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**FILED**

AUG 30 2011

**Division of Consumer Affairs**

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STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
DOCKET NO.: 11-067

PAULA T. DOW, Attorney General of the  
State of New Jersey,

Complainant,

v.

BELTRA GOMEZ, HECTOR GOMEZ, JR.  
AND HENRY GOMEZ T/A BELTRA'S  
AGENCY; and BELTRA GOMEZ,  
INDIVIDUALLY,

Respondents.

Administrative Action

COMPLAINT

PAULA T. DOW, Attorney General of the State of New Jersey ("Attorney General"), with offices located at 124 Halsey Street, Fifth Floor, Newark, New Jersey by way of Complaint states:

**PRELIMINARY STATEMENT**

1. Opinion 41 of the New Jersey Committee on the Unauthorized Practice of Law ("Committee on the Unauthorized Practice of Law") describes a pitfall to which immigrants are particularly vulnerable:

Considerable confusion has resulted when notaries in New Jersey have advertised themselves in the language of the potential consumer, with such words as "notario." In Mexico and other civil law countries, "notario" has a very different meaning from a "notary public" in the United States. While "notario" or "notario public" in civil law countries may be synonymous with "attorney," in the United States notaries public hold strictly a "witness" position. There have been many victims of "notario fraud" because persons come to notaries thinking that they will receive legal advice as they may have received in their native land.

(Opinion 41 of the Committee on the Unauthorized Practice of Law, 178 N.J.L.J. 444, October 25, 2004 and 13 N.J.L. 2273, November 1, 2004).

2. At all relevant times, Beltra Gomez, Hector Gomez, Jr., and Henry Gomez t/a Beltra's Agency ("Beltra's Agency") and Beltra Gomez, individually ("Gomez") (collectively, "Respondents") advertised, offered for sale and/or sold, among other things, immigration document preparation and notary services to consumers in the State of New Jersey ("State" or "New Jersey"). In so doing, Respondents misrepresented the immigration and citizenship services that they could provide to consumers. The Respondents' conduct violates the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. ("CFA"), and the Regulations Governing General Advertising Practices, N.J.A.C. 13:45A-9.1 et seq. ("Advertising Regulations").

### **PARTIES AND JURISDICTION**

3. Pursuant to N.J.S.A. 52:17A-4, the Attorney General is charged with the responsibility of enforcing the laws of New Jersey, including the CFA, as well as the Advertising Regulations.

4. By this action, the Attorney General ("Complainant") seeks injunctive and other relief for violations of the CFA and Advertising Regulations. Complainant brings this action pursuant to

her authority under the CFA, specifically N.J.S.A. 56:8-3.1, N.J.S.A. 56:8-11, N.J.S.A. 56:8-13, N.J.S.A. 56:8-15, N.J.S.A. 56:8-18 and N.J.S.A. 56:8-19.

5. On August 13, 1996, Beltra's Agency was registered as a trade name in New Jersey by owners Gomez, Hector Gomez Jr., and Henry Gomez. The owners maintain a business mailing address at 155 Demott Avenue, Clifton, New Jersey 07011.

6. At all relevant times, Beltra's Agency has maintained a main business address of 288 Parker Avenue, Clifton, New Jersey 07011 ("Beltra's Agency Location").

7. At all relevant times, Gomez owned and worked at Beltra's Agency.

#### **GENERAL ALLEGATIONS COMMON TO ALL COUNTS**

8. At all relevant times, Beltra's Agency and Gomez advertised, offered for sale and/or sold services to New Jersey consumers, including notary public, immigration, income tax, and mortgage consultant services.

9. At all relevant times, Gomez held a commission as a notary public by the State of New Jersey.

10. At all relevant times, Gomez was not approved by the Board of Immigration Appeals ("BIA") to act as an accredited representative. (Additional information regarding BIA Accredited Representatives is provided in Paragraph 31).

