

DREAMS AND SCHEMES IN QUEENS, NEW YORK

**Immigrant Struggles to Find Work and Get
Status in the Face of Consumer Fraud**

**A Report by New Immigrant Community Empowerment (NICE) and
the Community Development Project (CDP) at the Urban Justice Center**



October, 2012

ABOUT THE AUTHORS



New Immigrant Community Empowerment:

New Immigrant Community Empowerment (NICE) is a community-based organization and worker center that helps new immigrants build social, political, and economic power in their communities and beyond. We focus on community organizing, grassroots advocacy, and education, and envision a world where all people—regardless of status—live and work with dignity and justice. Based in Queens, New York, our membership consists of newly arrived, undocumented, Latino immigrant workers, among the most vulnerable and underserved in our community. www.nynice.org



Community Development Project at the Urban Justice Center:

Founded in 2001, the Community Development Project (CDP) at the Urban Justice Center strengthens the impact of grassroots organizations in New York City's low-income and other excluded communities. CDP's Research and Policy Initiative partners with and provides strategic support to grassroots community organizations to build the power of their organizing and advocacy work. We utilize a "Participatory Action Research" model in which low-income and excluded communities are central to the design and development of research and policy. www.cdp-ny.org

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EXECUTIVE SUMMARY

Every day, immigrants in New York City struggle to find work, support their families and understand their immigration options. In this process, many seek assistance from a variety of services and businesses targeted at immigrant consumers. This report focuses on two of the most prevalent and notorious: immigration service providers (ISPs)/immigration attorneys and employment agencies.

Immigration service providers (ISP) are businesses or individuals that provide clerical, non-lawyer services related to immigration processes, such as translation, taking photographs, arranging medical appointments, and assisting with immigration forms. ISPs are not lawyers and are specifically prohibited from advertising as lawyers or providing legal advice. By contrast, a licensed attorney or an organization or representative authorized by the U.S. Board of Immigration Appeals (BIA) may provide legal assistance on immigration matters.¹

Employment agencies in New York are licensed to help place job-seekers into work for a fee and to provide related services, such as résumé-writing or job-skills training. These entities have proliferated in New York City since the beginning of the economic recession, especially in the low-income immigrant neighborhoods of Jackson Heights, Elmhurst, and Corona, Queens.

In recent years, members of New Immigrant Community Empowerment (NICE) have consistently reported negative experiences with these providers, prompting NICE to investigate, analyze, and develop solutions. With the research and writing support of the Community Development Project (CDP) at the Urban Justice Center, NICE developed a comprehensive, “participatory action” methodology that included mystery shopping, secondary research, surveys, focus groups, census analysis and legal research to evaluate the conduct of ISPs/immigration lawyers and employment agencies in Jackson Heights, Elmhurst, and Corona, Queens.

Our research shows that predatory, substandard, and fraudulent practices are commonplace, and not merely limited to a few bad actors. This report documents the systemic nature of consumer frauds committed against immigrants and offers solutions for improved laws, policies, and enforcement mechanisms to better protect immigrants. While this research focuses on the experience of Latino immigrants in one area of Queens, our findings speak to a larger problem affecting New York City and the rest of the country.

MYSTERY SHOPPING:

From June to August 2011, 10 members of NICE visited 51 businesses, including 21 employment agencies, 13 ISPs, and 17 immigration attorneys² along Roosevelt Avenue and adjacent streets in Jackson Heights, Corona, and Elmhurst, Queens.³ The mystery shoppers, predominantly immigrants from Mexico and Ecuador, used assigned scenarios to pose as customers seeking services. Each was paired with an observer who looked for signage and credentials and collected literature and business cards. Upon completion of the visit, each shopper-observer pair documented their interactions on a standardized form designed to evaluate providers’ compliance with relevant laws and regulations.

Select Research Findings (for a comprehensive list of findings, please see the full report):

Immigration Service Providers (ISP) and Immigration Attorneys

“I contacted X through a co-worker who told me that she knew a lawyer. Later on, I discovered that [X] was not even a lawyer. [It] was simply a hoax.” –Focus Group Participant #12

1. **ISPs use misleading signage and do not adequately post their credentials, confusing consumers about who is qualified to give them legal advice and who is not.** Clear, accurate signage and advertising are important to ensure that consumers understand what kinds of services a business is entitled and competent to provide. Language-appropriate signs can help consumers understand their rights, and the posting of credentials provides information as to whether an agent is qualified and/or licensed. This is particularly critical to differentiate ISPs from immigration attorneys.
 - » 23% of ISPs advertised that they provide legal advice;
 - » No ISP had a “not an attorney” sign posted.
2. **Problems with ISPs are compounded by confused interaction with immigration attorneys.** Mystery-shopping visits indicate that immigrant consumers are misled not only by ISPs but also by immigration attorneys. Like ISPs, attorneys post confusing signage and do not clearly present their credentials to consumers.
3. **ISPs falsely guarantee success to consumers.** Despite the limited availability of immigration remedies for undocumented immigrants, some ISPs provide false assurances of help to customers, causing them to heed inaccurate and risky advice and to pay exorbitant fees.
 - » Nearly one in three ISPs visited by mystery shoppers guaranteed success to the shopper;
 - » 23% of mystery shoppers ineligible for work authorization were told by ISPs that they could acquire work permits for them.
4. **ISPs fail to provide contracts and do not inform consumers about fees for services.** Under the law, ISPs must sign contracts with consumers and inform them about the total cost for services before collecting fees. Our research shows that ISPs often do not offer written contracts and fail to disclose costs and fee structures to consumers.
 - » 69% of survey respondents that accessed services at an ISP were not given a contract;
 - » 59% of ISPs and 87% of lawyers did not tell mystery shoppers the total cost for all their services.

Employment Agencies

1. **Employment agencies do not post proper signage and routinely share space with other businesses in contravention of the law.** Similar to ISPs, employment agencies visited by mystery shoppers fail to post licenses, credentials, and notices according to the law. And in violation of the prohibition on mixed-service spaces, many employment agencies share physical office space with other businesses. This informal, jumbled environment breeds confusion and infringes on consumers’ rights.
 - » Nearly one in four agencies visited by mystery shoppers did not have a Department of Consumer Affairs license visibly posted;
 - » Nearly half of the employment agencies visited by mystery shoppers appeared to share a space with another business, in violation of the law.⁴

2. Employment agencies fail to provide contracts, leading to fraud and poor job-placement outcomes.

Like ISPs, employment agencies are required to provide a contract before they deliver services or collect fees. However, mystery shoppers and survey respondents indicated that contracts are routinely not provided, rendering immigrant consumers more susceptible to fraud and less likely to find jobs.

- » Approximately **two of three of survey respondents** were not given a contract;
- » Survey respondents without a contract were **less likely to find a job** than those with a contract; and
- » Survey respondents without a contract were **more likely to report fraud** than those with a contract.

“I did not know there was a contract... If he gave me a contract, he was supposed to find me a job and failed.” –Focus Group Participant # 1

3. Employment agencies collect fees without finding jobs for consumers. Agencies are allowed to charge fees for their services, including, in some instances, an initial advance on the placement fee. However, the law’s complex schedule of different fees and fee percentages illogically permits the charging of advance fees only to manual laborers and domestic workers, among the lowest-paid types of employees. Although agencies are obligated to refund any advance on a placement fee if a job is not found, mystery shopping visits and surveys show that employment agencies regularly charge and retain fees regardless.

- » **94.4% of mystery shoppers** were not told that their fee would be returned if they were not placed into a job;
- » **81% of survey respondents** who did not find a job through the agency were still charged a fee.

4. Employment agencies give false guarantees of success to consumers. Similar to ISPs, employment agencies are prohibited from guaranteeing success to their consumers. However, mystery shoppers found that the majority of the employment agencies visited are breaking the law.

- » **64% of employment agencies** visited by mystery shoppers guaranteed they would find the prospective client a job.

5. Employment agencies commit wage-and-hour violations: Although employment agencies are prohibited from sending customers to jobs that pay below the minimum wage, research shows that this practice is still widespread. In addition, consumers are being misled about their working conditions and compensation.

- » **One-third of survey respondents** were offered jobs paying below the state minimum wage of \$7.25 per hour.

Select Policy Recommendations:

In order to address the widespread informality, lack of professionalism, deception, and fraud among immigration service providers, immigration lawyers, and employment agencies, NICE has developed a set of recommendations for improved laws, policies, and enforcement mechanisms. (For a comprehensive list of recommendations, please see the full report).

Immigration Service Providers (ISPs) and Immigration Lawyers

- The NYS Legislature should pass a bill that clearly defines the unauthorized practice of law and more effectively prohibits this practice. The recently drafted Quality Representation of Immigration Applicants Act is strong model legislation.
 - › The New York City Code should fall in with the state definition replacing current laws that fall very short of fraud prevention.
- The NYC Department of Consumer Affairs (DCA), the NYS Attorney General, County District Attorneys, the NYS Bar, and the Executive Office for Immigration Review (EOIR) should form an interagency taskforce to better coordinate investigation and prosecution of immigration-related frauds.

Employment Agencies

- The NYS Legislature should amend the state employment agency law (in particular Gen. Bus. Law § 185) to prohibit the existing system of charging advance fees to only the most vulnerable, low-wage workers.

Both Employment Agencies and ISPs/Immigration Lawyers

- The Queens County District Attorney should establish an Immigrant Affairs program that would specifically address the particular victimization of immigrants.
- The NYS Legislature should pass Assembly Bill A03992, which would increase the enforcement power of the New York City Department of Consumer Affairs.
- The New York City Department of Consumer Affairs, the NYS Attorney General, and county district attorneys should develop a U Visa certification protocol for consumer frauds perpetrated against immigrants.
- The New York City Department of Consumer Affairs, the NYS Attorney General, and other law enforcement should allocate a portion of damages and restitution monies to support community immigrant rights groups and free legal services providers.

ⁱ By contrast, a licensed attorney or organization or representative authorized by the U.S. Board of Immigration Appeals (BIA) may provide legal assistance on immigration matters; “Become an Authorized Provider.” *U.S. Citizenship and Immigration Services*, 2011. <http://www.uscis.gov/portal/site/uscis/menuitem.e8b24a3cec33ca34c48bfc10526e0aa0/?vgnextoid=0b6dd53a55c8b210VgnVCM10000025e6a00aRCRD&vgnnextchannel=84ecd53a55c8b210VgnVCM10000025e6a00arcnd>

“Recognition and Accreditation (R&A) Program.” The United States Department of Justice, 2011. <http://www.justice.gov/eoir/statspub/raroster.htm>

ⁱⁱ ISPs were separated from lawyers through a combination of business card analysis, internet searches, documentations from mystery shoppers, and searches on the New York State bar website. New York State Bar Association, 2011, <http://www.nysba.org/>.

ⁱⁱⁱ The borders for mystery shopping stretch West to East from 69th Street to 103rdth Street and North to South from 37th Avenue to 41st Avenue.

^{iv} This information was obtained through photograph analysis and internet research.

