

# Congress of the United States

Washington, DC 20515

June 21, 2007

The Honorable Elaine Chao  
Secretary  
Department of Labor  
200 Constitution Avenue, NW  
Washington, D.C. 20210

Dear Secretary Chao:

Attached, please find a letter that we sent to Cohen & Grigsby about a seminar conducted by their law firm in May of this year. The firm videotaped the Seventh Annual Immigration Law Update Seminar, exposing the blatant disregard for American workers and deliberate attempt to bring in cheaper foreign workers through the H-1B program.

As outlined in our letter, we are concerned that companies are abusing the H-1B program. The video explicitly shows how attorneys are aiding companies in this effort. We seek your assistance in this particular case by reviewing the video and investigating the law firm's unethical procedures and advice to clients.

In addition, we are concerned about the level of fraud monitoring of the H-1B visa program by your Department. Given that the immigration bill before the Senate includes a provision to allow your Department to divert special fraud monitoring funds to other operations, we would like to know how many dollars have been used specifically for H-1B fraud efforts. Specifically, we would like to know:

- Annually, what is the total amount of funds deposited into the Fraud Fee account under INA Section 286(v)? Of this amount, what amount is provided to the Department of Homeland Security under 286(v)(2)(C)?
- How have the funds provided pursuant to 286(v)(2)(C) been used in FY2005, FY2006, and thus far in FY2007? How many funds are not expended in a given year?
- How does the Department plan to spend the remaining dollars left in FY2007?
- How many complaints have been lodged to the Department of Labor regarding the H-1B visa program? Of these, how many investigations have been opened by the Department in the last year? How many have been closed and why have they been closed?

Please contact Kathy Nuebel of Senator Grassley's staff (224-3744) or Allison Beach with Congressman Smith (225-6906) if you have any questions regarding this matter. Thank you in advance for your cooperation.

Sincerely,

  
Charles E. Grassley  
United States Senator

  
Lamar Smith  
Member of Congress

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June 21, 2007

Cohen & Grigsby  
11 Stanwix Street  
15<sup>th</sup> Floor  
Pittsburgh, PA 15222-1319

To Whom It May Concern:

As members of the Senate and House Judiciary Committees, we have a responsibility to oversee and evaluate our country's visa programs. We have become increasingly concerned about fraud and abuse of the H-1B program, and the impact of this program on American workers.

While many companies insist that they are not participating in fraud, many are finding loopholes around government rules and regulations in order to bring in cheaper foreign workers. These loopholes lead to abuse that ultimately displace qualified Americans. The abuse is evident thanks to a video produced by your firm during the Seventh Annual Immigration Law Update Seminar conducted in May 2007 in Pittsburgh.

In the video, Lawrence Lebowitz, director of marketing for your firm clearly states that an employer's goal is "to meet the requirements...as inexpensively as possible, keeping in mind our goal. And our goal is clearly not to find a qualified and interested U.S. worker. In a sense that sounds funny, but it's what we're trying to do here." In fact, Mr. Lebowitz states that other members of his team will help employers bypass Americans. The video provides evidence of how your firm recommends employers accomplish this.

The spirit of the H-1B visa program was intended to bring temporary workers to our country to fill a void in the high tech sector, and to enhance the United States' position in the global marketplace. The video made by your firm advises potential employers that they can fulfill Department of Labor PERM certification requirements by advertising the position in places where they will not find the most qualified applicants. Your firm asserts that an employer can advertise in regional publications with limited circulation, while internally listing the job for a foreign worker. We would like you to please explain how this practice does not constitute outright discrimination based on nationality and why your firm so blatantly promotes this type of behavior.

When applications are received, firm members Jennifer Pack and Jennifer Barton tell employers how they can disqualify U.S. applicants based on their resume or by personal interview when the resume lists all requirements of the job posting. Very qualified applicants are brought in for an interview for the sole purpose of finding a basis to disqualify them. Why does your firm undermine the recruitment effort by coaching potential employers to “find a legal basis to disqualify Americans” to hire a foreign worker?

In addition to explaining the video, we respectfully request that your firm provide us with the number of H-1B visa holders who have been petitioned for or hired by your firm in the past five years. We would also appreciate knowing exactly how many and the names of your clients who have been assisted by your firm to bring in H-1B workers.

The H-1B positions are available in limited quantity each year and the PERM certification process was created to fill positions where no qualified U.S. worker is available. Your firm’s video advises employers how to hire only foreign labor, while making it nearly impossible for a qualified American worker to get the job. We look forward to hearing from you on how such advice is ethical and does not undermine the programs by enticing fraud and misuse.

Sincerely,



Charles E. Grassley  
United States Senator



Lamar Smith  
Member of Congress