

OFFICE OF THE ATTORNEY GENERAL
OF THE STATE OF NEW YORK
CIVIL RIGHTS BUREAU

IN THE MATTER OF THE INVESTIGATION OF
ANDREW M. CUOMO, ATTORNEY GENERAL OF THE
STATE OF NEW YORK,

AOD No. 10-095

OF

MIGUEL FITTIPALDI and
MIGUEL FITTIPALDI, J.D., LTD.

ASSURANCE OF DISCONTINUANCE

The Office of the Attorney General of the State of New York (“OAG”), pursuant to New York State Executive Law § 63(12), conducted an investigation of certain policies, procedures, and practices of Miguel Fittipaldi, J.D., Ltd. (“Fittipaldi, Ltd.”), an entity primarily engaged in the business of providing immigration-related services for a fee in New York State, and its owner Miguel Fittipaldi (“Fittipaldi”).

Specifically, the OAG investigated whether Fittipaldi, Ltd. and Fittipaldi, in violation of New York State Executive Law § 63(12); New York State General Business Law (“GBL”) §§ 349, 350, and 460-a *et seq.*; New York State Judiciary Law § 478; New York State Human Rights Law § 296(2)(a); New York City Human Rights Law § 8-107(4); and New York City Immigration Service Provider Law § 20-770 *et seq.*, engaged in unlawful business practices, including the unauthorized practice of law in New York State, by providing immigration-related services to members of the public.

DEFINITIONS

1. As used throughout this Assurance, the terms set forth below shall be defined as follows:
 - (a) “Advertisement” means any written or oral communication made by or on behalf of Fittipaldi, Ltd. or Fittipaldi about Fittipaldi, Ltd., including, but not limited to, print, television, radio, and internet.
 - (b) “Assurance” means this Assurance of Discontinuance.
 - (c) “Customer” means any client, individual or entity that paid for immigration-related services offered by Fittipaldi, Ltd. or Fittipaldi.
 - (d) “Effective Date” means the last date this Assurance is signed by any of the parties hereto.
 - (e) “Immigration Services” means any service provided to individuals to aid or purporting to aid them in any immigration matter including, but not limited to, the obtaining of a “green card,” residency visa or any other document or process relating to or affecting an individual’s immigration status in the United States.
 - (f) “Fittipaldi, Ltd./Fittipaldi” means Miguel Fittipaldi, Miguel Fittipaldi, J.D., Ltd., and/or all of their owners, officers, directors, managers, representatives, subsidiaries, affiliates, employees and all individuals and agents who act on their behalf.
 - (g) “Reporting Period” means all four (4) quarters in a calendar year, which are January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31.
 - (h) Terms of construction:

- i. “And” and “or” shall be construed conjunctively or disjunctively as necessary to make the meaning inclusive rather than exclusive.
- ii. “All” means “any and all” and “any” means “any and all.”
- iii. “Including” means without limitation.
- iv. “Day” refers to a calendar day, not a business day.
- v. The singular of any word includes the plural; the plural of any word includes the singular.

FINDINGS

Introduction and Background

2. New York State residents seeking assistance in immigration matters may retain the services of a licensed attorney or a recognized organization authorized by the United States Board of Immigration Appeals (“BIA”) to provide such assistance. For clerical services only, New York State residents may retain the services of non-attorneys, also known as “immigrant assistance service providers” (“IASPs”).
3. IASPs are regulated by N.Y. Gen. Bus. Law §§ 460-a through 460-j and, if in New York City, IASPs are also regulated by Local Law 31, § 20-770 *et seq.* The law seeks to prevent individuals from preying on immigrant communities by claiming to have legal authorization to handle immigration matters. As a result, IASPs are restricted to providing solely clerical services, such as completing immigration forms based on information provided by the immigrant customer, translating documents, and mailing documents on behalf of customers to the required government agencies for processing. Further, New York State (“State”) and New York City (“City”) law requires IASPs to

comply with certain advertising guidelines, signage and surety requirements, as well as provide customers with written contracts in both English and a language that the customer can understand.

