

**Testimony of Director Carlos Ortiz  
New York City Department of Consumer and Worker Protection**

**Before the Committees on  
Consumer Affairs and Business Licensing and Immigration**

**Oversight Hearing on  
Combatting Immigration Services Fraud**

**September 24, 2021**

**Introduction**

Good afternoon Chairs Ayala and Menchaca, I am Carlos Ortiz, Director of Legislative Affairs at the Department of Consumer and Worker Protection, or DCWP. I am joined today by Michael Tiger, DCWP's Deputy General Counsel, along with Commissioner Raquel Batista and Martin Kim, Policy Advisor from the Mayor's Office of Immigrant Affairs. It is a pleasure to testify today on behalf of Commissioner Peter Hatch before the committees you each, respectively, lead.

DCWP's mission is to protect and enhance the daily economic lives of New Yorkers to create thriving communities. This, of course, includes our immigrant communities, who serve a fundamental role in the City's economy. They are our small businesses, they are our essential workers, and they are our consumers, who have supported our City throughout the pandemic and who will help drive our City's economic recovery.

Still, immigrants in our City and across the country have faced distinct challenges over the past few years. The inflammatory policies and rhetoric from the previous President exacerbated longstanding obstacles faced by immigrants, including the confusing and uncertain framework that governs one's status in the United States.

However, this has not deterred DCWP, now, or during the darkest days of the past Presidential Administration, from continuing to enforce consumer and worker protections on behalf of all New Yorkers, regardless of immigration status. Moreover, we have remained committed to bridging historical gaps between city government and our immigrant communities, such as language access, to ensure that information and rights afforded to immigrant New Yorkers are within reach and can help empower these communities.

**Immigration Service Providers**

In New York City, DCWP enforces laws and rules regarding Immigration Service Providers, or ISPs. ISPs are those individuals or businesses that charge fees for any kind of immigration-related services. ISPs are not lawyers and are typically not accredited or recognized by the United States Department of Justice. Thus, there are limits to the types of assistance that ISPs can provide. ISPs *cannot* give any legal advice on any immigration matter or represent an individual in court or before the federal government, or any other immigration authority. What ISPs *can do* is provide assistance with translations, type up application forms, and compile or photocopy documents.

When engaging with an ISP, there are several protections in place for a consumer. These protections include rights to a written contract that itemizes the services being provided, a receipt that includes the ISP's legal name and address, and the ability to cancel a contract and obtain a refund within three days of entering the contract.

### **Enforcement – Current Practices and Cases**

Traditionally, DCWP has conducted enforcement of ISPs through various methods, including mediation, routine patrol inspections, or in response to complaints that lead to actions before the Office of Administrative Trials and Hearings (OATH) or in New York State Court. However, changes to the industry, as well as the impact of the COVID-19 pandemic, have challenged facets of our enforcement. While in prior years ISPs operated as storefront establishments, in more recent times, our inspectors and advocates have noted that ISPs are operating out of plain sight. They no longer publicize their locations through traditional mediums, and they operate in the backrooms of offices, or even in private residences, blunting our patrol efforts.

Operating informally, individuals or businesses acting as ISPs leverage community trust, kinship, or shared nationalities to connect with consumers, but at the same time continue to violate ISP laws. For example, there is the longstanding issue of individuals or businesses advertising themselves as “notarios” to scam immigrant consumers. In this context, a person advertising themselves as a “notario” knows full well that in some Latin American countries this is a title given to a legal professional, while in the United States a notary does not necessarily have specialized legal training. In some cases, these entities provide such damaging legal advice that immigrants are placed into deportation proceedings.

Other illegal ISPs that operate out of plain sight are simply fly-by-night actors that lure in consumers, demand payments, and then disappear shortly thereafter. As we have seen through our consumer protection and licensing enforcement in different industries, fly-by-night actors sign short-term leases, use fake corporate names, or conduct outreach through informal social media networks that make locating them after a complaint has been filed extremely difficult.

