

**Testimony of Lorelei Salas, Commissioner  
New York City Department of Consumer Affairs  
before the  
New York City Council Committee on Consumer Affairs  
and the  
New York City Council Committee on Immigration  
Hearing on  
Introduction 746-A, regarding Immigration Assistance Service Providers**

**Introduction**

Good morning to you, Chairs Espinal and Menchaca, as well as all the members of the Committees on Consumer Affairs and Immigration. I am Lorelei Salas, Commissioner of the Department of Consumer Affairs (“DCA”), and I am joined today by Amit S. Bagga, James Hurst, Mary Cooley, and Casey Adams from our staff, as well as our colleagues from the Mayor’s Office of Immigrant Affairs (“MOIA”). I thank the Council for inviting DCA to testify about Introduction 746 (“Intro. 746”), which would strengthen protections for immigrant New Yorkers who turn to Immigration Assistance Service Providers (“ISPs”) for help, but who are unfortunately often offered false promises and cheated out of hundreds, if not thousands, of their hard-earned dollars.

Protecting immigrant communities has always been a top priority for DCA and for this administration. We can all agree that there is now a special urgency for all of us to ensure we are doing all that we can to protect our city’s immigrants and today we re-affirm our longstanding and on-going commitment to do so.

There are many important, proactive steps that the administration is taking to ensure that our City’s immigrants are shielded from any dangerous shifts in federal policies, as our colleagues from MOIA have just outlined. As an agency, DCA has always been and remains deeply committed to serving and protecting all of the City’s immigrants, regardless of status. The bill we are here to discuss today, Intro. 746, will enhance some of the ways in which we do this work. Before we offer specific feedback on this legislation, the goal of which we support, we would like to take this opportunity to present to the Council different ways in which we serve immigrants and the proactive steps we are taking to ensure their rights are protected.

## **Serving Immigrants**

I'd like to begin by sharing with you that my personal experience has shaped the work I have chosen to do in my professional life. I arrived from Peru at the age of 19 and like many other immigrants, I struggled with learning English and navigating living in a new country. In every job I have held, whether it was fighting to recover unpaid wages for immigrant workers, or supervising teams of immigration attorneys, I have become deeply familiar with the challenges immigrants face, and the myriad of fraudulent schemes targeting immigrant communities. I joined DCA to work alongside other committed advocates to make New York City a place where every New Yorker can thrive.

Since I joined the agency, we have launched a new mission for ourselves, which is to protect and enhance the daily economic lives of New Yorkers to create thriving communities. We do this by licensing and regulating businesses, enforcing key municipal workplace laws, and providing services that enable low-income New Yorkers to create and build assets to achieve financial stability. In addition to this, we conduct research, engage community based-organizations, educate businesses, consumers, and employees, and advocate for the passage of laws that protect New Yorkers from their wallets to their workplaces.

We know that immigrants are the very backbone of New York City's economy, and, as such, the core constituency that we serve. They are the small business owners that come seeking licenses from us, they are the employees who seek us out to ensure that they're getting the sick leave to which they're entitled, they are the New Yorkers who need help getting out of debt and on a path to financial stability, and, of course, they are the consumers that turn to us when they've been defrauded, cheated, or otherwise taken advantage of.

It is for these reasons that DCA has, particularly under Mayor de Blasio's leadership, invested enormous resources in making information and services available to immigrants. First and foremost, we do not ever ask anyone we serve about their immigration status. This, as you know, is a citywide directive and we adhere to it very strictly. It is critical that all New Yorkers know that their City government is a safe, trusted place for them to receive information and services.

Our front-line intake staff speak a multitude of languages, as do our inspectors. Information about key laws that we enforce, such as the Paid Sick Leave Law, is available in as many as 26 different languages, and nearly all of our online business inspection checklists are translated into several languages. Additionally, all of our key public-facing educational materials are available in languages other than English. New Yorkers can, for example, learn about how to protect

themselves from predatory loans in Spanish, earn and use sick leave in Korean, or be generally educated about their rights as consumers in Russian.

Our investment in serving immigrants does not end there. A substantial number of the estimated 15,000 employees for whom we've obtained restitution under the Paid Sick Leave Law are likely immigrants, and we work closely with groups such as Make the Road, the Domestic Workers Alliance, and Adhikaar to ensure that we are receiving and pursuing complaints. In the coming months and years, we will continue to proactively enforce several municipal workplace laws that cover the undocumented, such as the Paid Sick Leave and Paid Caregiver Laws, and we will be paying particular attention to vulnerabilities immigrant workers might face. DCA will also continue to send a very strong message to employers that exploitation of a worker's rights because of his or her immigration status will not be tolerated. DCA will also be redoubling its existing efforts to ensure the City's many immigrant communities can access information and services in the many languages spoken across the five boroughs.

