



NEW YORK STATE SENATOR

Jeffrey D. Klein

## Senator Klein, Assemblyman Moya and Justice for Job Seekers Campaign Release Investigative Report Into Employment Agencies

JEFFREY D. KLEIN May 7, 2015

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*Results of Undercover Investigation Shows Shady and Fraudulent Practices of NYC Agencies Preying on Immigrants*

*New Legislation Would Crackdown on Illicit Activity by Agencies*

**NEW YORK – State Senator Jeff Klein (D-Bronx/Westchester) and Assemblyman Francisco Moya (D-Jackson Heights), together with the Justice for Job Seekers Campaign, State Senator Diane Savino (Staten Island/Brooklyn), NYC Councilmember Ritchie Torres (D-Bronx),** immigrant rights advocates and community groups, released the results of an undercover investigation into the unscrupulous and fraudulent practices occurring at New York City employment agencies in lower Manhattan Thursday.

The report detailed the frequency with which properly registered agencies often violate existing laws, and the more disturbing trend of unregistered and illicit agencies scamming workers out of cash with promises to secure employment that does not exist.

“Bogus employment agencies, filled with unscrupulous con men and women, are targeting and exploiting immigrants searching for work throughout the five boroughs. No job seeker

should be charged outrageous fees, be given false hiring leads, or empty promises of employment. New York State law governing the practices of employment agencies needs to be updated and written to protect anyone eager to work and earn an honest living,” **said State Senator Jeff Klein (D-Bronx/Westchester)**.

“These employment agencies turn the American Dream into the American Scheme. It’s absolutely unconscionable to fleece the unemployed, many whom are immigrants looking for decent work. New York must pass the Justice for Job Seekers bill to protect workers from employment scams,” **said State Senator Diane Savino (D-Staten Island/Brooklyn)**.

"New York prides itself on being the state of immigrants, but for too many, the land of opportunity is riddled with scams and stumbling blocks," **said Assemblyman Francisco Moya (D-Jackson Heights)**. "As this scathing report makes clear, when predatory employment agencies see low-wage workers and new immigrants, they think they have the green light to exploit and scam. Unfortunately, our current laws have done little to regulate the wild west employment agency landscape. The Justice for Job Seekers bill would put the brakes on predatory employment agencies and help job-seekers who just want to earn an honest living."

“There is an urgent need to put an end to these predatory practices that feed off of low-wage immigrants seeking work,” **said State Senator Jose Peralta (D-East Elmhurst)**. “These employment agencies take advantage of weak New York laws to prey on the vulnerable. We must protect job-seekers from these unscrupulous employment agency operators, who give a bad name to the many legitimate ones who serve the public.”

According to the most recent data from the New York City Department of Consumer Affairs (DCA), complaints regarding employment agencies have risen three-fold in the past year,

from 328 complaints filed in 2013, to 940 in 2014. Communities with the highest number of complaints include: Jackson Heights, Elmhurst, Woodside (Queens); Flatbush, East New York, Bensonhurst, Sheepshead Bay (Brooklyn); West Bronx, University Heights, Port Morris, Morris Heights, Melrose, Castle Hill (Bronx); Washington Heights and East Harlem (Manhattan).

“All too often, bad actors in the employment agency industry take advantage of low-wage workers and in particular, immigrants, in their search for work. These agencies make promises of jobs that don't exist and often charge illegal fees or refuse to give refunds. For someone who is unemployed or trying to make a better living in New York City, these fees can deplete their savings, leaving them with nothing,” **said NYC Department of Consumer Affairs (DCA) Commissioner Julie Menin.** “DCA now has an aggressive and comprehensive approach to enforcement to ensure compliance and to prosecute those who are engaging in predatory conduct. This legislation would further strengthen our ability to protect job seekers from predatory employment agencies. We applaud Assembly Member Moya and Senator Klein for demonstrating leadership on this crucial issue.”

“Fraudulent employment agencies exploit vulnerable New Yorkers already struggling to reenter the workforce,” **said NYC Councilmember Ritchie Torres (D-Bronx).** “ I applaud Senators Jeff Klein and Diane Savino and Assemblyman Moya for advancing the Justice for Job Seeker’s legislation and raising the standards for employment agencies to ensure they provide legitimate services.”

