

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

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

**Oversight Hearing on
Combatting Immigration Services Fraud**

September 24, 2021

Introduction

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

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

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

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

Immigration Service Providers

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

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

Enforcement – Current Practices and Cases

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

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

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

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

Consumer Education

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

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

Legislative Amendments

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

Conclusion

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

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