

**Testimony of Commissioner Lorelei Salas
New York City Department of Consumer and Worker Protection**

**Before the Committee on
Consumer Affairs & Business Licensing**

**Oversight Hearing on
Employment Agencies and other Labor Placement Agencies**

April 19, 2021

Introduction

Good afternoon Chair Ayala and members of the Committee. I am Lorelei Salas, Commissioner of the Department of Consumer and Worker Protection, or DCWP. I am joined by Tamala Boyd, our General Counsel, Adam Blumenkrantz, our Associate General Counsel, Steven Ettannani, our Executive Director of External Affairs, and Carlos Ortiz, our Director of Legislative Affairs. Thank you for the opportunity to testify today before the Committee.

Presently, DCWP licenses more than 59,000 businesses and individuals in more than 50 industries. We enforce essential consumer protection, licensing, and workplace laws that serve countless New Yorkers, and offer programming that increases access in our city to high-quality financial services for New Yorkers.

DCWP's Authority under NYS General Business Law

DCWP is designated, under Article 11 of the New York State General Business Law (GBL) as the licensing and enforcement agency for employment agencies in New York City. Employment agency laws and rules apply to businesses that, for a fee, help individuals find work, or assist businesses in finding individuals to hire. There are approximately 240 licensed employment agencies in the city. Regulations governing employment agencies include requirements to post certain consumer disclosures, obligations to provide clients with contracts and receipts, and prohibitions from guaranteeing clients jobs, discriminating against a client on the basis of their age, race, or creed, or from charging illegal fees, such as for deposits or in advance of job placement.

Promoting a Culture of Compliance among Licensees

DCWP takes its obligation under the GBL seriously; and the work begins with fostering a culture of compliance among licensees. DCWP voluntarily provides employment agencies, just as we would licensees governed by local law, a 'plain language inspection checklist.' This checklist outlines legal requirements and is a tool to help businesses or consumers identify, and avoid, violations before an inspection. The checklist is available on our website and is distributed by staff on educational business corridor walks. Under DCWP's Visiting Inspector Program, new brick and mortar employment agencies that open in the city also receive a scheduled, personal

educational visit from a seasoned inspector to go over any questions ownership and their staff may have about their obligations.

New York State employment agency law is nuanced with, for example, differing licensee obligations to clients depending on employment class and even a unique regulatory framework for theatrical employment agencies. DCWP voluntarily designs and makes available on its website templates for contracts, receipts, registers, and terms of conditions that licensees can use and feel confident in being compliant with the law. These templates are user-friendly, downloadable, and, in some cases, offered in multiple languages.

Partnerships with stakeholders inform our compliance and education efforts. Most recently, DCWP partnered with the Association for Talent Agents (ATA), to create a unique ‘plain language checklist’ for their industry. This document is a product of a longstanding dialogue with the ATA to ensure that their membership is informed about their obligations and recent amendments to the GBL that impacted their constituency.

Advocacy and Community Outreach

DCWP has actively lobbied the state legislature to modernize employment agency protections for consumers. In 2015, DCWP provided complaint data to New York State Senators and Assembly Members involved in the ‘Justice for Job Seekers’ campaign. That data informed investigative reporting and eventually manifested into reforms adopted by Governor Cuomo. DCWP commended the state legislature for prohibiting advance fees and instituting stricter terms and conditions disclosures for consumers. Mayor de Blasio wrote the Governor in October 2016 urging him to sign the measure into law, which the Governor did.

The 2016 reforms also allowed DCWP to require employment agencies to post the ‘Job Hunter’s Bill of Rights,’ which DCWP developed with New Immigrant Community Empowerment, or NICE, as a useful resource for consumers. Prior to this 2016 reform, DCWP could mandate this important document be posted at an employment agency only *after* it was found to be in violation of the law, and even then, only pursuant to a consent order with the employment agency.

Concurrently, with these recent amendments, DCWP engaged in continued outreach to communities on consumer protections for job seekers. This included developing consumer protection tips in over 10 languages. Since 2018, DCWP has conducted nearly 400 events educating New Yorkers on this topic. Understanding the outsized impact of this fraud on immigrant New Yorkers, DCWP also partnered with stakeholders that work with immigrant communities like Adhikaar, Chhaya CDC, and the Arab American Association of New York to host a series of events discussing issues of fraud and job seeker protections.

Enforcement

DCWP enforces employment agency laws and rules through mediation, field inspections, on patrol or in response to complaints, and actions brought by the agency before the Office of Administrative Trials and Hearings (OATH). In the past 3 years, we have received nearly 675

complaints, conducted 256 inspections, and issued 299 charges for violations of the employment agency laws and regulations.

However, despite our enforcement efforts, we continue to face uphill challenges with so-called ‘fly-by-night’ employment agencies. These agencies lure consumers in, rip them off, and disappear shortly thereafter. Typically, these unlicensed individuals or businesses sign short-term leases, use fake corporate names, or conduct outreach through informal networks that make locating them after a complaint extremely difficult. In ideal circumstances, a criminal enforcement entity, with tools at its disposal, such as search warrants and wiretaps, would be better suited to capture the needed information to apprehend these unlawful individuals.

Generally though, DCWP may collaborate with appropriate enforcement agencies at the city, state, and federal level in a number of ways including direct communications or through broader coalitions such as the Protecting Immigrant New Yorkers Task Force or the Queens Borough President’s Immigration Task Force. As an example of this work, we have aided active investigations from the New York State Attorney General’s Office by supplying additional complaints, affidavits, and even testimony from consumers that were harmed by deceptive practices.

Regarding our own active cases, we expect to soon receive a decision from OATH on a theatrical employment agency that has been operating without a license. The initial complaints were brought to us by several musical artists, and we are seeking civil penalties for the business’ unlicensed conduct. We hope that a successful outcome will help deter future violations by other businesses of their responsibilities and protect consumer rights in our city.

Conclusion

Especially in times of crisis, such as we find ourselves today, it is imperative that our businesses, our consumers, and our communities, in general, understand that we must support each other. We cannot accept, as a matter of course, harm to our most vulnerable fellow New Yorkers. At DCWP, we continue to work on ensuring that our consumers and workers have a voice within city government, a resource for education, and a shield from harmful business practices. In that work, we have always counted on and greatly appreciated the support of advocates and the City Council.

Thank you again for the opportunity to testify today, and I look forward to any questions you may have.