“New York City is a city of immigrants and we should do all we can to protect newly arrived immigrants from predatory employment agencies who engage in deplorable acts such as fraud. Employment agencies serve a legitimate purpose and those who abide by the law should be applauded while those who break the law should be held accountable. As Chair of

the Consumer Affairs Committee, I will do everything within my power to make sure that we put an end to this abusive and fraudulent behavior. I applaud the many state elected officials and advocates for all the hard work they have done thus far to bring attention to this very important issue and urge my colleagues in the State legislature to update its regulation of these employment agencies,” said **NYC Councilmember Rafael L. Espinal, Jr. (D-Brooklyn)**.

Immigrants currently make up 37 percent of the city’s total population and have accounted for nearly all of the city’s population growth since 1970. The Office of the State Comptroller estimates that 44% of New York City’s workforce, some 1.9 million residents, are immigrants.

The report sheds light on the often deplorable business practices of a majority of registered employment agencies in immigrant communities and highlights the shady practices of many unregistered employment agencies which are constantly shifting location, making it all but impossible for either law enforcement or victims to find them and seek justice.

The investigation found that inexperienced job seekers, primarily from immigrant communities are lured in by unregistered, predatory employment agencies with promises of legitimate employment, are charged fees - **an average of \$129** - for the service of finding a job and are often left with no real job leads or tangible employment opportunities. Nearly a quarter of the agencies that charged an advance fee also charged an additional placement fee after the job seeker secured a position, ranging **from \$100 to one week’s wages**.

Many of the victims defrauded in this manner not only have limited experience and understanding of the intricacies of the law, but as immigrants may not be English speakers. These facts, combined with their desperation to find a job, make immigrants prime targets for predatory agencies.

**Key findings of the report include:**

- Only 36% of employment agencies visited posted their licenses as required by law
- Just 49% posted New York City's employment agency laws as they are required to do
- 72% of employment agencies failed to offer job seekers contracts as required by law
- 46% of employment agencies guaranteed job seekers placement despite being prohibited from doing so by law
- 38% of employment agencies required advance fees from applicants but then refused to refund them, as required by law

"We're supporting the Justice for Job Seekers campaign because we need to make sure New Yorkers who are looking for jobs don't fall prey to unscrupulous agencies that take advantage of them at their most vulnerable moment," **said 32BJ SEIU President Hector Figueroa.** "No one should have to pay exorbitant fees for a job that doesn't exist and no agency should get away with placing workers in a job that pays less than minimum wage. This is shameful and it must be stopped."

"With the number of complaints to DCA against fraudulent employment agencies nearly tripling in the last two years, the time for change is now! Bad acting employment agencies are preying on low wage workers who, desperate for work, confide in an employment agency, only to be faced with high advanced fees and often work that is not tailored to their skill set, or worse, are sent to a job with an employer paying below the minimum wage or a place where a job is not available. On behalf of the NICE community, including members who turn to employment agencies on a daily basis, we applaud the collaboration of NYS legislators Senator Klein, Assembly member Moya and Senator Savino to protect the right of workers and job seekers through the Justice for Job Seekers bill," **said Valeria Treves, Executive Director, New Immigrant Community Empowerment (NICE).**

"Every year unscrupulous and predatory employment agencies steal thousands of dollars out of the pockets of low-income communities who turn to them for help securing jobs. This bill is a crucial step towards increasing protections for low-wage workers in this City by eliminating advanced fees for services that are routinely not provided, increasing penalties for agency violations and creating a private right of action so individuals themselves can begin holding these agencies accountable," **said Lauren Elfant, Staff Attorney at the Community Development Project, Urban Justice Center.**

"Don Bosco Workers Inc. is committed to bettering the condition of life for low-wage workers and their families through the support of the Justice for Job Seekers bill (A.3702/S.3415-2015) so that NYS workers are protected under the law," **said Gonzalo Cruz, Day Laborer Organizer at Don Bosco Workers Inc.**

"It's time to reckon some justice on the deceivers who run fraudulent employment agencies across the state," **said Lucia Gomez, Executive Director of La Fuente.** "For years, La Fuente and our coalition partners have worked tirelessly to unmask these agencies' abuses. It's been too long already, but now we've reached a moment where those who serve New Yorkers at all levels are watching, listening, and intervening to make our job market safer. With the release of evidence collected by NICE and our community allies, we have reached a pivotal moment in this fight. Our insight is clearer, and our resolve is stronger than it has ever been."