In addition to these efforts, DCA has, of course, also played a small role in combatting one of the most pernicious threats to immigrants in our city –immigration fraud. Far too many of our city's residents have found themselves “out of status” and therefore vulnerable; in need of assistance, with no clear direction in which to turn. Lured by false promises of work authorization, green cards, or citizenship, they pay hundreds, if not thousands, of dollars to unscrupulous individuals, many of whom are in fact attorneys, who scam them out of their hard-earned wages and leave them with nothing – or in some cases, in a worse situation they were originally in.

In 2004, when the City Council first passed a law mandating municipal oversight of ISPs, many, if not most, of these businesses were located in storefronts along bustling commercial strips in heavily immigrant neighborhoods. These entities were often co-located with other businesses heavily relied upon by immigrants, such as travel agencies or employment agencies. In Spanish-speaking communities, these businesses often advertised themselves using the term “*Notario Público*,” sending a signal to their neighbors that they were perhaps attorneys and therefore qualified to assist with immigration applications. Such obvious accessibility and advertising, we believe, rendered these providers attractive to many immigrants, who unfortunately fell prey to unscrupulous operators.

Since DCA first began inspecting ISPs, the nature and scope of their practices have changed considerably. We have heard from both advocates and our own inspectors that these ISPs are found far less commonly in storefronts on busy blocks, but instead are increasingly located in upper-floor suites of various types of buildings, far from the reach of our inspectors. We have also heard that these buildings are in neighborhoods such as Midtown, far from where immigrant

communities are residentially concentrated. Many ISPs, as we've been told, now even operate out of private residences. These changes, in addition to a variety of other constraints we face in being able to collect and assess key information that would determine whether or not fraud has actually occurred, make enforcing against ISPs a particular challenge for the agency.

Nonetheless, we have tried to do all that we can to combat fraud. For example, DCA has just released a brand new, easy-to-use ISP-specific complaint form that we will be distributing to a large number of legal service providers and the offices of every elected official in the City in the coming days - and, of course, it will be made available in many languages. Additionally, we've recently revamped and updated our inspection protocol for ISPs so that our inspectors are better equipped to identify and issue violations. We have also been proactively responding to complaints received from the New York State Office of New Americans ("ONA"), which began sharing information with us more consistently in the last few weeks. Lastly, in an effort to ensure that we are focused on reminding immigrants to stay away from problematic ISPs and steer them towards safe legal service providers, we will soon be participating in a "Notario Fraud Day of Action" with Make the Road-NY, MOIA, and other key stakeholders.

We are hopeful that such efforts, combined with additional complaint-driven, targeted enforcement will contribute in whatever small way possible to the larger fight against criminal conduct in the provision of immigration services. I will now further clarify DCA's jurisdiction over ISPs, after which I will provide specific comments on Intro. 746.

### **Legal Landscape**

ISPs are a specific subset of businesses or individuals who offer assistance with immigration issues for a fee. Importantly, this category does not include licensed immigration attorneys, non-profits charging nominal fees, child welfare organizations recognized under New York State law, organizations accredited by the federal board of immigration appeals, or elected officials or government employees. ISPs are not qualified to provide legal advice or services or represent their customers in an immigration proceeding.

Current City law expressly prohibits certain acts by ISPs. Providers may not intimate that they can obtain special favors from immigration officials, demand or retain fees in advance of providing services or for services that are not performed, fail to provide copies of filed forms to a client, use terms like "*Notario Publico*" or "Accredited Representative" that may mislead a consumer about their qualifications, give legal advice of any kind, promise an outcome that cannot be guaranteed, charge for forms that are provided free of charge by government agencies, or disclose information to authorities without the customer's consent.

To promote transparency in transactions, the law also requires ISPs to complete a written agreement disclosing certain information to the consumer before any services may be provided. In addition, ISPs must conspicuously post signs disclosing to consumers that the ISP is not a licensed attorney or a representative accredited by the board of immigration appeals and that all consumers have the right to cancel any contract within three days and get back all documents and any money paid. Finally, all ISPs must maintain a surety bond for the benefit of customers.

In 2014, Governor Cuomo signed the Immigrant Assistance Service Enforcement Act which, among other things, expanded the scope of prohibited conduct, updated the terms required to be included in an ISP contract and the content of required disclosure signs, and increased civil penalties for violation of the law.

Intro. 746 would amend city law to reflect the changes made to state law by the Immigrant Assistance Service Enforcement Act and bring the two laws into conformity. DCA shares the Council's goal of better protecting immigrant New Yorkers who seek help from ISPs and we support this update.