Still, DCWP continues to use its civil enforcement authority to bring cases before OATH and in New York State Court. Holding unscrupulous businesses accountable is vital to deterring illegal activity. In recent years, DCWP has successfully tried or favorably resolved cases against the ISPs “A New Beginning for Immigrant Rights”, “Buitron Offices”, and “Mister Enry’s Consulting Service”. In these cases, the businesses misrepresented themselves as attorneys, illegally provided legal advice, posted deceptive advertising, and failed to provide accurate contracts and receipts after collecting fees from consumers. In total, we were awarded or have secured about \$237,000 in civil penalties and \$34,000 in consumer restitution from these actions.

### **Consumer Education**

Another key facet of our approach to ISPs has been to proactively educate our communities, to prevent fraud from occurring in the first place. Since 2019, we have held more than 310 consumer protection education events, where we speak to constituents directly about how they can protect

themselves from a fraudulent ISP. This includes joint collaborations with governmental agencies, such as the New York State Office of New Americans (ONA), the Protecting Immigrant New Yorkers (PINY) Taskforce, and the Queens Borough President's Immigration Taskforce. Our Consumer Bill of Rights on ISPs is available in 13 languages, and we have additional literature with tips available for consumers such as only going to providers with fixed, physical locations and not to believe providers that claim special relationships with government entities. Through these educational efforts our goal is to empower our city's immigrant communities with tools to avoid the exploitative business practices of certain ISPs. And, during the question and answer portion of the hearing, my colleagues from the Mayor's Office of Immigrant Affairs can speak more to their agency's outreach and recent ethnic media campaign to warn immigrants of the dangers surrounding immigration fraud.

### **Legislative Amendments**

Lastly, we would be remiss to not take note of Introduction 1622, legislation recently passed by the Council, and advocated for by this agency that extends greater protections to our immigrant communities. Introduction 1622, the modernization of the City's Consumer Protection Law (CPL) includes language access requirements for businesses that negotiate certain transactions with consumers. Additionally, fines for deceptive activity will be adjusted for inflation for the first time since 1969, allowing the CPL to continue to serve as an effective deterrent for illegal business practices, such as those committed by fraudulent ISPs.

### **Conclusion**

Protecting our immigrant communities from fraud, and supporting their economic success, is vital for the City, now more than ever, as we look to a fair recovery for all from the effects of the pandemic. We, as a City, need to be responsive to our immigrant communities' concerns through enforcement, education, and commonsense and effective legislation.

As always, we value the Council as our partner in ensuring that consumer and workers' rights continue to remain a priority for the City. Thank you again for the opportunity to testify and I look forward to discussing any questions you may have.



September 24, 2021  
Committee on Immigration  
New York City Council  
City Hall  
New York, NY

**Re: Immigration Committee and Committee on Consumer Affairs and  
Business Licensing Hearing on Friday, September 24, 2021 on T2021-  
7866, Oversight to Combat Immigration Services Fraud**

Dear Immigration and Consumer Affairs and Business Licensing Committees:

Please accept these written comments for the Friday, September 24, 2021 hearing about combating immigration services fraud.

My name is Rex Chen and I am the Director of Immigration at Legal Services NYC (LSNYC). We are the largest civil legal services provider in the country. We fight poverty and have been dedicated to fighting for racial, social and economic justice for low-income New Yorkers for over 50 years. In 2018, we gave immigration assistance to households in which over 23,000 people lived.

**Immigration Services Fraud Background**

In 2017, two organizations produced a national report about immigration services scams. American University Law School and the Catholic Legal Immigration Network produced a report called Stopping Immigration Services Scams: A Tool for Advocates and Lawmakers. At page 19, they discuss how New York allows non-lawyers to use the label “immigration service provider” to provide non-legal services. The report’s authors warn that completing even basic immigration forms often requires providing legal advice at

various stages. Therefore, many consultants often go beyond what the status allows them to do and they end up giving legal advice, which can hurt the people who hired them. The authors note that lawmakers in California proposed legislation during 2017 to repeal the California immigration consultant law. The danger exists that immigration consultants may improperly engage in the unauthorized practice of law, which is not allowed by the New York licensing statute. It is also possible that they could make mistakes while improperly engaging in the practice of law because immigration law is so complex.

At pages 27-28 of its report, the authors analyze why victims of immigration fraud did not report it in their state. Around half of the victims who did not report it were not aware that they could report it. The next two reasons were that they were afraid state officials would report them to the Department of Homeland Security (DHS) and that they did not understand the complaint process.

