

Immigration Consultant Fraud

Basic Information & What You Can Do if You Are a Victim of Fraud

In general, “immigration consultants” and “immigration assistance service providers” are *non-attorneys* who provide *limited non-legal* assistance to immigrants. For example, they translate materials; secure supporting documents; prepare or arrange for photographs, fingerprints and medical tests; conduct English language and civics courses; fill out forms a client selects with the information he/she tells them; and, refer clients to an attorney without obtaining a fee for doing so. ***These individuals are not lawyers, may not give legal advice or provide legal services, and do not necessarily have any special immigration training.***

While many immigration consultants and immigration assistance service providers are honest and provide limited yet helpful services to immigrants, there are also many dishonest immigration consultants and dishonest immigration assistance service providers who take advantage of immigrants by setting up elaborate schemes to steal their money.

These dishonest immigration consultants and dishonest immigration assistance service providers adopt many guises to trick their clients. Some claim they are attorneys. Others adopt titles such as *notario publico* or *notario* to deceive people into believing that they are attorneys.¹ Still others claim that they have a close and special relationship with United States Citizenship and Immigration Service (USCIS), and, therefore, can obtain special immigration favors for their clients.

Immigration fraud scams that can cheat immigrants

While immigration fraud can take many forms, below are a few common scams used by dishonest immigration consultants and dishonest immigration assistance service providers that immigrants and advocates should know about:

- ◆ Charge low-income immigrants extremely high fees for immigration services and then do absolutely nothing for them.
- ◆ Charge fees to prepare applications for nonexistent immigration programs or for legitimate programs for which the client does not qualify.
- ◆ File frivolous applications, like filing false asylum claims on behalf of victims who do not speak or write English and have no idea what the application contains.
- ◆ File applications for individuals for programs that do not yet exist, such as a legalization program.
- ◆ Charge a total price for all services up front, and then demand more money to continue doing the work.

¹ The profession of a *notario publico* or *notario* in Latin America is very similar to that of an attorney. A notary public in the U.S. usually witnesses the signature of documents, certifies the identities of individuals signing documents, and administers oaths. Unscrupulous nonattorney service providers oftentimes exploit the misconception among Latin American immigrants.

- ◆ As noted above, claim to have a special relationship with staff at USCIS.
- ◆ Also, as noted above, claim they are attorneys or use the terms *notario* or *notario publico* to trick people into thinking that they are attorneys.

Harm to immigrant victims

Just as dishonest immigration consultants or dishonest immigration assistance service providers use many different schemes to defraud immigrants, victims experience many different types of harm.

- ◆ Monetary loss. Many immigrants struggle to make ends meet, as often they are paid minimum or even sub-minimum wages and support their family in the U.S. and abroad. Thus, the theft of even a small amount of money creates severe financial hardship for the victim and his/her family.
- ◆ Loss of irreplaceable documents. Dishonest immigration consultants or dishonest immigration assistance service providers often keep their clients' original documents, such as birth certificates or passports. Sometimes they wrongly send original documents rather than certified copies to USCIS. When these swindlers disappear, their victims lose these extremely important documents.
- ◆ Loss of eligibility for immigration benefits. When dishonest immigration consultants and dishonest immigration assistance service providers render services for clients, their work is often careless and inaccurate. Unfortunately, this kind of negligent work seriously harms their clients' cases. There are countless examples where immigrant victims lose their right to relief and are deported because of the poor work performed by dishonest immigration consultants and dishonest immigration assistance service providers.

Reasons people fall prey to immigration consultant fraud.

There are many reasons that people fall prey to immigration consultant fraud. The lack of English proficiency and limited schooling are just some factors. So too is the fact that many immigrants are uninformed, confused and bewildered by the complexity of U.S. immigration law and policy. Frequent changes to immigration law and policy make it even more difficult to follow and understand.

Additionally, there are powerful and understandable feelings of desperation – desperation that a relative may be deported, that a family may be separated, that a loved one may be sent back to a dangerous situation. Immigrants' feelings of desperation have been exacerbated recently because of the continual build-up of Border Patrol forces along the U.S. Mexican border, increased interior enforcement actions by ICE, and anti-immigrant sentiment and legislation being considered both at the state and federal level.

Add to all these factors the shortage of affordable legal assistance for immigrants and you have a *situation ripe* for immigration consultant abuse.

How can immigrants protect themselves from immigration fraud?

There are at least two important steps that immigrants can take to protect themselves from immigration fraud.