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I. INTRODUCTION

In 2008, Miguel migrated to the United States from Ecuador. Along the way, he endured a nine-day boat ride, crossed a river by forming a human chain, was picked up and dropped off in the desert by immigration police, and wandered lost for eight days without shoes. Yet Miguel persevered, believing that life would be better for him and his family once he entered the United States. “Mainly it was the American dream, a better education for our daughters,” he said.

But even after he arrived in Jackson Heights, Queens, life was hard, work was difficult to find, and he owed thousands of dollars to the *coyotes* who had assisted his migration. “Things are not easy here. You have to pay a lot of money to come and then you have to work hard to pay off that debt.”

Hoping to achieve financial stability and reconnect with his family, Miguel went to an immigration agency he had heard about on TV and through word of mouth in the local Ecuadorian community. A woman at the agency represented herself as a lawyer and told him that obtaining his “papers” would be simple. She took his documents and charged thousands of dollars in fees. Two years later, Miguel still had heard nothing and went to the office to check in. He was told to be patient, that everything would be fine, but that the process would speed up if he paid more money. So he did, paying a total of \$7,000—most of his savings. And then, in summer 2010, he heard on the news that the agency was being investigated for fraud.¹

Miguel’s story is not unique. Over the past several decades, due in part to the devastating effect of neoliberal trade policies on sending countries, the number of labor migrants from Mexico, Central, and South America in the U.S. has increased at an astounding rate: the foreign-born population from Latin American countries grew from approximately 4 million in 1980 to 21 million in 2010.² In New York City alone, 490,000 of the 1.6 million Latin American migrants arrived in just the last decade.³ The “international wage gap”—the difference between the actual wage paid by U.S. employers and that in migrants’ home countries—often makes pursuit of the “American dream” a matter of survival.⁴ Many endure a dangerous and depleting trek across the border in search of work, only to be greeted with poverty, isolation, xenophobia, exploitation, and discrimination in the United States.

For immigrants separated from their families and indebted to traffickers, the stakes are obviously high. Despite the fact that most undocumented people in the U.S. have no means of obtaining authorized work or regularizing their status under the current immigration laws,⁵ many seek advice and referrals from friends, family, and other immigrants about ways to improve their financial security and adjust their immigration status. These informal networks provide an important source of information and comfort; however, they can also lead people towards unscrupulous businesses and individuals that prey on vulnerable new arrivals.

While immigrant consumers in New York City experience problems with many different types of businesses and services, this report focuses on two of the most prevalent and notorious: immigration service providers (ISPs)/immigration attorneys and employment agencies. We limit our analysis to such providers operating in the key geographic area for NICE members: the adjacent neighborhoods of Jackson Heights, Elmhurst, and Corona, in Queens.

The laws and regulations governing ISPs, immigration lawyers, and employment agencies are unfortunately inadequate, routinely violated, and unenforced, and take place in the following context:

- » In New York, ISPs are theoretically defined as non-attorneys competent to assist customers with a range of clerical tasks related to immigration applications, including translation, filling out and mailing forms, taking photographs, and arranging for medical exams.⁶
- » ISPs are not licensed attorneys and are therefore prohibited from giving legal advice or otherwise engaging in “unauthorized practice of law.”⁷ However, this line is often blurred in reality, to disastrous results. With respect to immigration attorneys, they are not required to hold an immigration-specific license but are bound by the ethical rules of the New York State Bar.⁸
- » Employment agencies assist job-seekers in locating work and may provide related services, such as résumé-writing or job-skills training. These agencies have proliferated rapidly in New York City since the beginning of the recession, with many concentrated in low-income, predominantly immigrant neighborhoods.

New Immigrant Community Empowerment (NICE) and the Community Development Project (CDP) at the Urban Justice Center have conducted comprehensive research, including mystery shopping, surveys, focus groups, and legal and legislative analysis to evaluate the conduct of ISPs/immigration lawyers and employment agencies in Jackson Heights, Elmhurst, and Corona, Queens. Our research shows that predatory, substandard, and fraudulent practices are commonplace, and not merely limited to a few bad actors. This report documents the systemic nature of consumer frauds committed against immigrants and offers solutions for improved laws, policies, and enforcement mechanisms to better protect immigrants. While this research focuses on the experience of Latino immigrants in one area of Queens, our findings speak to a larger problem affecting New York City and the rest of the country.

II. IMMIGRANT ENCLAVES AND CONSUMER FRAUD: THE CASE OF ROOSEVELT AVENUE

Immigrant enclaves are areas with strong concentrations of one or more ethnic or racial groups.⁹ While often rich in tradition, culture, and community, these enclaves are also easy targets for perpetrators of consumer fraud. As the financial crisis continues to cripple the nation's economy and without a broad legalization program in sight, immigrants are desperate to find work and regularize their immigration status. Opportunistic individuals and businesses have responded in turn, offering “solutions” to immigration and employment problems.

The area comprising Jackson Heights, Elmhurst, and Corona, Queens is among New York's historic ethnic enclaves. From the old Irish, Italian, Jewish, and Polish populations to the newer Ecuadorian, Colombian, Mexican, Peruvian, and South and East Asian communities, this has long been a bustling immigrant microcosm.¹⁰ New residents have brought their traditions and cultures to this space, producing vibrant commerce and community such as that along Roosevelt Avenue.¹¹

Many immigrants are drawn to Jackson Heights, Elmhurst, and Corona because of the area's close-knit immigrant networks and business clusters. These neighborhoods “offer a network of cultural support, and serve as an extended family, not available to [immigrants] when they enter a U.S. society that is so individualistic. The cultural network not only functions as a social support network, but it is also a vital link to obtaining a job and services.”¹²

This structure has an insidious underbelly, however, as immigrants are drawn in by low-quality, unethical businesses that exploit cultural similarities and prey on new immigrants.¹³ These entities, particularly those along Roosevelt Avenue, practice business tactics familiar and tailored to Latin Americans: distributing flyers to and shouting announcements at passersby; advertising, dealing, and hanging signs in Spanish; and using terms such as *notario*, *fundación*, or *misión* to improperly suggest a charitable purpose. Together, these practices create a false sense of trust for consumers and increase their susceptibility to fraud and deception.



A person distributing flyers and shouting announcements in Spanish



Signage in Spanish and words such as 'notario' make the Latin American public trust this place to provide legal advice



The two pictures above are examples of Multi-Service agencies that include ISPs



Roosevelt Avenue

Between the Brooklyn Queens Expressway and Junction Boulevard, Roosevelt Avenue's commercial corridor stretches across the neighborhoods of Jackson Heights, Elmhurst, and Corona. The number 7 subway line runs overhead, shuttling passengers between Manhattan and Queens.

People from all over New York City and surrounding areas visit Roosevelt Avenue to find global products and services in multiple languages. A member of NICE explained, "You go to Roosevelt and find businesses on each block, each of them representing a country of Latin America—Ecuador, Mexico, Colombia, Peru."¹⁴ Businesses and goods from other countries and regions are similarly accessible, making Roosevelt Avenue an enclave of different Latino immigrant groups. "This street feels like your own country at times because you can find so many things from your native country," another NICE member said.¹⁵ It is a literal intersection of cultures and languages and a dynamic, growing hub for ethnic food, clothing, and services.

And yet, as our research reveals, all is not well. Roosevelt Avenue has become a prime target for low-quality employment agencies, immigration service providers, and immigration lawyers who exploit shared language and cultural ties to perpetrate consumer frauds.¹⁶



Businesses crowd along Roosevelt Avenue

Latino Immigrants in Jackson Heights, Elmhurst, and Corona, Queens

A quarter million people live in these dense neighborhoods of Queens. The median household income is lower here than in other areas of the borough and New York City, but a higher percentage of the population participates in the workforce, indicating low wages.¹⁷ The area is very racially and ethnically diverse: as Table 1 shows, 56% of residents identify as Latino and 29% as Asian, more than double the respective percentages in the city overall; only 10% identify as white, compared to 33% citywide.

Table 1: Race/Ethnicity¹⁸

	Jackson Heights, Corona, Elmhurst	Queens	New York City
American Indian or Alaska Native	0%	0.3%	0.2%
Asian	29%	22.9%	12.5%
Black or African American	4%	18%	23.2%
Hispanic or Latino	56%	27%	28.2%
Native Hawaiian or Other Pacific Islander	0%	0%	0%
White	10%	28.6%	33.7%

What makes this area unique is its large foreign-born population.¹⁹ Table 3 shows that 66% of people living in these neighborhoods were born outside the United States, compared to 38% citywide, most from South and Latin America or Asia. (This report focuses on the Latino immigrant population, primarily from Ecuador, Mexico, Colombia, and the Dominican Republic.)

Table 2: Foreign-Born Population, Region and Country of Origin²⁰

		Jackson Heights, Corona, Elmhurst	Queens	New York City
Region of origin	Latin America	57.2%	48.5%	52.8%
	Asia	36.8%	36.5%	27.0%
	Other	6.0%	15%	20.2%
Country of origin (Latin American countries)	Ecuador	26.0%	14.8%	8.5%
	Mexico	21.3%	9.9%	11.4%
	Colombia	17.2%	10.1%	4.5%
	Dominican Republic	16.9%	10.2%	23.0%
	Peru	3.3%	3.9%	2.0%
	El Salvador	2.3%	3.0%	1.8%
	Other	13%	48.1%	48.8%

Many Latino immigrants maintain strong connections to their mother tongue and country of origin. In fact, 53.4% of Jackson Heights, Elmhurst, and Corona residents report Spanish as their primary language at home, almost twice that of Queens and New York City residents.

Table 3: Social Characteristics²¹

	Jackson Heights, Corona, Elmhurst	Queens	New York City
Population	272,372	2,176,751	7,904,846
Median household income	\$46,316	\$55,291	\$50,285
Percentage in labor force	66.9%	65%	63.1%
Foreign-born population	66.24%	49%	38%
Entered U.S. 2000 or later	32.35%	25.4%	26.5%
Entered U.S. before 2000	67.75%	74.5%	73.5%
Percentage under the poverty level	15.39%	13%	19.1%
Percentage that primarily speak Spanish at home	53.4%	23.9%	24.6%

III. METHODOLOGY

Every day, NICE members struggle to find work and understand their immigration options. In the process, many seek assistance from ISPs, immigration attorneys, and employment agencies in their Queens neighborhoods. In recent years, members have consistently reported negative experiences with these providers, prompting NICE to investigate, analyze, and develop solutions. With the research and writing support of the Community Development Project (CDP) at the Urban Justice Center, NICE developed a comprehensive, “participatory action” methodology that included:

- » **Mystery Shopping:** From June to August 2011, 10 members of NICE visited 51 businesses, including 21 employment agencies, 13 ISPs, and 17 immigration attorneys²² along Roosevelt Avenue and adjacent streets in Jackson Heights, Corona, and Elmhurst, Queens.²³ The mystery shoppers, predominantly immigrants from Mexico and Ecuador, used assigned scenarios to pose as customers seeking services. Each was paired with an observer who looked for signage and credentials and collected literature and business cards. Upon completion of the visit, each shopper-observer pair documented their interactions on a standardized form designed to evaluate providers’ compliance with relevant laws and regulations.
- » **Secondary Research:** Researchers conducted additional investigation of businesses and individual providers visited by mystery shoppers in order to verify credentials, such as admission to the New York State Bar and Department of Consumer Affairs licensing, and to uncover any history of questionable business practices.
- » **Surveys:** NICE collected 46 questionnaires from immigrant consumers concerning their experiences with employment agencies and ISPs in Jackson Heights, Elmhurst, and Corona, Queens. To ensure anonymity, research participants’ real names are not used in this report.
- » **Focus Groups:** NICE conducted three focus groups with a total of 14 participants. Two of the groups brought together immigrants who had suffered fraud committed by ISPs or immigration attorneys, and one focus group included victims of employment agency fraud. All instances of reported fraud occurred in Queens, New York. To ensure anonymity, research participants’ real names are not used in this report.
- » **Census Analysis:** Researchers analyzed census data from three zip codes (11368, 11372, 11373) in Jackson Heights, Corona, and Elmhurst, Queens. Where data by zip code was unavailable, aggregate data from 53 census tracts was used to approximate the same area.
- » **Legal Research:** Researchers reviewed relevant city, state, and federal laws, regulations, and agencies governing employment agencies, ISPs, and immigration attorneys.