### **Addressing Immigration Services Fraud in New York**

If NYC increased publicity about the services available from the New York State Office for New Americans (ONA) Hotline in immigrant communities, that would probably help inform and protect immigrants. The hotline can refer callers to the New York Attorney General, District Attorneys, the Executive Office for Immigration Review (EOIR), the United States Citizenship and Immigration Services (USCIS), and the NYC Department of Consumer and Worker Protection. More awareness about the hotline could help victims of immigration services fraud who do not know how to report what they suffered to the authorities. If NYC publicized the protections that exist to limit NY and NYC officials from reporting crime victims to DHS, that would probably help fraud victims who are currently afraid to report what they suffered. If NYC strengthened the

protections and enforcement of rules that limit NYC officials from reporting crime victims to DHS, that would also probably help fraud victims. Finally, if NYC publicized explanations about the complaint process works, that would probably help fraud victims report what they suffered.

Thank you for holding the hearing on the issue of immigration services fraud, which can have a devastating effect on immigrant communities.

Sincerely,

Rex Chen  
Director of Immigration  
Legal Services NYC  
40 Worth Street, Suite 606  
New York, NY 10013  
(646) 442-3552

**Testimony by the New York Legal Assistance Group (NYLAG)**  
**before the NYC Council Committee on Immigration and the Committee on Consumer**  
**Affairs and Business Licensing regarding:**  
**Oversight - Combating Immigration Services Fraud**

**September 24, 2021**

Chairs Menchaca, Ayala, Council Members, and staff, good afternoon and thank you for the opportunity to speak with you today about combating immigration services fraud. My name is Polli Hardeo, and I am a Senior Staff Attorney in the Immigrant Protection Unit of the New York Legal Assistance Group (NYLAG) who works with the ActionNYC program in partnership with the Arab American Association of New York (AAA-NY). AAA-NY is a community-based organization in Bay Ridge Brooklyn that supports and empowers the Arab American immigrant community by providing a range of services, including legal immigration services through ActionNYC, to foster greater understanding of Arab culture and immigrant issues. Likewise, NYLAG is a leading civil legal services organization combatting economic, racial, and social injustice by advocating for people experiencing poverty or in crisis. We address emerging and urgent legal needs with comprehensive, free civil legal services, impact litigation, policy advocacy, and community education through numerous legal units within the organization. Specifically, our Immigration Protection Unit represents a subset of this population facing a variety of legal obstacles related to immigration.

We appreciate the opportunity to testify to the Council today on the critical issue of combatting immigration fraud as the victims of this practice are amongst the most marginalized members of society. Immigration processes and agencies are tortuous and expensive for

immigrants and their families to navigate, which is the reason many people seek help. Unfortunately, there are many unscrupulous *notarios* and businesses who take advantage of naïve clients by using various deceptive methods. Although the denotation and connotation of the term *notario* are rooted in Spanish language, we use the term generally today as common language within immigration practice to identify non-licensed immigration service providers and their businesses. *Notarios* exist in every borough and community and offer immigration benefits to people by charging exorbitant fees or by misleading clients about their qualifications. This results in shoddy or fraudulently filed applications and decreased trust for legal service providers in the immigrant community.

Sheila is one of the many New Yorkers who was defrauded by these schemes. Sheila arrived in the United States as a new, undocumented immigrant from India. A family member recommended a service to her who could help her “get papers.” At a later ActionNYC consultation with Sheila, NYLAG learned that this service filed an asylum application on her behalf. Sheila paid this *notario* thousands of dollars without fully understanding what she was applying for or being privy to the process. Sheila only noticed that something was awry when the *notario* confiscated and locked up her passport and other documents until she paid him the full amount of the fee. By the time Sheila realized that she was being taken advantage of, it was too late as Sheila could not recover the money of which she had been conned. NYLAG counseled Sheila about her options to report the abuse. Sheila was able to withdraw her asylum application but ultimately decided to return to India as she no longer has any savings.

