

EXECUTIVE SUMMARY

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



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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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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/?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>

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 103rd 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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