One of the NICE members doing the mystery shopping

Demographics of Research Sample

- » Almost all survey respondents (98%) reported Spanish as their primary language.
- » Nearly half (48%) were born in Ecuador; 30% had come from Mexico and 16% from Colombia.
- » The majority of respondents were male (65%).
- » The median age was 43, older than the overall population in Jackson Heights, Elmhurst, and Corona.
- » Respondents supported an average of three family members in New York City and sent approximately \$242 per month to an average of 4.5 family members outside the U.S.
- » A significant proportion of survey respondents did not have regular work (16.3%); 34.9% worked at least five days a week, and 39.5% worked a few days a week.²⁴ Most were employed in the construction and service sectors.

Gap between sample population and census data

The makeup of the survey sample differs from that of the overall population in Jackson Heights, Elmhurst, and Corona, Queens, as measured by census data. First, the survey group is disproportionately Latino, working-class, middle-aged, and male, due to the fact that we used an intentional sampling strategy focused on Spanish-speaking immigrants who had accessed immigration services and employment agencies.

Second, our focus population is inadequately captured by the 2010 Census and the American Community Survey (ACS) (see Table 5). These data sources tend to undercount immigrant populations due to language barriers, fear of immigration enforcement, and complicated housing arrangements.²⁵ For example, in the 2000 Census, 65% of Hispanic households returned Census forms, compared to 78% of white households.²⁶ Given their large immigrant populations, Jackson Heights, Elmhurst, and Corona are all greatly affected by this undercount. Nevertheless, these data are still our best source of demographic information.

Table 4: Survey Respondent Demographics vs. Demographics of Jackson Heights, Elmhurst, and Corona

Demographics of Survey and Focus Group Participants (Based on 46 surveys)		Percentage of Respondents	Percentage of Jackson Heights, Corona, and Elmhurst Residents
Gender (N=46)	Male	65%	51%
	Female	33%	49%
	Transgender	2%	N/A
Median age (N=44)		43	34
Primary language (N=42)	Spanish	98%	53%
	English	2%	14%
Country of birth (Latin America) (N=43)	Ecuador	48%	26%
	Mexico	30%	21%
	Colombia	16%	17%
	Costa Rica	2%	0%
	Nicaragua	2%	0.3%
Years lived in the U.S. (N=44)	0 – 2 years	7%	N/A
	3 – 5 years	9%	N/A
	6 – 10 years	36%	N/A
	More than 10 years	48%	N/A
Employment status (N=43)	Work only a few days a week	40%	N/A
	Work 5 at least days a week	35%	62%
	Unable to find work/Unemployed	16%	7%*
	Work now and then	9%	N/A
Worker industry (N=32)	Services (accommodation and food services, utilities, transportation, etc.)	47%	8%
	Construction	41%	10%
	Other	13%	N/A
Median number of family members supported in NYC (N=37)		3	3
Median number of family members supported outside U.S. (N=36)		5	N/A
Median amount of money sent per month to family outside U.S.		\$242	N/A

*This number is low relative to the current unemployment rate because it includes five-year estimates with data from before the most recent economic recession in 2008.²⁷

IV. RESEARCH FINDINGS

The following findings are the result of 51 mystery-shopping visits, 46 surveys, three focus groups, legal research, and literature reviews. Overall, the data reveal that immigrants seeking immigration and employment services in Jackson Heights, Corona, and Elmhurst, Queens are confronted with widespread informality, deception, and fraud. The businesses and individuals catering to immigrants in these sectors are likely to commit legal violations of five main kinds: posting confusing or misleading signage; failing to post credentials; failing to provide contracts; collecting fees not based on services rendered; and failing to follow through with promised services. The data show that these practices have a devastating financial and emotional impact: savings are depleted, families torn apart, and the American dream compromised.

PART 1: Immigration Service Providers (ISP) and Immigration Attorneys

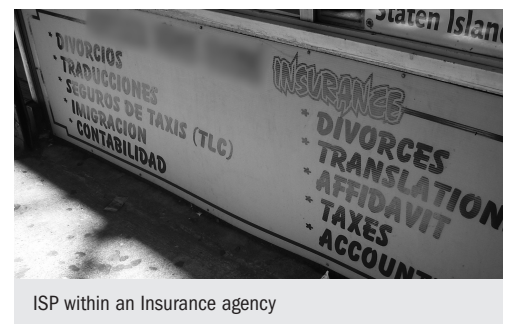
Immigration service providers (ISP) are businesses or individuals that provide clerical, non-lawyer services related to immigration processes, such as translation, taking photographs, arranging medical appointments, and assisting with immigration forms. ISPs are not lawyers and are specifically prohibited from advertising as lawyers or providing legal advice.

By contrast, a licensed attorney or an organization or representative authorized by the U.S. Board of Immigration Appeals (BIA) may provide legal assistance on immigration matters.²⁸ While there is no special designation for attorneys practicing immigration law, the Executive Office for Immigration Review (EOIR) of the U.S. Department of Justice has prescribed rules and procedures for immigration attorneys, including not “charging grossly excessive fees and knowingly or with reckless disregard making a false or misleading communication about one’s qualifications or services.”²⁹

Our research shows that while the distinction between ISPs and immigration attorneys is clear on paper, the line is blurred in practice, leaving immigrant consumers vulnerable to confusion and deceit. Visits by mystery shoppers to 13 ISPs and 17 immigration attorneys, and data from 30 surveys and two focus groups, indicate that ISPs and lawyers post confusing signage and improper credentials, fail to provide contracts or information about fees, falsely guarantee success to customers, and provide legal advice when lacking authority to do so.

1. ISPs use misleading signage and do not adequately post their credentials, confusing consumers about who is qualified to give them legal advice and who is not.

Clear, accurate signage and advertising are important to ensure that consumers understand what kinds of services a business is entitled and competent to provide. Language-appropriate signs can help consumers understand their rights, and the posting of credentials provides information as to whether an agent is qualified and/or licensed. This is particularly critical to differentiate ISPs from immigration attorneys. Unfortunately, mystery shoppers found that required signs and credentials at ISPs were either non-existent or misleading.



City and state laws and regulations require ISPs to:

- » Post a legible, language-appropriate sign making clear that the provider is not an attorney;³⁰
- » Post a sign notifying clients about their right to cancel contracts and retrieve their documents;³¹
- » Post a schedule of services offered and fees charged;³²
- » Post notice of the right to cancel a contract within three business days and recoup the money paid;³³
- » Post information about the right to file a complaint with the New York City Department of Consumer Affairs;³⁴ and
- » Advise that the ISP must maintain a bond, has maintained a bond with a particular surety, and that customers may file a complaint if a problem arises.³⁵

City and state laws and regulations prohibit ISPs from:

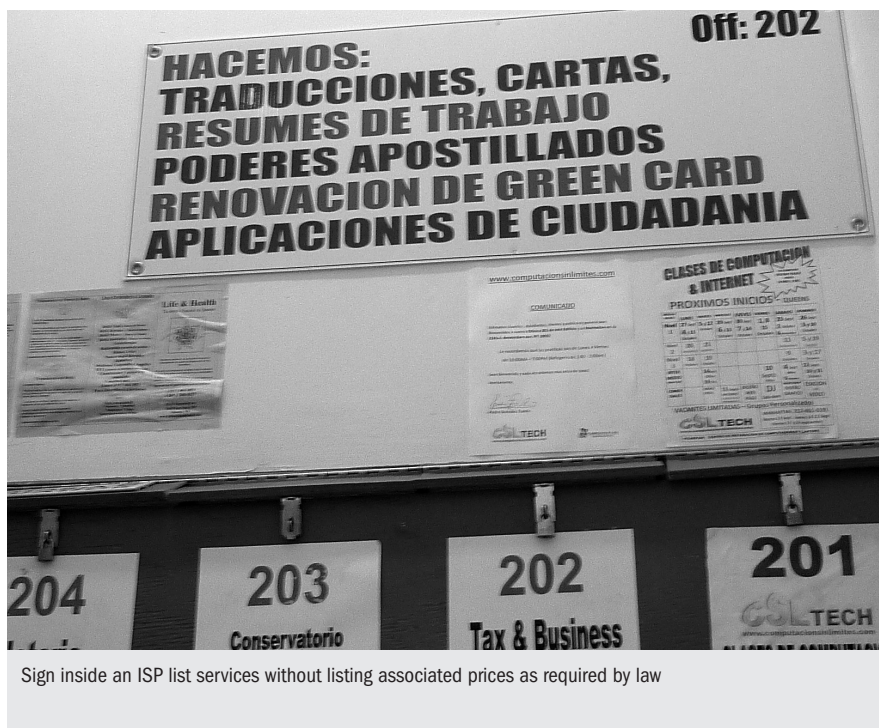
- » Assuming or advertising the title “attorney at law,” “accredited representative,” or any other term that would lead the customer to believe that the provider possesses special professional skills or is authorized to provide advice on an immigration matter;³⁶ or
- » Engaging in unauthorized practice of law.³⁷

Our research finds that:

- » 23% of ISPs advertised that they provide legal advice;
- » 23% of ISPs advertised that they are an “immigration attorney office;”
- » No ISP had a “not an attorney” sign posted;
- » 15% of ISP staff identified themselves as “immigration specialists;”
- » 46.2% advertised that they provide “legal translations;”
- » Three out of four ISPs advertised the availability of a notary but did *not* have the proper notary license posted; and
- » Many ISPs advertised on-site, non-immigration services such as tax preparation (61.5%), car insurance (8%), legal translations (46%), real estate (31%), notary public (46.2%), and divorce law (23%).