First, immigrants must educate themselves. Before deciding to get help with immigration matters, and before paying any money, immigrants must determine what kind of immigration help they need and who should provide that assistance. For instance, do they need legal advice and legal services or do they need help translating a document or arranging for photographs? ***CLINIC strongly suggest that foreign nationals who need legal advice and legal services obtain this legal advice and services ONLY from a licensed attorney or a Board of Immigration Appeals (BIA) recognized non-profit organization such as Catholic Charities.***

Materials: CLINIC has developed a question and answer fact sheet entitled “*Who Can Help with Immigration Matters: Information to Protect Yourself from Immigration Fraud.*” This fact sheet is designed to help immigrants decide who they should seek assistance from with their immigration matters. It can be found at www.cliniclegal.org.

Second, if immigrants only need **non-legal services**, they should carefully choose who they hire to provide these services so that they do not become victims of immigration fraud. If individuals hire an immigration consultant or immigration assistance service provider, they need to make sure that the person is honest and legitimate and that he/she **ONLY** performs basic **non-legal services**. **Non-legal services**, may include, translating documents, properly notarizing signatures, taking or arranging for photographs or fingerprints, arranging for the performance of medical tests, conducting English language and civics courses, securing supporting documents that are already in existence, transcribing responses to a government agency form selected by the customer which is related to an immigration matter, but does not include advising the person as to his/her answers on those forms.

Materials: CLINIC has developed a two page flyer entitled “*Protect Yourself from Immigration Consultant Fraud*” that provides helpful information as well as precautions that immigrants should take before hiring an immigration consultant or immigration assistance service provider. It can be found at www.cliniclegal.org.

What should immigrants do if they are the victims of immigration fraud? Victims of immigration fraud include undocumented immigrants who are especially afraid to complain about abuse as well as U.S. citizens who believe that they are taking steps to become lawfully reunited with a parent, spouse or child. Many are hardworking individuals who simply cannot afford an attorney.

Listed below are agencies or organizations that victims and advocates may consider contacting to report immigration fraud in their state.

Practice Tip: If the victims are undocumented immigrants, it would be best for the advocate to contact the agencies or organizations to report the fraud. Additionally, it is helpful for the advocate to ascertain whether or not the identity of the victims will remain confidential through the process and help the victims weigh the potential risks if their identities will become known to the particular agency or organization.

1. If a crime has been committed, the advocate and victim should consider reporting the crime to the **local sheriff, police and/or prosecutor’s office** in their state.

Practice Tip: It is important to consider this action particularly if the dishonest immigration consultant or dishonest immigration assistance service provider has threatened the victim.

2. Victims of immigration fraud are consumers who have been deceived by dishonest and deceptive business practices. Advocates and victims should consider contacting the **State Attorney General's Office** to file a consumer complaint with the **consumer protection unit** in their state. The consumer protection unit helps to protect consumers from deceptive and unfair business practices. These offices generally investigate and prosecute violations of the states' Consumer Protection Act or Unfair and Deceptive Trade Practice Law.

Materials: CLINIC has developed a document entitled, "Filing Complaints against *Notarios* and Immigration Consultants." It provides excellent and helpful information about filing a complaint with a state consumer protection unit. Included in the document is contact information for consumer protection issues in each state. This document can be found at www.cliniclegal.org.

Practice Tip: There are a number of Attorney Generals throughout the U.S., especially those from states with a high percentage of immigrants, who are familiar with immigration fraud and will bring civil law suits against dishonest immigration consultants and dishonest immigration assistance service providers. For instance, in April of 2006, Attorney General Eliot Spitzer brought a civil law suit against a woman that was providing fraudulent immigration assistance services to individuals from Caribbean, Central American and other Latino communities. In February of 2006, Texas Attorney General Greg Abbott reported a nearly \$10 million judgment against a fraudulent immigration consultant who misrepresented her qualifications and authority to provide legal advice and immigration-related services. Additionally, the Consumer Protection Divisions from District Attorneys Offices in California also routinely go after fraudulent providers of immigration services.

3. Victims and advocates should consider filing a complaint with the **Better Business Bureau** and/or **Chamber of Commerce** in their state or with other city or county business groups in their state. The reason a victim and advocate would also file complaints with these and other business associations is that such associations track complaints to provide information to consumers.

Practice Tip: The website address for the Better Business Bureau is: <http://www.bbb.org>. Victims and advocates can access his/her local Better Business Bureau and file a complaint with that organization on-line. The website address for the Chamber of Commerce is: <http://www.chamberofcommerce.com>.