#### **DIVISION'S UNDERCOVER INVESTIGATION**

11. In March 2011, Investigator Oscar Mejia ("Investigator Mejia") of the New Jersey Division of Consumer Affairs ("Division") received a copy of a Spanish-language advertisement for immigration and notary public services placed by Beltra's Agency. The advertisement was sent to Investigator Mejia by an anonymous source. The source clipped the advertisement out of a

newspaper and did not disclose the newspaper's name. The advertisement included the phrases "Immigration Consultant" and "Notario Publico".

12. On April 14, 2011, Investigator Mejia performed an undercover investigation of the Beltra's Agency Location.

13. The exterior of the Beltra's Agency Location displayed a sign with electric yellow lettering reading "Notary Public." The window also advertised that Beltra's Agency provided mortgage consulting, income tax and translation services.

14. Upon entering Beltra's Agency, a female employee greeted Investigator Mejia and asked what services he required. Investigator Mejia responded that he needed to speak with the notary public regarding immigration services. The female employee requested that Investigator Mejia wait for Gomez, the notary public, to finish with a client.

15. After Gomez's client left, Gomez waved Investigator Mejia over and Investigator Mejia explained he needed advice because he intended to marry a woman who was in the United States on an expired student visa.

16. Gomez asked Investigator Mejia where he learned of her services. Investigator Mejia explained that a Spanish restaurant owner in Passaic named Miguel recommended Gomez's services.

17. Investigator Mejia stated that he was concerned with his fiancée's immigrant status and asked what he and his fiancée should do. Gomez advised Investigator Mejia to get married and handle the matter afterwards.

18. Investigator Mejia expressed concern that applying for a marriage certificate could

notify the state of his fiancée's illegal resident status and that his fiancée could be deported as a result. Gomez chuckled and advised Investigator Mejia to get married and then come back to discuss the problem.

19. Investigator Mejia elaborated that his fiancée misplaced her student visa and asked if this would be a problem. Gomez responded that losing the visa was not a problem and Gomez could fill out a form to resolve the issue.

20. Investigator Mejia asked for the cost of the form and whether Gomez would complete the form for Investigator Mejia and his fiancée. Gomez quoted a price of \$400 and agreed to complete the form.

21. Investigator Mejia asked which forms Gomez would complete and Gomez told Investigator Mejia to return with his fiancée for further discussion.

22. Gomez shook Investigator Mejia's hand and, before Investigator Mejia left, gave him a business card which read "Beltra Gomez, Immigration Consultant" .

#### **COMMITTEE ON THE UNAUTHORIZED PRACTICE OF LAW**

23. The Committee on the Unauthorized Practice of Law specifically addressed the question of whether a notary public may complete immigration forms:

When a person in New Jersey is commissioned as a notary public, he or she is given a copy of the New Jersey Notary Public Manual [...] The notary public manual states specifically that a notary public may not prepare a legal document, give advice on legal matters, or appear as a representative of another person in a legal proceeding. Notary fees are set by the regulations and are relatively modest. We emphasize that the practice of law includes the preparation or drafting of any kind of legal document and the giving of legal advice with regard to any document or matter.

Opinion 41 of the Committee on the Unauthorized Practice of Law, *supra*.

24. The Committee on the Unauthorized Practice of Law described in particular the situation which occurred at Beltra's Agency:

In many cases investigated by this committee, notaries public have charged fees for improper services. Many of the fees are in addition to the normal charge for witnessing a signature and are highly excessive considering the permitted "witnessing fee" of two dollars and fifty cents (\$2.50) allowed by law. This Committee has seen incidents of hundreds of dollars charged by notaries to consumer-litigants who were told merely to sign what was put in front of them. They received only a cursory explanation by the non-lawyer notary who had prepared the papers.

Opinion 41 of the Committee on the Unauthorized Practice of Law, *supra*.

25. The Committee on the Unauthorized Practice of law compared notaries public to sellers of "Do It Yourself" legal kits, whom the Committee had addressed in its Opinion 40 as follows:

"Although ... a non-lawyer seller may assist the purchaser [of Do-It-Yourself kits] by typing, transcribing, or translating, the rendering of any other assistance with the preparation, review, analysis, or completion of materials included in these kits in person, in writing, electronically, or otherwise constitutes the unauthorized practice of law and is therefore prohibited."