We understand that regulating *notarios* can be very difficult and the onus falls on states and local governments to implement policies that deter *notarios* from engaging in deceptive business practices. Notably, New York has one of the most progressive policies for reporting abuse



and deterring infractions through policy. The New York Immigration Assistance Service Enforcement Act only allows licensed attorneys and Department of Justice (DOJ) accredited representatives to provide legal assistance in immigration matters. The New York law also requires that those offering to assist with non-legal work in immigration proceedings make clear that they are not attorneys and avoid using deceptive terms to advertise their business.<sup>1</sup> Individuals who violate the law can be fined and victims of these practices can recoup losses through civil lawsuits and report incidents through an established hotline. We applaud NY City Council for understanding this issue and enacting laws to combat this fraud; however, these laws are only effective if victims are empowered to report violations and have alternatives for seeking competent and affordable legal immigration help.

Some local programs such the ActionNYC program, funded by the NYC Mayor's Office of Immigrant Affairs, have been successful by empowering staff in community-based organizations to become DOJ accredited. The program, likewise, funds a licensed attorney to supervise the representatives in screening and preparing immigration paperwork for immigrant New Yorkers. Through this program, NYLAG has partnered with community-based organizations - Chinese Planning Council and the Arab American Association to create a safe and reliable space where community members and immigrants referred through a hotline from the Mayor's Office can reach competent and free immigration legal services in their language.

As the ActionNYC attorney for AAA-NY, I've seen how important reputable community institutions like the Association can be in combatting immigration services fraud. AAA-NY has a long-standing reputation in Bay Ridge as a trusted community center and has become the first resource that many immigrants consult in their legal journeys. ActionNYC enables my team to

---

<sup>1</sup> N.Y. Gen. Bus. Law § 460-b

offer comprehensive immigration screenings and reliably inform the community of changes in immigration law. Through effective community building and engagement, the ActionNYC program helps to prevent immigration services fraud and offers refuge for individuals who have been victimized by illegitimate immigration service providers.

Yet, we realize that marginalized communities are still prone to abuse from many sources and can be victimized by licensed attorneys as well as *notarios*. NYLAG represents these victims in U-Visa applications, which helps the victims of qualifying crimes obtain legal immigration status if they can show that they suffered substantially from the incident and were helpful to law enforcement in prosecuting the crime. Likewise, NYLAG applauds the Department of Consumer and Worker Protection (DCWP) for its willingness to certify the “Supplement B” for U-Visa applicants who are the victims of fraudulent immigration practices. The need for this continued practice is exemplified in the following example as immigrants applying for the U-Visa must submit a signed confirmation that they were helpful in prosecuting that crime, and few other agencies other than DCWP are willing to offer this certification for victims of immigration fraud.

Valentina Mendez hired an attorney to apply for permanent residence because she had lived in the U.S. for the last 10 years. Unfortunately, there is no basis to apply for a green card due to length of residency in the U.S. except as a defense from imminent deportation. As is a common practice amongst unscrupulous practitioners, the attorney Valentina hired applied for asylum on her behalf without explaining that she would essentially be alerting the Department of Homeland Security to the fact that she was undocumented and would be initiating the deportation process. Even more unfortunately for Valentina, she did not even qualify for a defense from deportation based on her long residency in the U.S. because she did not meet the criteria for a relief option known as “cancellation of removal.” Valentina came to NYLAG before her asylum interview, and

we were able to discover what had happened. We also learned that her attorney had been suspended from the practice of law and was not eligible to represent her at the time he filed the application. A NYLAG attorney was able to attend the asylum interview with her and convince the Asylum Officer to terminate her application without referring her to immigration court for removal proceedings. NYLAG was also able to assist her in filing a grievance to the 1st Department, and a complaint with the District Attorney's office, where she was interviewed as a witness. Unfortunately, although Ms. Mendez was fully cooperative in two investigations by agencies authorized to investigate the crimes at issue, the 1st Department does not certify U Visas and the District Attorney's office was unwilling to certify for this type of crime. NYLAG is also assisting Ms. Mendez in a complaint with the DCWP, so that she can hopefully receive recompense in the form of legal status for the extraordinary stress caused by her former (suspended) attorney. Awareness of U-Visa qualifications and knowledge of the process are essential in fighting immigration services fraud as victims of these crimes depend on agencies such as DCWP to certify their helpfulness in combatting the fraud.