4. A number of states have passed laws that **regulate** what **immigration consultants** and **immigration assistance service providers** can and cannot do and what notary publics can and cannot do. Victims and advocates should consider contacting the appropriate state agency to report a violation of these laws.

Practice Tip: The following states have immigration consultant laws: Arizona, California, Illinois, Maine, Michigan, Maryland, Minnesota, New Jersey, New Mexico, New York, Oregon, and

Washington. Additionally, the following states regulate immigration consultants through notary public laws: Colorado, Massachusetts, Michigan, North Carolina, Oklahoma, Tennessee, Texas, and Virginia.

The American Bar Association's Commission on Immigration has a campaign to protect immigrants from "notario fraud." The ABA has compiled a list of state laws that can be used to regulate or prosecute notarios: http://www.abanet.org/publicserv/immigration/notario/state_code_sections.pdf. Along with educational material and public service announcements, the ABA also has a person that handles and refers cases with notario problems to credible agencies in its national directory. The ABA also funds mini-grants to local agencies to allow them to warn immigrants on the dangers of unauthorized and incompetent practice. For more information about the project, please refer to: http://www.abanet.org/publicserv/immigration/notario/fight_notario_fraud.shtml.

Materials: CLINIC has summarized immigration consultant statutes of the states listed above as well as the notary public statutes that regulate immigration practice. The materials are entitled "Immigration Consulting Statutes and Notary Public Law" and can be found at www.cliniclegal.org.

5. Victims and advocates should consider bringing an action against the dishonest immigration consultant or immigration assistance service provider in a **small claims court** in their state.

Practice Tip: Each state has small claims courts. These are informal courts where disputes are resolved quickly and inexpensively by a judge. The parties are not represented by an attorney but, instead, represent themselves. In small claims courts, victims of immigration fraud can request a monetary judgment only in a small amount. Each state determines what its own minimum amount is for small claims. For instance, in New York you can bring an action in small claims court if you request a monetary judgment that is \$3,000 or less, in California the amount is \$7,500 or less, and in Virginia the amount is \$4,000 or less. To obtain more information about the small claims courts, victims and advocates will need to contact their state court by telephone or through their state court's internet address.

6. Victims and advocates should consider contacting the **Unauthorized Practice of Law Committee** in their state to report the unauthorized practice of law by an immigration consultant or an immigration assistance service provider.

Practice Tip: Unauthorized Practice of Law Committees exist in every state. These committees investigate complaints against persons who engage in the unauthorized practice of law. The committees are usually run by the state bar association or by a court in the state. For instance, in Texas, the Supreme Court appoints members to the Unauthorized Practice of Law Committee. However, in Pennsylvania, it is a committee under the jurisdiction of the Pennsylvania State Bar.

Materials: The American Bar Association has a "Directory of Unlicensed Practice of Law Committees" nationwide that can be accessed at: http://www.abanet.org/cpr/clientpro/cp-dir_upl.pdf.

7. If the victim has been cheated by an attorney or has received incompetent legal services from an attorney, he/she along with an advocate should consider contacting the **state bar association** to report inadequate and incompetent legal services.

Practice Tip: State bar associations regulate licensed attorneys and handle complaints filed against licensed attorneys in their states. Each state has its own system for filing a complaint and for disciplining attorneys. Victims and advocates will need to contact the bar association in their state to determine the appropriate procedure for filing a complaint.

Materials: A list of bar associations by state can be found at the American Bar Association website at: <http://www.abanet.org/barserv/stlobar.html>.

8. In addition to filing a complaint against an attorney with a state bar association, victims and advocates also can consider filing a complaint against an attorney with the Office of General Counsel of the Executive Office for Immigration Review (EOIR). Victims may use the Form EOIR-44, Immigration Practitioner Form. The form is available on the EOIR website at: <http://www.usdoj.gov/eoir/formslist.htm>.

9. Victims and advocates can also file complaints against first-level or partially accredited representatives (those who represent immigrants exclusively before the DHS). Complaints can be filed with the Office of General Counsel of the DHS. There is no specific complaint form to use when filing such a complaint.

Complaints against second-level or fully accredited representatives (those who can represent immigrants before DHS **and** before the immigration courts and the BIA) can be filed with the Office of General Counsel of EOIR. Because a complaint against a fully accredited representative is filed with EOIR, victims may use Form EOIR-44.

Note: This handout is not legal advice. It is for educational and informational purposes only. If you know of someone who needs legal advice, advise him/her to consult either a licensed attorney or an accredited representative from a BIA recognized agency.