We conclude that it is beyond the scope of the permissible duty and authority of a notary public of the State of New Jersey to give legal advice concerning the preparation of documents, or to perform services other than those approved by statute.

Specifically, the Committee deems it to be an unauthorized practice of law for any notary public of the State of New Jersey to render assistance by giving advice or by preparing, reviewing, analyzing, or completing any forms, writings, pleadings, or other documents in person, in writing, electronically or otherwise.

Opinion 41 of the Committee on the Unauthorized Practice of Law, *supra*.

## **NEW JERSEY NOTARY PUBLIC MANUAL**

26. The New Jersey Notary Public Manual contains a section titled "Prohibitions and Liability: What Is A Notary Prohibited From Doing?" This section includes the following admonition: "Never prepare a legal document or give advice on legal matters, or matters pertaining to land titles. This includes the preparation of pleadings, affidavits, briefs and any other submissions to the court." New Jersey Notary Public Manual, revised March 21, 2003.

27. The "Prohibitions and Liability" section further advises: "In the capacity of a Notary, acting as a legal advocate is considered the unauthorized practice of law and will also leave the Notary vulnerable to civil and/or criminal legal actions." New Jersey Notary Public Manual, revised March 21, 2003.

## **U.S. CITIZENSHIP AND IMMIGRATION SERVICES**

28. The U.S. Citizenship and Immigration Services' ("USCIS") website ("USCIS Website") contains a section titled "Find Legal Services." The section advises: "You can file USCIS forms yourself, but many people choose to have help. You may need help writing in the answers to questions on USCIS forms or translating documents into English. You can get this type of limited help from anyone. This person should only charge you a small fee and not claim to have special knowledge of immigration law and procedure." USCIS Website, Legal Services, <http://www.uscis.gov/portal/site/uscis/menuitem.e8b24a3cec33ca34c48bfc10526e0aa0/?vgnextoid=03be051e2286b210VgnVCM10000025e6a00aRCRD&vgnnextchannel=963e051e2286b210VgnVCM10000025e6a00aRCRD>, visited July 13, 2011.

29. The USCIS Website cautions readers that "Only attorneys or accredited representatives can: Give you legal advice about which forms to submit; Explain immigration

options you may have; Communicate with USCIS about your case.” USCIS Website, Legal Services, *supra*.

30. The USCIS Website also contains the following alert: “**WARNING:** “Notarios,” notary publics, immigration consultants and businesses cannot give you immigration legal advice. In many other countries, the word “notario” means that the individual is an attorney, but that is not true in the United States. If you need help with immigration issues, be very careful before paying money to anyone who is neither an attorney nor a BIA-accredited representative of a recognized organization.” USCIS Website, Legal Services, *supra*.

31. In addition to attorneys, USCIS permits representatives accredited by the BIA (“Accredited Representatives”) to provide immigration advice. Accredited Representatives “must work for BIA-approved non-profit, religious, charitable, social service or similar organization in the United States. Her [*sic*] or she may only charge nominal (small) fees, if any, for legal services.” U.S. Department of Justice, Executive Office for Immigration Review, Fact Sheet: Who Can Represent Aliens in Immigration Proceedings, October 2, 2009.

## **COUNT I**

### **VIOLATION OF THE CFA BY RESPONDENTS (MISREPRESENTATIONS AND UNCONSCIONABLE COMMERCIAL PRACTICES)**

32. Complainant repeats and realleges the allegations contained in paragraph 1 through 31 above as if set forth more fully herein.

33. The CFA, N.J.S.A. 56:8-2 prohibits:

The act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing[] concealment, suppression, or



omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise or real estate, or with the subsequent performance of such person as aforesaid, whether or not any person has in fact been misled, deceived or damaged thereby...

[N.J.S.A. 56:8-2.]

34. The CFA defines "merchandise" as including "any objects, wares, goods commodities, services or anything offered, directly to the public for sale." N.J.S.A. 56:8-1(c).