A focus group participant explained being deceived by someone posing as a lawyer:

“I contacted X through a co-worker who told me that she knew a lawyer. Later on, I discovered that [X] was not even a lawyer. [It] was simply a hoax.” –Focus Group Participant #12



Some Recent Prosecutions of ISPs and Immigration Attorneys in New York City

Immigrant consumer frauds go largely unaddressed, due both to the marginalization of this population and the inadequacy of law enforcement resources. Some recent, egregious instances, however, have been investigated and prosecuted by government agencies. The following examples, listed in reverse chronological order, begin to tell the story:

- » In March 2010, a Queens immigration lawyer was convicted of committing visa fraud against more than 230 undocumented immigrants who paid him up to \$2,500 each.³⁸
- » In March 2010, an ISP who targeted Latinos in Queens was ordered to pay \$3 million in restitution and penalties for falsely promising green cards or citizenship for up to \$15,000 per person.³⁹
- » In January 2010, following a prosecution by the Manhattan District Attorney, a man was convicted of defrauding three Dominican immigrants of more than \$24,000 by posing as an Immigration and Customs Enforcement agent empowered to provide immigration services.⁴⁰
- » In January 2010, the New York State Attorney General filed suit against two non-profit New York City corporations that represented themselves as membership organizations in order to defraud immigrants of fees for fraudulent immigration services.⁴¹
- » In June 2009, the Queens District Attorney prosecuted Ecuadorian pastors who exploited religious and familial ties to make false promises of green cards to some 120 undocumented immigrants—at a profit of nearly \$1 million.⁴²
- » In March 2007, a Bronx woman pleaded guilty to fraudulently providing work permits and green cards to immigrants for over \$1 million in profits.⁴³
- » In June 2006, 30 people in Queens, including a former Citizenship and Immigration Services officer, were charged with fraudulently procuring green cards for immigrants who paid between \$8,000 and \$16,000 each.⁴⁴

2. Problems with ISPs are compounded by confused interaction with immigration attorneys.

Mystery-shopping visits indicate that immigrant consumers are misled not only by ISPs but also by immigration attorneys. Like ISPs, attorneys post confusing signage and do not clearly present their credentials to consumers. Secondary research also points to incompetence, lack of ethical integrity, and shoddy professionalism among immigration lawyers in New York City. According to a recent survey of 31 immigration judges by Cardozo Law School, “representation in immigration courts was judged to fall below basic standards of adequacy” in case preparation (47%), knowledge of the law (44%), and knowledge of the facts (40%).⁴⁵

A focus group participant explained being defrauded by an immigration lawyer:

“One day I went to bring a payment and the doors [to the law firm] were closed. I sent my wife also after a couple of days, and they were still closed. Another woman came by with the same problem... they stole our money.”—Focus Group Participant #5

Another focus group participant explained the financial and emotional impact of an unscrupulous lawyer’s fraud:

“I don’t trust any lawyer anymore... they say they will get you a green card or permanent residency and they need more and more money... and what they do is steal our money... we [immigrants] all have the same fear [of losing money].”—Focus Group Participant #7

The combination of confusing signs and advertisements for various immigration, non-immigration, legal and non-legal services, as well as ISPs’ failure to post their credentials and advise customers of their rights, creates an environment ripe for consumer deception and fraud.



Even law offices have the look and feel of multi-service agencies by offering a range of clerical non-legal services



Attorneys who advertise various types of legal services

LOST IN TRANSLATION: *Notarios Público* vs. Notaries Public and *Fundaciones* vs. Foundations

In many Latin American countries, a *notario público* is an attorney who has passed a number of rigorous examinations to obtain the classification. In the United States, by contrast, a notary public need only take a perfunctory test that entitles him or her to witness and certify the signing of documents. Some ISPs have capitalized on this confusion, using the unqualified Spanish term *notario* in their signage and advertising. Immigrant consumers are thereby misled into transacting business with someone neither trained nor authorized to give such advice. This misunderstanding can be extremely costly, not only in monetary terms but also because the consequences of bad immigration advice may be irreparable. Errors or false information on immigration applications can lead to additional fees, delays, and even deportation.

Likewise, whereas foundations in the United States are generally grant-making organizations, in Latin America a *fundación* is a charitable organization that provides direct services to people in need. Many ISPs take advantage of this confusion to attract immigrant consumers: some have incorporated the word *fundación* or the similar term *asociación* into their business names to suggest a religious or charitable affiliation. Some of these entities are legitimate non-profits, but others are merely fronts for lucrative, for-profit businesses.

3. ISPs falsely guarantee success to consumers.

In an increasingly anti-immigrant environment, foreign-born consumers seek assistance to adjust their status and work lawfully or to avoid the constant fear of detention and deportation, among other reasons. Yet, despite the limited availability of immigration remedies for undocumented immigrants, some ISPs provide false assurances of help to customers, causing them to heed inaccurate and risky advice and to pay exorbitant fees.

City and state laws and regulations prohibit ISPs from:

- » Advertising an express or implicit guarantee of approval of applications or any other specific government action;⁴⁶
- » Threatening to report the client to immigration or other law enforcement authorities;⁴⁷ or
- » Disclosing any information to or filing forms with authorities without the customer's knowledge and consent.⁴⁸

Our research finds that:

- » Nearly one in three ISPs visited by mystery shoppers guaranteed success to the shopper;
- » 23% of mystery shoppers ineligible for work authorization were told by ISPs that they could acquire work permits for them; and
- » 51.7% of survey respondents said they did not get the help they needed from the ISP they visited.

A focus group participant explains being misled by an ISP that assured him success:

“She [person working at ISP] didn’t explain to us that obtaining the papers was going to be difficult. She said that everything... was going to be legally done. She asked me for my documents and I brought those to her and the payment. Whenever I would ask her about the progress of my case she would tell me, ‘Come another day, come some other time.’” –Focus Group Participant #9

4. ISPs fail to provide contracts and do not inform consumers about fees for services.

Under the law, ISPs must sign contracts with consumers and inform them about the total cost for services before collecting fees. Our research shows that ISPs often do not offer written contracts and fail to disclose costs and fee structures to consumers. Without a contract, consumers have little power against unscrupulous providers and, as a result, incur significant financial losses while their immigration needs go unmet.

City and state laws and regulations require ISPs to:

- » Execute language-appropriate (or interpreted) contracts with customers;⁴⁹
- » Include necessary information in contracts;⁵⁰
- » Permit cancellation and refund within three business days;⁵¹
- » Refund all money, except fees for services rendered, to customers in case of cancellation, within 15 days of notification;⁵² and
- » Give the customer copies of documents filed with the government upon request and return original documents, even if there is a fee dispute.⁵³

City and state laws and regulations prohibit ISPs from:

- » Demanding or retaining fees for services that were not performed or costs not incurred.⁵⁴

Our research finds that:

- » 69% of survey respondents that accessed services at an ISP were *not* given a contract;
- » 59% of ISPs and 87% of lawyers did *not* tell mystery shoppers the total cost for all their services; and
- » 77% of ISPs visited by mystery shoppers did *not* have a list of prices and fees posted.

Focus group participants also noted ISPs’ failure to provide formal contracts:

“In my case, [the agreement] was a verbal agreement...there was never a contract where everything was specified.” –Focus Group Participant # 2

“The total [amount I owed the agency] was \$5,500 and all our agreements were made verbally—none were written.” –Focus Group Participant #5

Summary

Financial and Emotional Impact on Low-Income Immigrant Consumers

Qualitative and quantitative data from mystery shopping, surveys, and focus groups prove that ISPs and immigration lawyers in Jackson Heights, Elmhurst, and Corona are not complying with existing laws and regulations. ISPs use confusing and deceptive advertising, impermissibly guarantee successful outcomes, rarely provide contracts, and fail to tell customers the total cost of services at the beginning of their transactions, giving consumers little leverage. As a result, low-income immigrant consumers in need of help are being misled and deceived on a regular basis. In fact, 41.4% of survey respondents felt that they were victims of fraud at an ISP. According to the survey, many consumers are not getting the help they need (52%) but still pay high fees for services not rendered. These financial losses devastate new immigrants who work low-wage jobs, lack regular employment (17%), and support family members abroad (those surveyed send money to an average of 4.5 such persons). Beyond financial loss, frauds cause consumers to experience severe emotional distress.

“I was very demoralized. I started crying because my hope had been killed by this fraud. We had to pay \$7,000 and we had already paid \$5,000. We thought that the faster we paid, the faster they would work on our papers, but it was not like that.”—Focus Group Participant #11

“We are demoralized by them [ISPs]. This leads to monetary loss and it is very difficult for us workers to get [the money for fees] in the first place.”—Focus Group Participant #12

“I’m afraid of getting involved with a law firm and having them steal my money again. It’s very hard, and I wouldn’t wish this upon anyone.”—Focus Group Participant #5

Misleading and deceptive practices create the conditions for widespread fraud targeting low-income immigrant consumers. In New York City, dozens of opportunistic businesses have sold fraudulent, subpar immigration services—clerical and legal—to immigrants seeking to adjust their status. The problem is so grave and pervasive, in fact, that the New York State Attorney General made it an enforcement priority in 2009; in 2011, the federal government set up a multi-agency taskforce comprising the Departments of Justice and Homeland Security and the Federal Trade Commission to address immigration consumer frauds; and in 2012, the New York Department of State proposed regulation to prohibit misleading advertising by notaries public.⁵⁵ Nevertheless, our research indicates that these problems persist and that more focused prevention, enforcement, and law reform are urgently needed.

ISP Case Study: Misión Hispana

“I want Misión Hispana to return some of the money that they charged me because they took a lot of money and didn’t provide the promised service.” –Focus Group Participant #13

On August 17, 2010, then New York State Attorney General Andrew Cuomo announced that seven immigration service providers and their owners would be permanently barred from further operation and would be forced to pay \$370,000 to the State of New York.⁵⁶ Among these businesses was Misión Hispana, whose owner Mayra Liz posed as an immigration attorney and charged fees for immigration-related legal services.⁵⁷ “The companies took money from immigrants by promising to provide services that they could not deliver,” said Cuomo. “The fraudulent practices of these companies caused innocent people to face problems with their immigration status, even deportation.”⁵⁸

NICE Member R., a focus group participant, was scammed by this agency. “My wife and I saw Misión Hispana’s ad on TV and got in contact with Mayra Liz,” R. said. He and his wife brought their documents and paid money to Misión Hispana with the hope of adjusting status and reuniting with their son. About a year later, they learned they had been deceived: “My wife saw on TV that Liz was in trouble, but I wouldn’t believe my wife,” he said. “It was very tough, really sad. I didn’t want my son to be alone.” R.’s wife added, “Liz told us that everything was going to be okay, but this was not true.”

The Attorney General’s Office received complaints about Misión Hispana and its business procedures, “including but not limited to fraud, unauthorized practice of law, and making false promises and misrepresentation to customers concerning their immigration-related matters.”⁵⁹ Owner Mayra Liz was charged with failure to provide customers with written contracts, failure to display signs describing customers’ rights, and failure to alert clients that Misión Hispana was not a law office and could not provide legal advice.⁶⁰ Along with being forced to close, Mayra Liz was ordered to pay \$250,000 to the state.⁶¹

Sadly, this story is far from unique. The seven agencies investigated in 2010 by then Attorney General Cuomo defrauded hundreds of immigrants out of tens of thousands of dollars.⁶² While the convictions resulted in important closures, it is unclear whether the immigrant victims received full restitution, and there are still many more unscrupulous agencies that have yet to be investigated.

