated by the New York State Bar Association and available on their website at <a href="http://www.nysba.org/rightsandresponsibilities/">http://www.nysba.org/rightsandresponsibilities/</a>

#### **Statement of Client's Rights**

Section 1210.1 of the Joint Rules of the Appellate Division amended April 15, 2013 (22 NYCRR §1210.1)

You are entitled to be treated with courtesy and consideration at all times by your lawyer and the other lawyers and nonlawyer personnel in your lawyer's office.

You are entitled to have your attorney handle your legal matter competently and diligently, in accordance with the highest standards of the profession. If you are not satisfied with how your matter is being handled, you have the right to discharge your attorney and terminate the attorney client relationship at any time. (Court approval may be required in some matters, and your attorney may have a claim against you for the value of services rendered to you up to the point of discharge.)

You are entitled to your lawyer's independent professional judgment and undivided loyalty uncompromised by conflicts of interest.

You are entitled to be charged reasonable fees and expenses and to have your lawyer explain before or within a reasonable time after commencement of the representation how the fees and expenses will be computed and the manner and frequency of billing. You are entitled to request and receive a written itemized bill from your attorney at reasonable intervals. You may refuse to enter into any arrangement for fees and expenses that you find unsatisfactory. In the event of a fee dispute, you may have the right to seek arbitration; your attorney will provide you with the necessary information regarding arbitration in the event of a fee dispute, or upon your request.

You are entitled to have your questions and concerns addressed promptly and to receive a prompt reply to your letters, telephone calls, emails, faxes, and other communications.

You are entitled to be kept reasonably informed as to the status of your matter and are entitled to have your attorney promptly comply with your reasonable requests for information, including your requests for copies of papers relevant to the matter. You are entitled to sufficient information to allow you to participate meaningfully in the development of your matter and make informed decisions regarding the representation.

You are entitled to have your legitimate objectives respected by your attorney. In particular, the decision of whether to settle your matter is yours and not your lawyer's. (Court approval of a settlement is required in some matters.)

You have the right to privacy in your communications with your lawyer and to have your confidential information preserved by your lawyer to the extent required by law.

You are entitled to have your attorney conduct himself or herself ethically in accordance with the New York Rules of Professional Conduct.

You may not be refused representation on the basis of race, creed, color, religion, sex, sexual orientation, age, national origin or disability.



# APPENDIX H: Public Service Announcements Campaign

• English Version



Chinese Version





## **APPENDIX H: Public Service Announcements Campaign (Cont.)**

Haitian Version



Korean Version





## **APPENDIX H: Public Service Announcements Campaign (Cont.)**

Russian Version



Spanish Version





### **APPENDIX I: Chart of Non-Immigrant Visas**

| Designation | Description   | Maximum Length of Stay  |
|-------------|---|---|
| A-1         | Ambassador, public minister, diplomatic or consular officer, and members of immediate family                                | Duration of Status <sup>i</sup> .   |
| A-2         | Other foreign government official or employee and members of immediate family   | Duration of Status.   |
| A-3         | Attendant, servant, or personal employee of A-1/A-2 classes, and members of immediate family                                | Duration of Status.   |
| B-1         | Temporary visitor for business  | 90 days, renewable for max of 1 year stay.  |
| B-2         | Temporary visitor for pleasure  | 180 days, renewable for max of 1 year stay.   |
| С           | Person in transit through the United States   | 29 days.  |
| D-1         | Crewmember of vessel or aircraft  | 29 days.  |
| E-1         | Treaty traderii , spouse and children   | 3 years initially, renewable in 2 year increments.  |
| E-2         | Treaty investoriii, spouse and children   | 5 years initially, renewable in 2 year increments.  |
| F-1         | Academic students   | Duration of Status.   |
| F-2         | Spouses and minor children of students  | Duration of Status.   |
| G-1         | Representative of foreign governments working at permanent missions in the United States, staff, spouse and minor children  | Duration of Status.   |
| G-2         | Representatives of a recognized government and their immediate family   | Duration of Status.   |
| G-3         | G-1/G-2 from country without <i>de jure</i> recognition from the United States, or nonmember of international organizations | Duration of Status  |
| G-4         | Officers and Employees of international organizations and immediate family.   | Duration of Status.   |
| G-5         | Attendants, Servants, and personal employees of G-1 – G-4   | 3 years initially, renewable in 2 year increments.  |
| H-1B        | Person engaged in specialty occupation <sup>iv</sup> or fashion model   | 3 years initially, renewable once for an additional 3 years (further extension possible if an immigrant petition is pending). |
| H-2A        | Temporary agricultural workers  |   |
| H-2B        | Skilled/unskilled workers where there is short supply of Lawful Permanent Residents/US Citizens                             |   |
| H-4         | Spouses and children of H-1 - H-3   | Same as sponsored family member.  |
| I           | Member of the foreign media, spouse and minor children  | Duration of status.   |
| J           | Exchange visitors (interns & trainees)  | 18 months.  |
| K-1         | Fiancé of US Citizen  | Must marry petitioner within 90 days of arrival.  |



| Designation | Description  | Maximum Length of Stay   |
|-------------|--|--|
| K-2         | Minor child of K-1 and K-3   | Same as parent.  |
| K-3         | Spouse of US Citizen with pending immigrant petition   | Until petition is approved.  |
| L-1         | Manager, executive or employee with specialized knowledge of parent, branch, affiliate, or subsidiary of US petitioning company or organization. | 3 years initially, renewable in 2 year increments. 7 yr max for managers & executives, 5 yr max for specialized knowledge. |
| L-2         | Spouses and minor children of L-1.   | Same as L-1.   |
| М           | Student enrolled in vocational training  | Duration of program + 30 days, maximum 1 year.   |
| O-1         | Person with extraordinary ability in the arts, sciences, education, business, or athletics   | 3 years initially, renewable in 1 year increments.   |
| O-2         | Assistant to O-1   | Same as O-1.   |
| O-3         | Spouse and minor children of O-1 and O-2   | Same as O-1.   |
| P-1         | Athlete and group entertainers, and their essential support staff  | Varies.  |
| P-2         | Artist and entertainers participating in cultural exchange program, and their essential support staff  | Varies.  |
| P-3         | Artist and entertainers participating in culturally unique program, and their essential support staff  | Varies.  |
| P-4         | Spouse and children of P-1 – P-3   | Varies.  |
| Q-1         | Participants in cultural exchange program  | 15 months.   |
| R-1         | Religious Workers  | 3 years initially, renewable once for 2 years.   |
| R-2         | Spouses and children of R-1  | Same as R-1  |
| TN          | NAFTA worker employed in one of the occupations listed in individual treaties.   | 1 year initially, renewable in 1 year increments.  |

- Duration of status = status is valid so long as the person continues to be occupied in the work or program that allowed them to obtain the visa.
- Treaty Trader = Person coming to the US under the provisions of a treaty of commerce and navigation to carry on substantial trade.
- Treaty Investor = Person coming to the US under the provisions of a treaty of commerce and navigation to direct an enterprise in which s/he has invested a substantial amount of capital.
- Specialty occupation = occupation that requires, at a minimum, a bachelor's degree or its equivalent.
- Extraordinary ability = A person who has demonstrated sustained national and international recognition as well as recognition by their peers, and has risen to the top of their respective fields.