



HQCOU 90/15-C

Office of the General Counsel

425 I Street NW
Washington, DC 20536

Apr 13, 1999

April M. Lewis, Esq.
General Counsel
Immigration Specialties
102 North Elm Place, Suite B-1
Broken Arrow, OK 74102-3870

Dear Ms. Lewis:

In your January 20, 1999, letter to the Commissioner, you request a written opinion concerning whether filing a Form G-28 constitutes the practice of law.

An entity that is not a law firm may not practice before the Immigration and Naturalization Service unless the entity is a not-for-profit organization that the Board of Immigration Appeals has authorized to practice before the Service. 8 C.F.R. §§ 292.1(a)(4) and 292.2. "Practice" includes assessing the facts of a case and advising someone concerning how to obtain an immigration benefit. *Id.* § 1.1(i) and (k). If your company does this, then it may well be engaged in the practice of law. But as I said in my January letter to Campbell Cooke, the Board, rather than the Service, has authority to regulate practice before the Service. 8 C.F.R. part 292. Because this matter is within the Board's authority, the Service cannot provide an authoritative answer to your questions.

If you want an authoritative Federal answer to your questions, you could send to this office a detailed written statement of the services that your company holds itself out as willing to provide. The statement must be either an affidavit or a statement signed under penalty of perjury. This office could then determine whether to file a pleading with the Office of the Chief Immigration Judge asking an immigration judge to adjudicate whether your company's activities constitute the practice of law. 8 C.F.R. § 292.3.

I also note that several States have held that they have authority to enjoin the practice of immigration law by persons or entities who are not authorized to do so under Federal regulations. *Florida Bar v. Maus*, 528 So.2d 895 (Fl. Sup. Ct. 1988); *Oregon State Bar v. Ortiz*, 77 Or. App. 532, 713 F.2d 1068 (Or. App. 1985); *Texas Unauth. Prac. Comm. v. Cortez*, 692 S.W.2d 47

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(Tex. Sup. Ct. 1985). Whether the Oklahoma courts have this authority is a question for the Oklahoma courts to decide.

Sincerely,

/s/
Janice B. Podolny
Associate General Counsel
Chief of the Examinations Division