PART 2: Employment Agencies

Employment agencies in New York are licensed to help place job-seekers into work for a fee and to provide related services, such as résumé-writing or job-skills training. These entities have proliferated in New York City since the beginning of the economic recession, especially in the low-income immigrant neighborhoods of Jackson Heights, Elmhurst, and Corona, Queens (see Figure 1). Unlike ISPs, employment agencies in New York State must be licensed; in New York City, however, only 350 of an estimated 1,000-plus are operating with a license.⁶³ Employment agencies must adhere to the New York State General Business Law and, in New York City, are licensed and regulated by the municipal Department of Consumer Affairs (DCA).

Our collected data—based on visits by mystery shoppers to 21 employment agencies, 22 surveys, and one focus group with immigrants who accessed these services in the previous two years—show that many Queens employment agencies are not complying with the law. As with ISPs, non-compliance generally falls into several categories: inadequate signage and confusing advertising, improper guarantees of success, failure to provide contracts or inform consumers about fees, and failure to follow through with promised services. In addition, and in contravention of the law, some employment agencies refer people to jobs that pay unlawful, sub-minimum wages. These practices, while unacceptable for any job-seeker, cause extreme, disproportionate hardship for immigrants in desperate need of work.

Figure 1: The Uneven Distribution of Employment Agencies in Queens



The map shows a large number of employment agencies concentrated along Roosevelt Avenue in the neighborhoods of Jackson Heights, Elmhurst, and Corona. Many more are unlicensed and therefore not indicated on this map.

1. Employment agencies do not post proper signage and routinely share space with other businesses in contravention of the law. Similar to ISPs, employment agencies visited by mystery shoppers fail to post licenses, credentials, and notices according to the law. And in violation of the prohibition on mixed-service spaces, many employment agencies share physical office space with other businesses. This informal, jumbled environment breeds confusion and infringes on consumers' rights.

City and state laws and regulations require employment agencies to:

- » Be licensed and prominently display their license, including contact information and validity period;⁶⁴ and
- » Post key provisions of the General Business Law, printed legibly and in locally appropriate language(s), in the main room of the agency.⁶⁵

City and state laws and regulations prohibit employment agencies from:

- » Advertising their services without specifying their name and address and the word "agency;"⁶⁶
- » Publishing any false, fraudulent, or misleading information;⁶⁷ or
- » Sharing space with an unrelated entity or business.⁶⁸

Our research finds that:

- » Nearly one in four agencies visited by mystery shoppers did *not* have a Department of Consumer Affairs license visibly posted;
- » 20% of employment agencies visited by mystery shoppers did not have the relevant laws visibly posted;
- » Nearly half of the employment agencies visited by mystery shoppers appeared to share a space with another business, in violation of the law,⁶⁹ including a locksmith, tattoo parlor, beauty parlor, hair salon, gold-buying company, flooring company, and an ISP.



Example of an employment agency that shares space with other businesses in contravention of the law



This is an example of an improper sign that is made out of paper and lacks required information

2. Employment agencies fail to provide contracts, leading to fraud and poor job-placement outcomes.

Like ISPs, employment agencies are required to provide a contract before they deliver services or collect fees. However, mystery shoppers and survey respondents indicated that contracts are routinely not provided, rendering immigrant consumers more susceptible to fraud and less likely to find jobs.

City and state laws and regulations require employment agencies to:

- » Give each applicant a contract that includes the name and address of the employer, the kind of service to be performed, anticipated wages, the agency's fee, whether employment is temporary or permanent, the name and address of the person hiring the applicant, and the cost of transportation;⁷⁰
- » Give each applicant a receipt for any fee, deposit, or payment, along with the name of the applicant, name and address of the agency, and date and amount of money;⁷¹
- » Keep the original or copy of the contract and receipt on file for three years;⁷² and
- » Provide additional, detailed information to domestic workers.⁷³

Our research finds that:

- » Approximately two-thirds of survey respondents were not given a contract;
- » Survey respondents without a contract were 23% less likely to find a job than those with a contract (see Figure 1); and
- » Survey respondents without a contract were 50% more likely to report fraud than those with a contract (see Figure 2).

"I did not know there was a contract... If he gave me a contract, he was supposed to find me a job and failed." – Focus Group Participant # 1

Figure 2: Impact of Contracts on Work Placement

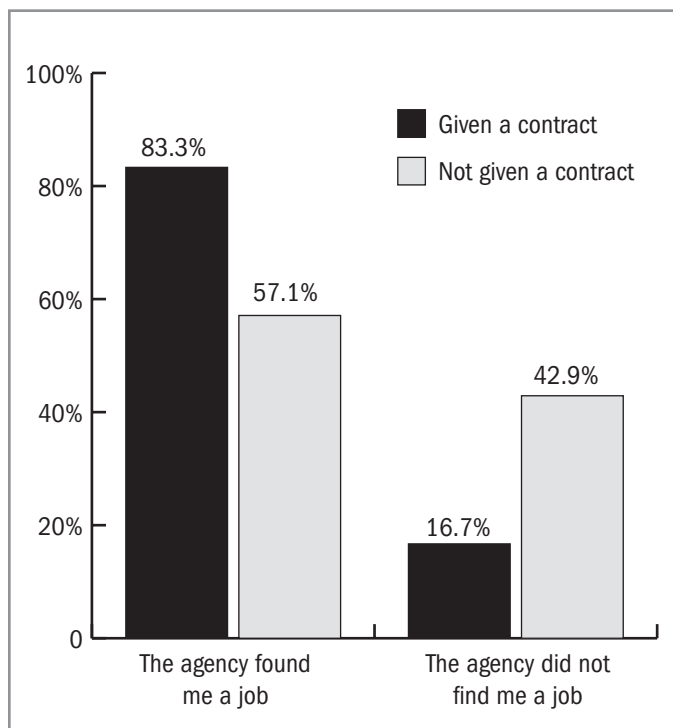


Figure 3: Impact of Contracts on Reducing Fraud



3. Employment agencies collect fees without finding jobs for consumers. Agencies are allowed to charge fees for their services, including, in some instances, an initial advance on the placement fee. However, the law's complex schedule of different fees and fee percentages illogically permits the charging of advance fees only to manual laborers and domestic workers, among the lowest-paid types of employees. Although agencies are obligated to refund any advance on a placement fee if a job is not found, mystery shopping visits and surveys show that employment agencies regularly charge and retain fees regardless.

City and state laws and regulations require employment agencies to:

- » Comply with maximum fee schedules set out in the General Business Law;⁷⁴ and
- » Return excess fees to the applicant within seven days of receiving such a demand.⁷⁵

City and state laws and regulations prohibit employment agencies from:

- » Charging a fee unless the job-seeker is successfully placed into employment;⁷⁶
- » Charging a deposit or advance fee except to certain classes of job-seekers, including domestic workers, laborers, agricultural workers, mechanics, and industrial workers;⁷⁷
- » Charging the above classes of applicants a fee of more than one week's wages, for a work period of 10 weeks or more;⁷⁸ or
- » Charging more than the statutorily permitted fee percentage in case of termination of the applicant's employment, depending on whether termination was precipitated by the job-seeker or employer.⁷⁹

Our research finds that:

- » 80% of mystery shoppers were told that they have to pay a fee, averaging \$122.15, before the agency would begin the job search;
- » 94.4% of mystery shoppers were *not* told that their fee would be returned if they were not placed into a job;
- » 95% of mystery shoppers were *not* told that they have the right to pay their fees in installments; and
- » 81% of survey respondents who did not find a job through the agency were still charged a fee.

“They did not get me a job and did not give my money back.” –Survey Participant #71

4. Employment agencies give false guarantees of success to consumers. Similar to ISPs, employment agencies are prohibited from guaranteeing success to their consumers. However, mystery shoppers found that the majority of the employment agencies visited are breaking the law.

City and state laws and regulations prohibit employment agencies from:

- » Publishing any false, fraudulent, or misleading promises;⁸⁰ or
- » Directing job-seekers to employers who have not made a bona fide offer to the potential employee.⁸¹

Our research finds that:

- » 64% of employment agencies visited by mystery shoppers guaranteed they would find the prospective client a job; and
- » 47% of survey respondents who were charged a fee were not placed in a job by the agency.

A mystery shopper reported that the agency she visited guaranteed to find her work:

“[The agency] guaranteed the work without any refund because [the owner] said she was making all the calls and [doing] the administrative work herself.” –Mystery Shopper #6

Focus group participants explained similar experiences of deception at employment agencies on Roosevelt Avenue:

“I was promised a job and it was never fulfilled. I would show up three to four times a week, and they couldn’t find me a job.” –Focus Group Participant #2

“When I arrived, she said yes, that she would get me a job and it was guaranteed and not to worry, that she was going to get the job. It was a hoax... I went to the agency saying that I had been deceived and to give me back my money but they never did. They never found me work.” –Focus Group Participant #13

Guarantees give consumers a false sense of hope and permit unscrupulous employment agencies to extract fees from unsuspecting consumers, without placing them into the jobs they desperately need.

5. Employment agencies commit wage-and-hour violations: Although employment agencies are prohibited from sending customers to jobs that pay below the minimum wage, research shows that this practice is still widespread. In addition, consumers are being misled about their working conditions and compensation.

City and state laws and regulations require employment agencies to:

- » Give each applicant a contract that includes the name and address of potential employers, the kind of service to be performed, anticipated wages, the agency’s fee, whether employment is temporary or permanent, the name and address of the person hiring the applicant, and the cost of transportation;⁸² and
- » Inform domestic workers in particular about the wages they will receive and the hours they will work.⁸³

City and state laws and regulations prohibit employment agencies from:

- » Placing applicants into employment where the agency knows or should have known that the employer would violate state or federal minimum-wage or child-labor laws.⁸⁴

Our research finds that:

- » One-third of survey respondents were offered jobs paying below the state minimum wage of \$7.25 per hour.

“Upon filling out the application, they told me I’d pay and I would have three opportunities for employment,” explained one focus group participant. “The people from the agency called me and told me they were going to keep a week’s worth of my salary... During the third week I worked 41 hours, but they didn’t pay me for my extra hour. On the last day I worked they called and told me that I owed them \$65, even though I didn’t work as many hours as they told me I would.” This participant never worked the job she was promised or received her money back.

