

# Immigration Lawyers

## *Lobbying for Their Livelihood*

By Alex Johnson

**T**he American Immigration Lawyers Association (AILA) has long been a key player in the immigration debate. Boasting a membership of some 11,000 attorneys and headquartered in Washington, D.C.,<sup>1</sup> the organization has consistently pushed for more immigration.

In the mid-1990s, it helped to forge a coalition of groups that succeeded in defeating legislation that would have reduced overall immigration levels. It has also lobbied against many measures intended to staunch the flow of illegal labor and pushed instead for amnesty.

When the Senate passed the McCain-Kennedy amnesty in 2006 — which would not only have granted amnesty but also vastly expanded legal immigration — the AILA supported the bill, but noted in a press release that it was not without its “defects,” which included “onerous enforcement measures” that would have made it easier to detain and deport future illegal aliens.<sup>2</sup>

Not long after McCain-Kennedy was defeated, Congress passed legislation to build 700 miles of fencing along the U.S.-Mexico border. The AILA declared that it was “disappointed” at this news and lamented the “missed opportunity...to get immigration reform right.”<sup>3</sup>

When Immigration and Customs Enforcement (ICE) launched a series of high-profile raids late in 2006, the AILA commented on employers’ need for “willing workers” and about how the raids underscored the necessity of passing “comprehensive immigration reform,” i.e., amnesty.<sup>4</sup>

The AILA’s website lists enhancing “respect for immigration law” among its goals (though it’s hard to see how lobbying for amnesty accomplishes that), along with educating the public about how “U.S. immigration law and policy serves the national interest by reuniting American families, protecting refugees, and providing

U.S. employers with the specialized skills they need to remain globally competitive.”<sup>5</sup>

However, one suspects that the AILA might be more motivated by more material concerns. Simply put, more immigrants mean more clients. A February 2009 article in the *American Lawyer Daily* reported on the connection between immigration levels and profits for immigration lawyers.<sup>6</sup>

Apparently, the year 2008 was a poor one for the New York-based immigration law firm Fragomen, Del Ray, Bernsen and Loewry. According to the article, “[a] U.S. Department of Labor investigation, a big percentage increase in the number of equity partners and, most especially, a truly atrocious end to the year as clients drastically slowed their overseas hiring, contributed to a startling fifty percent drop in profits per equity partner, from \$1.9 million to \$916,000.”

As the article noted:

Fragomen’s business model more closely resembles corporate America than a traditional Am Law 200 law firm. The firm represents such blue chippers as The Goldman Sachs Group, Inc., General Electric Company, International Business Machines Corporation, and Cisco Systems, Inc., on all matter of immigration issues....

In the years before, the firm had grown considerably, adding many new partners and associate attorneys. However, late in 2007, “the Labor Department announced it was auditing the firm on suspicions that it had been improperly advising clients about labor certification applications.” Though the audit was subsequently called off, other troubles soon plagued the firm:

[T]he bottom fell out of the financial services market and work from its big institutional clients slowed. Fragomen says he expects the trend to continue. He says he expects work doing H1-B visas, for example, to be off by half in 2009. (The economic stimulus bill that

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Congress recently approved requires banks and other institutions receiving federal bail-out money to give hiring priority to American workers. Also, Fragomen says, clients will simply be doing less overseas hiring. Fees from processing these types of visas accounts for about 10 percent of firm revenue.)



**The American Immigration Lawyers Association (AILA) office is located a few blocks from the White House in Washington, D.C. Founded in 1946, AILA has 11,500 members across 36 chapters in the U.S. and abroad. The AILA office is in a renovated 10-story building, which is listed as an historic landmark, that was constructed in 1928 and designed by prominent D.C. architect Appleton P. Clark.**

Thus, the intensity with which the AILA lobbies for increased immigration should hardly come as a surprise. Major American companies pay top dollar to firms like

Fragomen to navigate the intricacies of American immigration law.

The practices of one immigration law firm, Cohen & Grigsby, gained national attention in 2007 when the Programmers Guild — a group that advocates against H1-B visa program — posted a video recording of one of the firm's seminars on the Internet.

During the video, representatives of the firm explain to employers how they can avoid hiring American workers while still complying with U.S. law. As one representative explained:

And our goal is clearly not to find a qualified and interested U.S. worker. And you know in a sense that sounds funny, but it's what we're trying to do here. We are complying with the law fully, but ah, our objective is to get this person a green card, and get through the labor certification process. So certainly we are not going to try to find a place [at which to advertise the job] where the applicants are the most numerous. We're going to try to find a place where we can comply with the law, and hoping, and likely, not to find qualified and interested worker applicants.<sup>7</sup>

Numerous blogs reposted the video, and CNN's Lou Dobbs mentioned it on his TV show. Kim Berry, president of the Programmers Guild, was quoted as saying that it was "proof from the attorneys themselves that they are getting resumes from qualified Americans and they are going through all sorts of steps so that Americans don't get jobs.... It shows what's really happening behind the curtain."<sup>8</sup>

The controversy provoked by the video was such that Senator Chuck Grassley (R-IA) sent a letter to the firm which asked it to explain "how this practice [of attempting not to hire Americans] does not constitute outright discrimination based on nationality and why your firm so blatantly promotes this type of behavior."<sup>9</sup>

Not surprisingly, the AILA has fought tooth and nail against recent attempts by states such as Arizona to combat illegal immigration. When Arizona Governor Jan Brewer signed S.B. 1070, the AILA voted to boycott the state. AILA president Bernie Wolfsdorf stated that:

We cannot in good conscience spend association dollars in a state that dehumanizes the people we represent and fight for. What Governor Brewer has done by signing this bill into law is to validate all of the irrational fears by people who are not willing to acknowledge the economic and cultural benefits of

immigration to our country.<sup>10</sup>

There is certainly no doubting the “economic” benefits of immigration that accrue to immigration lawyers.

The choice of words in a 2009 email sent by then AILA president Chuck Kuck are worthy of note. Explaining that the organization intended to push “a major immigration reform initiative forward in the coming month,” the email advised members to be “vigilant, vocal and focused” for “[o]ur practices, our livelihood and our country’s future depend on it!”<sup>11</sup> While we might disagree with Mr. Kuck about how more immigration will impact the country’s future, we certainly agree that it will be good for the practices and livelihoods of immigration lawyers. ■

### Endnotes

1. <http://www.aila.org/content/default.aspx?docid=1021>
2. <http://www.aila.org/content/default.aspx?docid=19540>
3. <http://www.aila.org/content/default.aspx?docid=20749>
4. <http://www.aila.org/content/default.aspx?docid=21199>
5. <http://www.aila.org/content/default.aspx?docid=12130>
6. Ben Hallman, THE AM LAW 100: Immigration Powerhouse Reports Big Dip in Profits Per Partner, *The American Lawyer Daily*, February 26, 2012 (available at <http://amlawdaily.typepad.com/amlawdaily/2009/02/immigration-powerhouse-reports-big-dip-in-profits-per-partner.html>); see also Jon Feere’s commentary, available at <http://cis.org/feere/jobsecurity>.
7. <http://www.vdare.com/posts/cohen-grigsby-youtubevideo-available>
8. <http://old.post-gazette.com/pg/07173/796195-28.stm>
9. [http://www.grassley.senate.gov/news/Article.cfm?customel\\_dataPageID\\_1502=11770](http://www.grassley.senate.gov/news/Article.cfm?customel_dataPageID_1502=11770)
10. <http://www.aila.org/content/default.aspx?docid=31831>
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