"Low-wage workers employed at employment agencies are not only demanded to pay exorbitant fees when they look for work, but are often directed to dangerous job sites with little to no health and safety training. This report is critical in that it highlights the very serious issue of fraudulent employment agencies in New York State, and emphasizes the need for a bill that protects New York's low-wage workers," **said Charlene Obernauer, Executive Director, NYCOSH.**

“Cabrini Immigrant Services of NYC celebrates the Justice for Job Seekers bill. This is a beautiful example of how community leaders, organizations, and NYS representatives can work together to protect hardworking immigrants. Our warmest congratulations and thanks also go to NICE and community partners for this report. Employment agency abuse is an enormous challenge for immigrants everywhere in our state and this report is an important tool to continue raising awareness about the struggles and injustices facing for job seekers. Our members will use this tool and share it with their families and coworkers to prevent this abuse,” **said Javier F. Ramirez Baron, Executive Director, Cabrini Immigrant Services of NYC.**

"After many investigations, we can confirm the law we have now is not enough to protect workers of fraudulent and predatory practices by employment agencies. Through this report, we want to educate the community and encourage workers to denounce any scam. We need a change and justice for job seekers," **said Maurilio Ortega, Laundry Workers Center.**

The New York City Department of Consumer Affairs (DCA), currently lists 335 registered employment agencies within city limits, but advocates maintain that the actual number of businesses marketing themselves and operating as employment agencies is closer to 1,000.

1. Current state law prohibits agencies from charging the applicant a fee prior to placement, however this does not apply to Class A and A1 workers such as: domestics; household employees; unskilled or untrained manual workers or laborers; agricultural workers; non-professional trained or skilled industrial workers or mechanics. This broad class of workers is one that is predominantly made up of immigrants and this loophole in the law leads to the exploitation of low-wage and low-skill workers.

Regardless of the type of worker, state law requires that an employment agency must refund its advance fees as long as a job has not been secured, but only at the request of the

applicant. Violations in New York State are punishable by a maximum fine of \$500 apiece, but have proven difficult to enforce given the common practices of fraudulent agencies moving locations. The vast majority of unregistered agencies visited as part of the investigation were not at their purported location. Only eight of the 29 unregistered employment agencies (27%) that the investigative team attempted to visit could be found.

In an effort to remedy the fraudulent practices of employment agencies, Senator Jeff Klein and Assemblyman Francisco Moya, have introduced bills in the Senate and Assembly (**S.3415/A.3702**) that seek to modify licensing procedures for employment agencies; make it more difficult for them to defraud workers; improve enforcement of existing regulations; and enable victims to seek legal recourse if they have been taken advantage of.

**Highlights of the legislation include:**

- Requiring employment agencies to create a stock contract, statement of terms and conditions, and receipt to be approved by the commissioner of either the Department of Labor or the Department of Consumer Affairs before they are granted a license.
- Requiring agencies to provide any job seeker with these documents.
- Eliminate the exemption that allows agencies to charge advance fees to class A and A1 workers.
- Requires agencies acquire a “bona fide order” clearly detailing the position available from employers before they refer any individuals, and that they renew these orders every 45 days.
- Require the Department of Labor and the Department of Consumer Affairs to post licensing information on their websites.
- To assist enforcement officials, agencies will be required to keep records of their “bona fide orders,” as well as their contracts and receipts.



- Increase the penalties for violations to \$1,000 for the first offense and \$5,000 for subsequent offenses and allow victims to bring civil suits against agencies that have taken advantage of them.
- Increase the criminal penalties for individuals involved in operating fraudulent employment agencies