“The agency said I would work eight hours. In reality I worked 13 hours and got no overtime pay.”
—Survey Participant #4

Summary

Like ISPs and immigration lawyers, many employment agencies located in the immigrant enclaves of Jackson Heights, Corona, and Elmhurst, Queens, provide substandard services, lack transparency, and cause financial and emotional distress to low-wage immigrants in need of employment. Data obtained through mystery shopping, surveys, and focus groups are reinforced by statistics from the Department of Consumer Affairs, which receives around 200 complaints about employment agencies every year.⁸⁵ Complainants relate that agencies required payment before job placement, refused to refund fees, and assigned workers to nonexistent, inappropriate, or unsafe jobs.⁸⁶ There would be many more complaints filed were it not for immigrant consumers’ lack of knowledge of the process, limited time and access, and fear of retaliation or immigration enforcement.

Employment Agency Case Study: People Helping People

Employment agencies in Queens have been a focus of fraud investigations by the New York City Department of Consumer Affairs (DCA) for years. Between 2007 and 2009, the DCA shut down nine employment agencies in Jackson Heights for conducting business without a license and issued 109 citations.⁸⁷ Among these fraudulent agencies was People Helping People, located on Roosevelt Avenue, which charged job-seekers \$100 each for services it did not perform.⁸⁸ Clients would often show up for a job, only to discover that there was no job available or that the address did not exist. When clients tried to get their money back from the agency, it would refuse a refund and threaten to call immigration authorities.⁸⁹

G.L. described his victimization: “I spoke with a man who told me right away there was a job available for me. Then he asked me to pay him \$100 because he had already gotten me a job, but he didn’t communicate to me what the pay would be like or the schedule. I went to the address and it turned out to be an abandoned house in Brooklyn located in a very isolated place. I went right away to the agency to talk to the person who had given me that address, but the agency was already closed. The first thing I did the next morning was go to the agency again, but the employee was not there. I kept waiting for him and he did not show up.” G.L. never got his money back.

DCA Commissioner Jonathan Mintz urged such victims, regardless of immigration status, to report fraud via the “311” municipal hotline. The city also announced that it would distribute \$40,000 in restitution to victims of employment-agency fraud across New York City, with up to \$100 going to each person.⁹⁰ All this enforcement activity still fell short: People Helping People, along with several other agencies along Roosevelt Avenue, was shut down at least twice but would reopen a few blocks away under a new name.⁹¹

V. GAPS IN ENFORCEMENT AND REPORTING OF FRAUD

Table 5: NY Enforcement Agencies for Immigration Services and Employment Agencies

Department of Consumer Affairs (DCA)	NYC agency handling most civil enforcement of state and local laws regarding employment agencies and ISPs
New York State Bar Association	72,000-member association of licensed lawyers
District Attorney (DA)	County prosecutor for criminal violations of laws governing ISPs and employment agencies
Board of Immigration Appeals (BIA)	Government agency responsible for, among other things, licensing non-attorney immigration representatives
New York State Attorney General	State prosecutor for civil and criminal violations of various laws, including those governing ISPs and employment agencies
Department of Justice	Federal agency responsible for, among other things, prosecuting consumer fraud

Employment agencies and ISPs are regulated by a combination of federal, state, and city agencies. In New York City, the DCA handles most civil enforcement of state and local laws regarding ISPs and employment agencies, including the “granting, issuing, transferring, renewing, revoking, suspending and cancelling of all licenses and permits,” and is responsible for holding hearings and imposing penalties on agencies and businesses that break the law.⁹² Through its inspection power, the DCA is required to visit each New York City employment agency once every 18 months and can also visit and inspect ISPs.⁹³ While the DCA receives and handles consumer complaints about ISPs and employment agencies,⁹⁴ more egregious violations can be investigated and criminally enforced by county district attorneys and the New York State Attorney General.⁹⁵

In practice, immigrant consumer fraud is underreported and under-enforced. Immigrant consumers, particularly undocumented New Yorkers, may be less likely to know their rights and reluctant to report illegal activities. Even when they do wish to report violations, they may face language and cultural barriers, limited access to regulatory agencies, and the harsh constraints of long, irregular working hours that limit their ability to file and follow up on claims. Like all consumers, immigrants may also be skeptical about the government’s capacity to investigate and remedy the wrongs suffered. This skepticism is well-founded: the DCA, county district attorneys, and the State Attorney General face resource shortages that undermine enforcement of laws and regulations governing ISPs and employment agencies.

VI. POLICY RECOMMENDATIONS:

The above findings point to widespread informality, lack of professionalism, deception, and fraud among immigration service providers, immigration lawyers, and employment agencies. In order to address these systemic problems and their adverse impacts on immigrant consumers, NICE has developed a set of recommendations for improved laws, policies, and enforcement mechanisms. The following recommendations are divided into three categories, based on their application to: 1) immigration service providers (ISPs) and immigration lawyers; 2) employment agencies; and 3) both employment agencies and ISPs/immigration lawyers.

Immigration Service Providers (ISPs) and Immigration Lawyers

- 1. The NYS Legislature should pass a bill that clearly defines the unauthorized practice of law and more effectively prohibits this practice. The recently drafted Quality Representation of Immigration Applicants Act is strong model legislation.**

Although state and city laws currently limit the activities of non-lawyers, research shows that these limitations do not go far enough. Under state and city laws, non-attorneys can prepare and file immigration forms as long as they do not offer legal advice, but in practice this line is often blurred. Because the filing of even minor immigration forms is closely linked to immigration status and benefits, only attorneys and non-profit, BIA-accredited individuals/institutions should be permitted to assist immigrants with this process.

The American Bar Association has defined “practice of law” as “the application of legal principles and judgment with regard to the circumstances or objectives of a person that require the know ledge and skill of a person trained in the law.”⁹⁶ This could include, among other things, “[g]iving advice or council to persons as to their legal rights” and “[s]electing, drafting, or completing legal documents or agreements that affect the legal rights of a person.”⁹⁷ Similarly, New York State should specifically define practice of law to include the selection and drafting of legal documents and unequivocally ban this practice. The Quality Representation of Immigration Applicants Act, a recently drafted bill, defines the practice of immigration law in New York state to similarly include “advising individuals concerning the selection, completion and filing of forms.”⁹⁸

- a. Subsequently, the New York City Code should fall in line with the state definition and prohibition of unauthorized practice of law, replacing current laws that fall very short of fraud prevention.**

In line with the above, statewide ban on the unauthorized practice of immigration law, “immigration service providers” (ISPs) as currently defined under city law would only be permitted to perform clerical tasks, such as transcribing and translating documents, procuring existing documents (*e.g.*, birth certificates, marriage licenses), scheduling immigration medical appointments, and taking passport photos. Clearly defining practice of law and circumscribing the activities of ISPs accordingly is preferable to creating a licensing scheme for these providers. Licensing ISPs would over-legitimate their duties instead of limiting them to clerical tasks.

- b. In conjunction with the above recommendations, New York City should pass a law imposing fee caps on for-profit businesses that charge clients for clerical tasks related to immigration services.**

Research shows that immigrants pay thousands for inadequate immigration services and that 59% of ISPs failed to inform consumers about the cost of services. High fees charged by non-lawyers are often a sign of improperly rendered immigration legal advice or unauthorized practice of law.

Combined with the foregoing recommendation to ban certain activities, setting and enforcing maximum fees for ISP services, such as transcribing documents, translating documents, procuring existing documents (*e.g.*, birth certificates, marriage licenses), scheduling immigration medical appointments, and taking passport photos, could help prevent fraud. Fee caps—for example, \$20 per page of form translation or \$10 per photo or appointment-scheduling—accompanied by extensive know-your-rights outreach, would help consumers avoid providers’ schemes.

- 2. The NYC Department of Consumer Affairs (DCA), the NYS Attorney General, County District Attorneys, the NYS Bar, and the Executive Office for Immigration Review (EOIR) should form an interagency taskforce to better coordinate investigation and prosecution of immigration-related frauds.**

Some ISPs routinely violate city and state laws and regulations that, for example, require posting prices and fees (77% did not comply) or prohibit guarantees of success on immigration applications (one in three made improper assurances). Enforcement of existing laws is a significant problem, due both to consumers' difficulty navigating a matrix of enforcement agencies and the agencies' own coordination obstacles.

Convening a statewide taskforce that brings these entities together would maximize resources, facilitate much-needed sharing of information, and help consumers reach law enforcement. Civil and criminal law enforcement could decide cooperatively which cases should be handled by which agency. The taskforce could also create a centralized intake process to route fraud cases based on, *e.g.*, whether the complaint is against a non-attorney or an attorney, where the conduct occurred, and whether civil or criminal prosecution is appropriate. The taskforce could join the federal National Initiative to Combat Immigration Scams,⁹⁹ and be overseen at the city level by the Mayor's Office of Immigrant Affairs¹⁰⁰ and at the state level by the newly created Office of New Americans.¹⁰¹

This taskforce should also engage local CBOs, advocacy groups, and local attorneys for targeted, neighborhood-specific enforcement efforts.

The proposed taskforce should coordinate with local experts, like NICE's membership, to enforce existing laws and regulations. The subject area of this report, Queens' Roosevelt Avenue, is one of many thoroughfares affected by widespread services frauds that would benefit from a targeted enforcement campaign. Those familiar with this area—including advocates, organizers, local attorneys, and community members—are best positioned to identify the perpetrators of abuses in their neighborhoods, and to fight back. By partnering with these local experts, the interagency taskforce could engage in strategic, neighborhood-specific enforcement efforts around immigration-related fraud.

Employment Agencies

1. The NYS Legislature should amend the state employment agency law (in particular Gen. Bus. Law § 185) to prohibit the existing system of charging advance fees to only the most vulnerable, low-wage workers.

Members of NICE, who work in low-wage industries like domestic work and day labor construction, report being charged substantial advance fees by employment placement agencies (80% of mystery shoppers, at an average of \$122.15). Currently, employment agencies in New York State are permitted to charge advance fees—paid before a worker obtains employment—to two categories of workers: Classes “A” and “A1,” comprising domestic workers, household workers, and manual workers, among others. Although the advance fee is theoretically offset against the fee for actual job placement (which applies to all classes of workers), many unscrupulous agencies profit from these advance fees—even when they fail to place customers into jobs (81% of respondents were charged a fee despite not being placed into work).

It makes little common or legal sense that low-wage workers should be uniquely required to make advance payments. A thorough review of the legislative history reveals no rational justification for charging advance fees to these classes of workers. In fact, in 1975, the NYS Legislature expressed concern that employment agencies were being permitted to charge disproportionate fees to “low-paid occupations.”¹⁰² Therefore, section 185 of the General Business Law should be amended to prohibit the charging of any and all advance fees.

Both Employment Agencies and ISPs/Immigration Lawyers

Research shows the vulnerability of immigrant workers and consumers and persistently lackluster enforcement of existing ISP and employment agency laws and regulations. In the following, NICE makes three recommendations that would improve enforcement and two that would strengthen opportunities for immigrant workers and consumers.

1. The Queens County District Attorney should establish an immigrant affairs program that would specifically address the particular victimization of immigrants.