### **DCA Enforcement**

While DCA does inspect ISPs in New York City, our role, as indicated in the committee report attendant to the original 2004 law that granted us our limited regulatory authority, makes clear that our agency is just one small part of a much larger, comprehensive approach that is required to effectively combat immigration fraud. The same committee report makes clear that the ultimate goal of the 2004 law was to channel the demand of immigration services to safe, high-quality legal service providers, which, as our colleagues from MOIA have testified, is accomplished primarily through outreach and education.

Though DCA conducts ISP inspections on patrol, we primarily inspect on the basis of complaints, especially given the changes in the business practices of ISPs. When we receive a complaint or referral, from the New York State Office of New Americans hotline, for example, we will, of course attempt to inspect the address or business about which we've received the complaint, and we will also inspect neighboring blocks to determine whether there are similar businesses operating nearby. When conducting ISP inspections, our inspectors look for the presence of certain signage, contracts, and disclosures. We are not authorized, nor could we be authorized, to collect personally identifying information or copies of USCIS forms.

The complaints we receive do give us a basis for inspection and determining violations under the City's current law regulating immigration service providers, but they do not, in fact, indicate a recent occurrence of actual immigration services fraud. As advocates, legal service providers, and criminal law enforcement agencies can tell you, victims of ISP fraud generally don't realize they are victims until months, or even years, after the fraud has taken place, and are, generally speaking, not aware that City government might be able to assist. The many challenges any City agency would face in conducting ISP inspections is borne out by the numbers. Of the approximately 50 inspections that have been conducted based on complaints in 2016 to date, nearly 75% found that the business complained about had closed, moved, was inaccessible, was not providing immigration services, or could not be located by an inspector.

Despite these significant challenges, we remain deeply committed to conducting as many inspections as possible and receiving as many complaints as possible. Since January 2014, the agency has conducted 237 ISP inspections and we continue to conduct inspections based on complaints we received and what we observe on patrol. To increase our own access to information about problematic businesses, we actively participate in the Protecting Immigrant New Yorkers ("PINY") Task Force, which is convened by the New York Immigration Coalition, and we have sought complaints directly from several legal service providers, including Legal Aid and Catholic Charities. I have personally spoken to the PINY Task Force to gather feedback from immigration activists and advocates on how we can be better positioned to take complaints and action.

At DCA, we consider our role in the regulation of ISPs, however small it might be, to be important to our mission and we believe that Intro. 746 includes helpful updates to the existing legal framework.

### **Intro. 746**

With respect to Intro. 746, of which we are generally supportive, we would like to respectfully offer to the Council some amendments to consider.

While we agree that additional signage and disclosures are generally helpful, we believe that requiring businesses to post signage in the six most commonly spoken languages in the city as well as the languages in which they conduct their business might lead to situation where the signage is excessive or confusing. We can all agree that immigrant consumers, who are particularly vulnerable if they are walking into a business of this type to seek assistance, must be able to easily understand the information being disclosed to them. The administration is deeply

committed to language access and we commend expanding the number of languages in which ISPs are required to post signage, and in particular, the requirement to post signage in the languages in which business is being conducted by an ISP. We would appreciate the opportunity to discuss with the Council ways in which this particular provision might be clarified.

We also would appreciate the opportunity to further discuss with the Council language in the bill that could inadvertently impede the agency's investigatory processes. Specifically, while we already do not collect any USCIS forms with personally identifying information, we can and do collect copies of contracts between businesses and consumers, and we seek to ensure that this ability is maintained. Additionally, we seek to work with the Council to resolve a discrepancy in the bill, as it simultaneously - and correctly - recognizes that ONA is the primary destination for complaints, while also requiring DCA reporting on these types of complaints.

Lastly, we have found it helpful in other regulatory contexts, such as those concerning employment agencies and tax preparers, for such businesses to be required to post a consumers' "Bill of Rights," which clearly outlines the protections afforded by law to consumers before services are provided. DCA has already been working on a draft Bill of Rights and would be happy to share this with the Council for potential inclusion in Intro. 746.

### **Conclusion**

In conclusion, we would like to reiterate that protecting immigrations, regardless of their status, is among DCA's highest priorities and we are firmly and strongly committed to ensuring that our most vulnerable residents have access to the services they need. We seek to work closely with all of our sister agencies, community partners, and, of course, the Council to bolster existing protections and create and implement any new ones we feel are needed. Specifically, we seek to collaborate with partners to do as much as we can to *solve* the problem of immigration fraud – the answer to which is raising as much awareness as possible and proactive educating immigrants about the dangers of ISPs.

I would like to thank both committees for the opportunity to testify today. My colleagues and I will be happy to answer any questions you might have.