While we applaud agencies such as DCWP in combatting immigration services fraud and policies in New York City to protect immigrant New Yorkers, we must remain alert as the future is ripe for immigration fraud. Rumors of changes in immigration law that will grant "amnesty" or green cards to longstanding immigrants as well as the redesignation of countries such as Haiti for Temporary Protective Status (TPS) means that large numbers of immigrants in the United States will be flocking to apply for immigration benefits. *Notarios* thrive on opportunities such as this to take advantage of unknowing immigrants who may be unfamiliar with the law or their eligibility criteria because affirmative filings are easy for an unauthorized *notario* to prepare without identifying themselves. This makes it imperative that affordable and competent legal services are

available to the public and that pathways exist for victims of immigration services fraud to report abuse and seek justice.

I want to once again take the opportunity to thank Chairs Menchaca and Ayala, and the members of the Committee for their exceptional leadership and commitment to overseeing issues related to immigration and consumer affairs in New York City, and for working to schedule this hearing today. We look forward to continuing this conversation and to continuing to partner with the City to protect immigrant New Yorkers.

Respectfully submitted,

New York Legal Assistance Group



## **Testimony of the New York Immigration Coalition**

New York City Council Committees on Immigration and Consumer Affairs and  
Business Licensing  
“Combating Immigration Services Fraud”  
September 24, 2021

The New York Immigration Coalition (NYIC) is an umbrella policy and advocacy organization that represents over 200 immigrant and refugee rights groups throughout New York State. The NYIC serves one of the largest and most diverse newcomer populations in the United States. The multiracial and multisector NYIC membership includes grassroots and nonprofit community organizations, religious and academic institutions, labor unions, as well as legal and socio-economic justice organizations. We thank the New York City Committees on Immigration and Consumer Affairs and Business Licensing for the opportunity to testify.

The NYIC, our member organizations, and the communities we serve know all too well the pernicious effects of immigration services fraud. Our organization periodically releases a community-facing document for our members called the New York State Community Toolkit. In it, we consistently remind readers to be aware of immigration fraud because we know that unscrupulous immigration providers may try to scam immigrants by making false promises or giving them inaccurate information. Knowing that, in many Spanish-speaking countries, notarios can serve as legal representatives, many of these providers with notary commissions purport to offer legal help even though not all U.S. notaries are licensed legal professionals. We therefore advise readers never to seek immigration help from a notario, travel agent, tax preparer, forms preparer, or notary. The need to warn our community members of these schemes persists.

Most recently, the NYIC and its member organizations have recognized the need to protect community members from preparers who may take advantage of them when preparing their applications for the Excluded Workers Fund and the Emergency Rental Assistance Program. In recent months, immigrant New Yorkers have been fervently applying to recoup at least a fraction of what they have lost to the ravages of the COVID-19 pandemic. Capitalizing on the applicants’ acute and urgent need for eagerly awaited benefits, some tax representatives, paralegals, and others are offering their services to fill out applications for a fee through social

media advertisements. Immigration advocates worry that communities that are already struggling financially will spend hundreds of dollars on applications that they can instead complete free of charge. NYIC member organizations have reported a similar dynamic at play with regard to the Emergency Rental Assistance Program, conveying that some tax preparers have charged hundreds of dollars to assist with ERF paperwork and with emergency rental assistance applications. The NYIC urges the City Council to do whatever it can to inform community members that these applications are free to complete and to refer them to community-based organizations that will assist them for free rather than making them pay exorbitant preparation fees during an already fraught time.

The NYIC is grateful for the city and state resources that exist to serve our communities and ensure that immigrants receive quality, free legal advice. We routinely direct community members to the Office of New Americans hotline at 1-800-566-7636, and we are especially thankful that New York City residents can call 311 and say “ActionNYC” for City-funded, free, and safe legal help. We urge the City to remain steadfast in its commitment to making this resource available for its residents.

The NYIC thanks the New York City Council Committees on Immigration and Consumer Affairs and Business Licensing for hosting this hearing and urges the Council to redouble its efforts to combat immigration services fraud.