A specialized unit within the Queens County District Attorney's Office is needed to better combat frauds perpetrated against immigrants. It could be modeled after the Immigrant Affairs Program of the New York County (Manhattan) District Attorney's Office, founded in 2007 to target “[u]nscrupulous attorneys, fake attorneys, or other individuals and agencies that offer assistance to immigrants” and to “aid and encourage both documented and undocumented immigrant victims and witnesses who may fear cooperating with law enforcement because of their

immigration status to do so.”¹⁰³ Establishing a specialized unit within the Queens District Attorney’s Office would bring much-needed visibility to the problem of immigrant consumer frauds, increase accountability, and make the agency more accessible to immigrant communities.

2. The NYS Legislature should pass Assembly Bill A03992, which would increase the enforcement power of the New York City Department of Consumer Affairs.

In New York City, the DCA regulates both ISPs and employment agencies and has limited authority to sanction violations of the relevant laws. However, decisions reached by the DCA must be enforced and “docketed” as judgments with the county clerk by the NYS Attorney General’s Office. This extra step is inefficient, causes delay, and deprives the agency best acquainted with the issues of enforcement authority. Passage of Bill A03992 would enable the DCA to directly docket judgments and conduct adjudication, thereby benefiting immigrant consumers and bolstering the DCA’s enforcement of laws governing ISPs and employment agencies.

3. The New York City Department of Consumer Affairs, the NYS Attorney General, and county district attorneys should develop a U Visa certification protocol for consumer frauds perpetrated against immigrants.

Defrauded immigrant consumers should be candidates for the U visa, or “crime victims visa,” a nonimmigrant category that leads to legal permanent status. The U visa is granted in limited cases to cooperating immigrant witnesses of certain crimes, such as perjury, witness tampering, trafficking, and obstruction of justice.

Were the DCA and related law enforcement agencies to establish and implement a U Visa protocol, victimized immigrant consumers would be brought out of the shadows and encouraged to come forward. Although not every immigrant witness would receive a certification, reporting and cooperation would be incentivized. Indeed, the establishment of a U Visa protocol by the U.S. Department of Labor has already had a positive effect on labor enforcement.¹⁰⁴

4. The New York City Department of Consumer Affairs, the NYS Attorney General, and other law enforcement should allocate a portion of damages and restitution monies to support community immigrant rights groups and free legal services providers.

When damages or restitution monies are obtained through the settlement or prosecution of frauds committed against immigrants, local and state law enforcement agencies should set aside a portion of these funds to support the work of non-profit, community immigrant rights advocates and free legal services providers.

The practice of allocating money to community organizations finds precedent in many situations and forums. For example, the *cy pres* doctrine provides that unclaimed money from a class action lawsuit may be put to its ‘next best use,’ at a court’s discretion. It is common for *cy pres* funds to go to non-profit organizations and free legal services groups. In two recent, highly publicized settlements of low-income housing tenants’ claims, significant funds were set aside for non-profit organizations engaged in tenant advocacy and public interest legal groups, such as the New York Bar Foundation, the Legal Aid Society, and Legal Services NYC¹⁰⁵—the idea being that such organizations would help individuals file consumer fraud complaints and obtain quality immigration legal services and information.

5. City and state governments should provide more funding for community-based worker centers that educate, organize, and advocate for low-wage workers and to free legal services providers.

Faced with rampant wage theft and exploitation in low-wage sectors, immigrant workers are particularly vulnerable to the schemes of unscrupulous employment agencies, ISPs, and immigration attorneys. These workers feel immense pressure to regularize their status and obtain reliable employment with decent wages—a pressure compounded by isolation and lack of information.

Community-based worker centers, in partnership with legal services attorneys, educate low-wage workers about their rights and help them organize for greater opportunity and recognition. With increased resources and support, worker centers and community organizations like NICE could reach a larger population of workers, bringing them together to demand better working conditions and educate one another about where and how to obtain quality services in their neighborhoods. Similarly, better funding for free legal services providers would give immigrants more options and reduce the likelihood of their falling prey to unscrupulous agents.

VII. CALL TO ACTION

As this report documents, immigrants often face daunting challenges when trying to find a job or regularize their immigration status. Many seek assistance and guidance from familiar businesses in their neighborhoods—only to encounter fraud, misleading practices, and deception. This can be devastating for immigrant consumers, resulting in huge monetary losses, exploitation in the workplace, and even deportation.

There is widespread evidence of fraudulent, predatory, and substandard practices committed by immigration service providers, immigration attorneys, and employment agencies in NICE's home borough of Queens. While our research focuses on the experiences of immigrants from Latin America, the problem is much broader. Fraud is perpetrated not just in Jackson Heights, Corona, and Elmhurst, but in immigrant enclaves around the country. And it extends beyond the misdeeds of a few greedy individuals: there are deep causes, such as policies that keep millions of undocumented immigrants without status and vulnerable to fraud and exploitation; the economic crisis that has fueled an increase of bad practices; and the difficult conditions in many areas of the world that continue pushing workers abroad, in search of a better life.

This is a system failure, and when systems fail, the government must take action that is responsive and accountable to affected communities. The recommendations included in this report provide specific policy suggestions, rooted in the people's direct experiences of fraud and exploitation. Simple but innovative policies—eliminating the inequitable advance fee that employment agencies charge low-wage workers, clearly defining the unauthorized practice of law, imposing fee caps on clerical non-legal immigration services, and creating an inter-agency task force to coordinate various governmental entities—would go a long way toward improving the lives of millions of immigrants.

We call on the city, state and federal agencies responsible for protecting and advancing the rights of immigrant consumers to adopt the recommendations in this report and to work with advocates, community organizations, and community members to implement them. We recognize the difficult work ahead, but believe that together we can raise the standards for all consumers and workers and build a more just, equitable system for immigrant communities.

RESUMEN EJECUTIVO

Cada día, a los inmigrantes en la Ciudad de Nueva York se les dificulta encontrar trabajo, mantener a sus familias y entender cuáles son sus opciones migratorias. En este proceso, muchos buscan ayuda utilizando una variedad de servicios y compañías que se especializan en consumidores inmigrantes. Este reporte se enfoca en dos servicios que están entre los más notorios y comunes: proveedores de servicios de inmigración (ISP por sus siglas en inglés)/abogados de inmigración y agencias de empleos.

Los proveedores de servicios migratorios (ISP) son empresas o individuos que proveen servicios de carácter administrativo y no legal relacionados al proceso migratorio, como por ejemplo, servicios de traducción, toma de fotos, arreglos de citas con médicos y asistencia para llenar formularios de inmigración. Los ISP no son abogados, se les prohíbe promocionarse como tal y ofrecer asesoría legal. Por el contrario, un abogado con licencia o una organización o representante autorizado por la Junta de Inmigración de los Estados Unidos (BIA por sus siglas en inglés), puede proveer asistencia legal sobre asuntos migratorios.¹

Las agencias de empleo en Nueva York tienen licencia para ayudar a aquellas personas en busca de trabajos a encontrar uno a cambio de un pago, como también pueden ofrecer servicios relacionados, como ayuda para hacer un resume y/o capacitación laboral. Estas organizaciones se han proliferado en la Ciudad de Nueva York a raíz de la crisis económica, especialmente en las comunidades de personas de bajos ingresos como lo son Jackson Heights, Elmhurst y Corona, en Queens.

En años recientes, miembros de *New Immigrant Community Empowerment* (NICE) han reportado experiencias negativas con dichos proveedores, llevando a NICE a investigar, analizar y proponer posibles soluciones. Con el apoyo que proveyó el *Community Development Project* (CDP) del *Urban Justice Center* con la investigación y la redacción de la misma, NICE desarrolló una metodología de “participación activa” que incluye la participación de sus miembros como consumidores incógnitos, investigación secundaria, encuestas, grupos de enfoque, análisis del censo e investigación legal para evaluar la conducta de los ISPs/abogados de inmigración y las agencias de empleo en Jackson Heights, Elmhurst y Corona, Queens.

Nuestra investigación concluye que los servicios abusivos, de bajos estándares y las prácticas fraudulentas son comunes y que no se limitan a un pequeño número de actores. Este reporte documenta la naturaleza fraudulenta de los servicios que se les ofrecen a los inmigrantes y ofrece soluciones para mejorar las leyes, las políticas y los mecanismos de implementación de políticas para proteger a los inmigrantes. Aunque este estudio se enfoca en la experiencia de inmigrantes latinos en un área de Queens, nuestros hallazgos son una muestra de un problema que se extiende a toda la Ciudad de Nueva York y el resto del país.

BOLETÍN INFORMATIVO: SOLICITUD INCÓGNITA DE SERVICIOS:

De junio a agosto del 2011, 10 miembros de NICE visitaron 51 comercios, incluyendo 21 agencias de empleo, 13 ISPs y 17 abogados de inmigración² a lo largo de la Avenida Roosevelt y sus calles adyacentes en Jackson Heights, Corona y Elmhurst, Queens.³ Los consumidores incógnitos, principalmente inmigrantes mexicanos y ecuatorianos, recrearon escenarios para hacerse pasar por clientes en búsqueda de servicios. Cada uno iba con una pareja que estaba encargada de identificar rótulos, credenciales, recolectar literatura y tarjetas de presentación. Al final de cada visita, cada pareja de consumidor-observador documentó su experiencia en un formulario estandarizado diseñado para evaluar el cumplimiento de los proveedores con las leyes y regulaciones.

Hallazgos selectos de la investigación (para una lista completa de nuestros hallazgos, favor de referirse al reporte completo):

Proveedores de servicios de inmigración (ISP) y abogados de inmigración

“Yo contacté a X a través de un compañero de trabajo que me dijo conocía a un abogado. Luego me enteré que [X] no era un abogado. Era todo un engaño.” –Participante #12 de Grupo de enfoque

1. **Los ISPs usan rótulos engañosos y no colocan debidamente sus credenciales a la vista, confundiendo a los consumidores acerca de quién está realmente calificado para dar asesoría legal y quién no.** Para asegurarse de que los consumidores estén al tanto del tipo de servicio que una organización ofrece y si es apta para ofrecerlos se necesitan rótulos y una publicidad que sean claros y fieles a los servicios. Rótulos en el idioma apropiado pueden ayudar a los consumidores a conocer sus derechos y colocando las credenciales a la vista de los consumidores los ayuda a saber si están habilitados para dar el servicio que necesitan, por ejemplo ya sea porque poseen una licencia. Esto es particularmente importante para diferenciar los ISPs de los abogados de inmigración.
 - » 23% de los ISPs anuncian que proveen asesoría legal;
 - » Ningún ISP tenía un rótulo que dijera “No somos abogados”.
2. **El problema con los ISPs se debe a una relación confusa con los abogados de inmigración.** Las visitas de los consumidores incógnitos indican que los consumidores de servicios de inmigración son mal informados no sólo por los ISPs, sino también por abogados de inmigración. Al igual que los ISPs, los abogados colocan rótulos confusos y no muestran claramente sus credenciales al público.
3. **Los ISPs le garantizan falsamente a sus consumidores que van a tener éxito.** A pesar de las alternativas limitadas que existen para los inmigrantes indocumentados, algunos ISPs les prometen cosas falsas a sus clientes y estos terminan haciéndoles caso y creándose falsas expectativas, además de pagando sumas exorbitantes de dinero.
 - » Casi uno de cada tres ISP visitados por los consumidores incógnitos les prometían a los consumidores que iban a obtener exitosamente lo que buscaban;
 - » A 23% de los consumidores incógnitos sin permiso de trabajo se les dijo en los ISPs que le iban a conseguir permiso de trabajo.
4. **ISPs no proveen contratos y no les informan a los consumidores acerca de los costos de servicio.** Bajo la ley, los ISPs deben firmar un contrato con los consumidores e informarles del costo por servicios antes de cobrarles algo. Nuestra investigación muestra que los ISPs muchas veces no ofrecen contratos por escrito y no les comunican a los consumidores cuales son los costos por servicios.
 - » 69% de los encuestados que tuvieron acceso a servicios de un ISP no recibieron un contrato;
 - » 59% de los ISPs y el 87% de los abogados no les dijeron a los compradores incógnitos el costo de todos sus servicios.

