Protecting Immigrants from ‘Notario’ Fraud

By Irena Lieberman

Since taking office six years ago, Texas Attorney General Greg Abbott has shut down over 30 fraudulent immigration consulting businesses in the state using a notary public law passed in 2001. In one case, he filed a criminal complaint against an immigration consultant for allegedly defrauding hundreds of consumers and their families out of thousands of dollars.

The consultant was never authorized to provide immigration consulting or legal services, and one couple said they received a letter in which the consultant threatened to press criminal charges if they did not pay certain fees. The operation was permanently shut down and the consultant was ordered to pay nearly $300,000 in fines.1

Unscrupulous individuals fraudulently holding themselves out as “immigration specialists” or “notarios” have become an increasingly serious problem in immigrant communities throughout the country. The complexity of ever-changing immigration laws and the need for more low-cost immigration legal service providers has increased immigrants’ vulnerability to victimization. These individuals exploit immigrants’ trust and lack of familiarity with our language, culture, and legal system. In Mexico, a ‘notario publico’ is a legal professional, therefore, unsuspecting immigrants might assume that someone using the term ‘notario’ or ‘notary public’ in the U.S. is qualified to assist them as a lawyer.2

Often charging exorbitant fees, notarios cause immigrants to lose crucial opportunities for relief, often permanently. Fraudulent notarios promise to secure relief for which an individual may not be eligible, promise legal action that the notario is not permitted to take and may require the immigrant to turn over original documents and then impose a fee to return them. Most victims do not have the resources or information to seek legal recourse against a notario once they have suffered harm. Notario fraud also wastes government resources that immigration agencies and courts could otherwise use toward adjudication of legitimate cases.

The ABA Commission on Immigration created the FightNotarioFraud website (www.fightnotariofraud.org) in Spanish and English with three main goals in mind:

- To help immigrants identify whether they have been a victim of notario fraud, and to help prevent others from becoming a victim in the future

- To provide attorneys and other individuals with information on how to take action against notarios. This includes:
  a. Information on how to report immigration consultants who are engaging in the unauthorized practice of law (UPL) to UPL committees and/or state bar associations.
  b. Possible theories that might form the basis of a civil suit against attorneys complicit in immigration consulting fraud.
  c. A repository of pleadings and other documents that might be useful in reporting, or pursuing a case against an immigration consultant.

- To facilitate the referral of victims of immigration consulting fraud to lawyers interested in representing them, pro bono, in civil litigation against fraudulent immigration consultants.

The Commission also maintains a national directory of low-cost immigration legal service providers that victims can use to locate affordable assistance with their immigration cases.

Over the past year, through generous support from the Carnegie Corporation of New York, the Commission issued mini-grants to ten different sites around the country to train attorneys on how to assist victims in seeking recourse against notarios, and in reopening their immi-
igration cases if possible. The project developed state-specific curricula for use by each site, and a total of 1154 volunteers were trained. One of the sites was Texas Rio Grande Legal Aid, which held four trainings in South Texas in October. Thirty-four volunteers were trained, and participants noted that they had seen notario fraud not just in immigration cases, but in cases involving family law issues, will preparation, and title documents. Another site, the Office of the Santa Clara County Counsel, in California, trained 25 volunteers in October, with Deputy County Counsel Melissa Kiniyalacls moderating the training. The County Counsel’s office also met with Congresswoman Zoe Lofgren’s office to discuss potential prosecutions of fraudulent immigration consultants in the community.

The ABA project has led to litigation to obtain redress for victims, injunctions against notarios, and increased exposure of the problem. For example, a recent pro bono lawsuit brought by attorney David Zetony from Bryan Cave LLP against a notario in Maryland resulted in a settlement agreement under which the notario agreed to the entry of a confessed judgment of $100,000, and an injunction barring her from advising other immigrants concerning their legal rights.

The Commission on Immigration is actively seeking volunteer attorneys to assist victims of notario fraud. Even if you are unable to engage in litigation or full representation as a government/public sector lawyer, you may be able to assist victims by conducting client interviews or intakes, providing translation services, or raising awareness about the issue with different stakeholders. To learn more about how you can assist victims of notario fraud, or to locate a volunteer attorney to assist someone you know, please visit our website at www.fightnotariofraud.org or contact the Commission at immcenter@abanet.org.

Irena Lieberman is the Director of the ABA Commission on Immigration, which promotes due process for immigrants and refugees, with a focus on asylum seekers, immigration detainees, and unaccompanied minors. The Commission also oversees pro bono immigration projects in Harlingen, TX, Seattle, WA, and San Diego, CA.

Endnotes

2. Non-lawyers who are authorized to represent immigrants before the Immigration Court are called “Accredited Representatives.” They must go through extensive training and are ultimately accredited by the Board of Immigration Appeals (BIA).
3. Other organizations that received mini-grants from the Commission include: American-Arab Anti-Discrimination Committee and Catholic Charities in Washington, DC; University of Detroit Mercy School of Law; Rocky Mountain Survivors Center in Denver, CO; Political Asylum Immigration Representation Project in Boston, MA; Lutheran Social Services of New York; Thomas & Mack Legal Clinic and Clark County Legal Services in Las Vegas, NV; Catholic Charities of Los Angeles, Inc.

For More Info

LISTEN . . . to the story “Dishonest Brokers Cost Immigrants Dearly,” go to http://wnmu.org/news/08/05/19.php#21051. Commission on Immigration Chair Mark D. Agrast was interviewed for the story.

CHECK OUT . . . other organizations assisting victims:
- Notario Fraud Project of the Los Angeles Center for Law and Justice, www.tetelman.com/lclj/consumer.htm
- Catholic Legal Immigration Network’s Legalization Project, www.catholiclegal.org/Legalization.html
- READ . . . the state-by-state guide to filing claims against notarios, published by the American Immigration Lawyers Association, wwwaila.org
- VIEW . . . state specific statutes at www.governmentlawyer.org