35. Respondents' offer to prepare immigration forms comprises merchandise within the meaning of the CFA.

36. In advertising, offering for sale and selling immigration services to consumers, Respondents have engaged in the use of misrepresentations and unconscionable commercial practices.

37. In the operation of their business, Respondents have engaged in the following misrepresentations:

- a. Advertising and offering for sale "notary public" and "immigration" services, thus, misleading consumers into believing that they are qualified to provide advice as to immigration and citizenship in the United States, when such is not the case; and
- b. Advertising and offering for sale "notary public" and "immigration" services, thus, misleading consumers into believing that they are qualified to prepare and file legal documents with USCIS, when such is not the case.

38. In the operation of their business, Respondents have engaged in the following unconscionable commercial practices:

- a. Providing advice to consumers concerning the preparation of USCIS legal documents, when not legally authorized to do so; and
- b. Providing consumers information as to charges for the preparation of USCIS documents, when not legally permitted to charge such fees.

39. Each misrepresentation and unconscionable commercial practice by Respondents constitutes a separate violation of the CFA, N.J.S.A. 56:8-2.

**COUNT II**

**VIOLATION OF THE ADVERTISING  
REGULATIONS BY RESPONDENTS**

40. Complainant repeats and realleges the allegations contained in paragraphs 1 through 39 above as if set forth more fully herein.

41. The Advertising Regulations, N.J.A.C. 13:45A-9.1 et seq., promulgated pursuant to the CFA, among other things, govern general advertising practices.

42. Specifically, the Advertising Regulations provide, in pertinent part:

(a) Without limiting the application of N.J.S.A. 56:8-1 et seq., the following practices shall be unlawful with respect to all advertisements:

....

9. The making of false or misleading representations concerning the reasons for, existence or amounts of price reductions, the nature of an offering or the quantity of advertised merchandise for sale.

43. In the operation of their business, Respondents violated the Advertising Regulations including, but not limited to, the following:

- a. Advertising "notary public" and "immigration" services, thus, misleading consumers into believing that they are qualified to provide advice as to immigration and citizenship in the United States, when such is not the case; and
- b. Advertising "notary public" and "immigration" services, thus, misleading consumers into believing that they are qualified to prepare and file legal documents with the USCIS, when such is not the case.

44. Each violation of the Advertising Regulations by Respondents constitutes a per se violation of the CFA, N.J.S.A. 56:8-2.

## PRAYER FOR RELIEF

WHEREFORE, based upon the foregoing allegations, Complainant respectfully requests the entry of an Order after a hearing as authorized by the CFA, N.J.S.A. 56:8-3.1:

- (a) Finding that the acts and omissions of Respondents constitute unlawful practices in violation of the CFA, N.J.S.A. 56:8-1 et seq., and/or the Advertising Regulations, N.J.A.C. 13:45A-9.1 et seq.;
- (b) Directing Respondents and their owners, officers, directors, shareholders, founders, managers, agents, servants, employees, representatives, corporations, independent contractors and all other entities directly under their control, to cease and desist from engaging in, continuing to engage in, or doing any acts or practices in violation of the CFA, N.J.S.A. 56:8-1 et seq., and/or the Advertising Regulations, N.J.A.C. 13:45A-9.1 et seq.;
- (c) Directing the assessment of restitution amounts against Respondents, jointly and severally, to restore to any affected person, whether or not named in this Complaint, any money or real or personal property acquired by means of any practice alleged herein to be unlawful and found to be unlawful, as authorized by the CFA, N.J.S.A. 56:8-15;
- (d) Assessing the maximum statutory civil penalties against Respondents, jointly and severally, for each and every violation of the CFA, in accordance with the CFA, N.J.S.A. 56:8-13;
- (e) Directing the assessment of costs and fees, including attorneys' fees, against Respondents, jointly and severally, for the use of the State of New Jersey, as authorized by the CFA, N.J.S.A. 56:8-11 and N.J.S.A. 56:8-19; and
- (f) Granting such other relief as the interests of justice may require.

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Attorney for Complainant

By: Alina Wells  
Alina Wells  
Deputy Attorney General

Dated: August 29, 2011  
Newark, New Jersey