Agencias de empleo

1. **Las agencias de empleo no utilizan rótulos adecuadamente y a menudo comparten espacios con otros negocios en contravención a la ley.** Similar a los ISPs, las agencias de empleos visitadas por los compradores incógnitos no tenían a la vista licencias, credenciales y rótulos en acuerdo con la ley. Y en violación a la prohibición de compartir espacios con otros negocios, muchas agencias de empleo comparten espacios con otros negocios. Este ambiente informal y confuso viola los derechos de los consumidores.

- » **Casi una en cuatro** agencias visitadas por los consumidores incógnitos no tenían a la vista una licencia del Departamento de Asuntos del Consumidor;
- » **Casi la mitad de las agencias** de empleo visitadas por los consumidores incógnitos compartían un espacio con otros negocios violando la ley.⁴

2. Las agencias de empleo no proveen contratos, práctica que conduce al fraude y a malos resultados a la hora de ubicar a los clientes en empleos. Al igual que los ISPs, las agencias de empleo tienen que proveerles a los clientes un contrato antes de proveer sus servicios o cobrar por los mismos. Sin embargo, los compradores incógnitos y los encuestados indicaron que a menudo no se les proveyó un contrato, y esto a su vez aumenta la probabilidad de que los consumidores sean víctimas de fraude y tengan menos probabilidad de encontrar un trabajo.

- » **Aproximadamente dos de cada tres** encuestados no recibieron un contrato;
- » **Los encuestados sin contrato** tuvieron menos probabilidad de encontrar un trabajo en comparación con aquellos que sí tenían un contrato con la agencia; y
- » **Los encuestados sin contrato** tuvieron más probabilidad de reportar fraude que aquellos que sí tenían un contrato.

“Yo no sabía que había un contrato... Si él me proveyó de un contrato, él estaba supuesto a encontrarme un trabajo y no lo logró.” –Participante #1 del Grupo Focal

3. Agencias de empleo cobran por servicios sin conseguirles trabajos a los consumidores. Las agencias pueden cobrar por sus servicios, incluyendo, en algunos casos, un pago en adelantado por el servicio de ubicar a sus clientes en un empleo. Sin embargo, el diseño complicado de la ley permite imponer estos ilógicos cargos por adelantado sólo a trabajadores manuales y trabajadoras domésticas, los cuales son los trabajos con menos paga en la economía. A pesar que las agencias están obligadas a devolver cualquier pago por adelantado si no se ubica al cliente en un trabajo, las visitas de los consumidores incógnitos y las encuestas muestran que las agencias regularmente cobran y luego se quedan con los pagos sin importar si se encuentra un trabajo o no.

- » **Al 94.4% de los consumidores** incógnitos no se les dijo que se le iba a devolver su dinero si no eran ubicados en un trabajo;
- » **Al 81% de los encuestados** que no encontraron trabajo a través de la agencia se les cobró dinero.

4. Las agencias de empleo hacen falsas promesas garantizándoles a sus clientes que van a salir exitosos. Al igual que a los ISPs, se les prohíbe a las agencias de trabajo el prometerle a sus clientes que van a salir exitosos. Sin embargo, la mayoría de los consumidores misteriosos encontraron que la mayoría de las agencias de empleo estaban violando la ley.

- » **El 64% de las agencias** de empleo visitadas por los consumidores incógnitos les garantizaban a sus clientes que les iban a encontrar trabajo.

5. Agencias de empleo violan las regulaciones de horas y salarios. A pesar que las agencias de empleo tienen prohibido enviar clientes a trabajos que paguen menos del salario mínimo, se encontró a través de nuestra investigación que esta práctica es común. Además, no se les hace claro a los clientes cuales van a ser sus condiciones de trabajo y cuál será su compensación.

- » **A un tercio de los encuestados** se les ofreció trabajos que pagaban menos del salario mínimo de \$7.25 la hora.

Recomendaciones selectas de políticas públicas:

Para atender la falta de profesionalismo, la decepción y el fraude que encontramos en las organizaciones que proveen servicios de inmigración, abogados de inmigración y agencias de empleo, NICE propone una serie de recomendaciones para mejorar las leyes, las políticas y los mecanismos de implementación. (Para ver la lista entera de recomendaciones, favor de referirse al reporte completo).

Proveedores de servicios inmigración (ISPs) y abogados de inmigración

- La Legislatura del Estado de Nueva York debe pasar una propuesta de ley que defina claramente las lo que es la practica no autorizada de leyes y debe prohibir esta práctica más efectivamente. La reciente redactada Acta de Representación de Calidad para Solicitantes de Inmigración es un buen modelo a tomar como legislación.
 - › El Código de la Ciudad de Nueva York debe ir en acorde con la definición estatal, reemplazando las leyes actuales que apenas previenen el fraude.
- El Departamento de Asuntos del Consumidor de la Ciudad de Nueva York (DCA por sus siglas en inglés), el Procurador General del Estado de Nueva York, Fiscales de Distritos, la asociación de abogados del Estado de Nueva York y la Oficina Ejecutiva para Revisión de Inmigración (EOIR por sus siglas en inglés) debe formar un grupo de trabajo inter-institucional para coordinar de forma más efectiva la investigación y el procesamiento de fraudes relacionados con asuntos migratorio.

Agencias de empleo

- La Legislatura del Estado de Nueva York debe enmendar la ley de empleo estatal (en particular Gen. Bus. Law § 185) que prohíbe la práctica de cobrarle por adelantado a los trabajadores más vulnerables y que reciben la paga más baja.

Agencias, tanto de empleos e ISPs/abogados de inmigración

- El Fiscal de Distrito de Queens debe establecer un programa de Asuntos Migratorios que atienda específicamente la particular victimización de los inmigrantes.
- La Legislatura del Estado de Nueva York debe pasar la Propuesta en la Asamblea A03992, la cual aumenta el poder que tiene el Departamento de Asuntos del Consumidor de la Ciudad de Nueva York.
- El Departamento de Asuntos del Consumidor de la Ciudad de Nueva York, el Procurador General del Estado de Nueva York y los fiscales de distrito deben desarrollar un protocolo de Certificación de U Visa para lidiar con fraudes perpetrados en contra de inmigrantes.
- El Departamento de Asuntos del Consumidor de la Ciudad de Nueva York, el Procurador General del Estado de Nueva York y otras agencias de servicios de enforzamiento deben asignar parte de los fondos recolectados por daños y devolución para apoyar a organizaciones comunitarias y a proveedores de servicios legales gratuitos.

¹ By contrast, a licensed attorney or organization or representative authorized by the U.S. Board of Immigration Appeals (BIA) may provide legal assistance on immigration matters; "Become an Authorized Provider." *U.S. Citizenship and Immigration Services*, 2011. <http://www.uscis.gov/portal/site/uscis/menuitem.e8b24a3cec33ca34c48bfc10526e0aa0/?vgnnextoid=0b6dd53a55c8b210VgnVCM10000025e6a00aRCRD&vgnnextchannel=84ecd53a55c8b210VgnVCM10000025e6a00arcid>

"Recognition and Accreditation (R&A) Program." The United States Department of Justice, 2011. <http://www.justice.gov/eoir/statspub/raroster.htm>

² ISPs were separated from lawyers through a combination of business card analysis, internet searches, documentations from mystery shoppers, and searches on the New York State bar website. New York State Bar Association, 2011. <http://www.nysba.org/>.

³ The borders for mystery shopping stretch West to East from 69th Street to 103rdth Street and North to South from 37th Avenue to 41st Avenue.

⁴ This information was obtained through photograph analysis and internet research.

VIII. ENDNOTES

- ¹ Focus group, 12/14/2011. Miguel is a pseudonym is used to protect confidentiality. Pseudonyms and initials are used throughout report.
- ² *American Community Survey 2010-1 Year Estimates*. American Factfinder. <http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml> (accessed February 2012). *Census 1980 Chapter C: General Social and Economic Characteristics*. <http://www.census.gov/prod/www/abs/decennial/1980cenpopv1.html> (accessed February 2012).
- ³ *American Community Survey 2010-1 Year Estimates*. American Factfinder. <http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml> (accessed February 2012).
- ⁴ Portes, Alejandro and Rumbaut, Ruben G., *Immigrant America*. (London: University of California Press, 2006), 23.
- ⁵ Rivlin, Gary. "Dollars and Dreams: Immigrants as Prey," *The New York Times*, June 11, 2006. <http://www.nytimes.com/2006/06/11/business/yourmoney/11migrate.html?pagewanted=all>.
- ⁶ "Using an Immigration Assistance Service Provider: Tips for Consumers." *NYC Department of Consumer Affairs*. 2011. <http://home2.nyc.gov/html/dca/downloads/pdf/immservprov.pdf>.
- ⁷ N.Y. Judic. L. § 478.
- ⁸ "Resources on Professional Standards for Attorneys in New York State." *New York State Bar Association*. 2011. <http://www.nysba.org/Content/NavigationMenu/ForAttorneys/ProfessionalStandardsforAttorneys/ProfessionalStandar.htm>.
- ⁹ *Latinos in New York: Communities in Transition*. Edited by Gabriel Haslip-Viera and Sherriel Bayer. (Indiana: University of Notre Dame Press, 1996), 3-23.
- ¹⁰ Flores, Jose Miguel. "Globalization and Urban Opportunities in the Immigrant Cityscape," *Florida Journal of International Law* 17, no. 1 (2005): 720-751.
- ¹¹ Ricourt, Milagros and Ruby Danta. *Hispanas de Queens: Latino Panethnicity in a New York City Neighborhood*. (Cornell University Press: New York, 2003):1-10, 39-56.
- ¹² Flores, Jose Miguel. "Globalization and Urban Opportunities in the Immigrant Cityscape," *Florida Journal of International Law* 17, no. 1 (2005): 720-751.
- ¹³ Buhai, Sande L. "Act Like a Lawyer, Be Judged Like a Lawyer: The Standard of Care for the Unlicensed Practice of Law," *Utah Law Review*, no. 1 (2007): 87-129.
- ¹⁴ Catalina interview by Adriana Escandon 2/15/12.
- ¹⁵ Adan interview by Adriana Escandon 2/15/12.
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