4. IASPs are legally prohibited from providing any legal services, including giving legal advice to customers on what form of immigration relief they should be seeking or what immigration forms to complete and file, or appearing in immigration court or before officials with the United States Citizenship and Immigration Services (“USCIS”).
5. Additionally, State and City law prohibits IASPs from charging any fees for referring a customer to another person or entity that is qualified to provide legal immigration services, such as an attorney or an organization accredited by the BIA. IASPs also are prohibited from charging referral fees in the form of membership fees.
6. In addition to the State and City requirements, Federal law regulates who may represent immigrants in immigration court and who may appear on behalf of immigrants before other immigration authorities such as the USCIS. The USCIS requires that representatives of immigrants complete and file a “Notice of Entry of Appearance as Attorney or Representative” (Form G-28). Only attorneys and accredited representatives of organizations recognized by the BIA as defined in 8 C.F.R. §§ 103.2 and 292.1 may file Form G-28. An individual may obtain accreditation only through an organization recognized by the BIA. The organization must submit documentation showing that it has knowledge, information and experience in immigration and nationality law and procedure. Further, the organization must certify through the application process that the individual seeking accreditation, among other things, is a person of good moral character

and will only charge or accept a nominal fee set by the organization through which the individual gains his or her accreditation.

Attorney General's Investigation

7. The OAG received complaints that Fittipaldi, Ltd./Fittipaldi engaged in unlawful business practices, including but not limited to fraud, the unauthorized practice of law, and making false promises and misrepresentations to customers concerning their immigration-related matters.
8. The OAG issued a subpoena to Fittipaldi, Ltd./Fittipaldi for documents and testimony relating to their business practices. The OAG obtained and reviewed documents from Fittipaldi, Ltd./Fittipaldi including immigration petitions, correspondence, client files, advertisements and financial statements.

Unauthorized Practice of the Law

9. The OAG investigation confirmed that Fittipaldi, Ltd./Fittipaldi are not licensed to practice law in the State of New York, and are not authorized or accredited to provide legal assistance to anyone with immigration-related matters. Nonetheless, Fittipaldi, Ltd./Fittipaldi represented to customers that they were authorized to provide legal immigration assistance.
10. Further, Fittipaldi created a company and used letterhead that gave the impression that he is an attorney experienced in immigration matters, thus engaging in the unauthorized practice of law.

Violations of the New York State and New York City Immigration Services Provider Law

11. In violation of GBL §§ 460-a through 460-j and Judiciary Law § 478, Fittipaldi, Ltd./Fittipaldi engaged in the unauthorized practice of law by advising customers in immigration matters, such as instructing customers on which immigration forms to complete and file with the immigration authorities in order to obtain certain immigration benefits and advising customers on the best course of action for their immigration matters.
12. Fittipaldi, Ltd./Fittipaldi also engaged in fraud and illegality by misleading the public indicating that they were authorized to provide legal services when in fact Fittipaldi, Ltd./Fittipaldi were charging fees for work often being handled by non-attorneys.
13. In addition, the OAG's investigation revealed that Fittipaldi, Ltd./Fittipaldi failed to comply with the requirements of providing immigration assistance services as required by the GBL § 460-a *et seq.* and NYC Immigration Service Provider Law § 20-770 *et seq.*
14. Fittipaldi, Ltd./Fittipaldi repeatedly failed to provide customers with written contracts, in both the English language and a language the customers could understand, that include disclosures and information required by GBL § 460-b. Specifically, the law requires contracts to include, in both English and the language understood by the customers, an itemization of all services to be provided, a list of fees, and language informing customers of their right to cancel the contract within three (3) business days without any penalties or fees.
15. Fittipaldi, Ltd./Fittipaldi also failed to display signs in their place of business, as required by GBL § 460-c, alerting customers of their right to cancel the contract within three (3)

business days without penalty and alerting individuals that Fittipaldi, Ltd./Fittipaldi are not a law office, cannot provide legal advice, and are not authorized to represent individuals before immigration authorities. Fittipaldi, Ltd./Fittipaldi failed to display these signs in English and in other languages customers used as required by law.

16. Fittipaldi, Ltd./Fittipaldi also failed to include in their advertisement the language required by GBL § 460-d, alerting customers that Fittipaldi, Ltd./Fittipaldi are not a law office, cannot provide legal advice, and are not authorized to represent individuals before immigration authorities.
17. Fittipaldi, Ltd./Fittipaldi also failed to provide customers with copies of every document filed on their behalf with immigration authorities as required by GBL § 460-e(7).
18. Fittipaldi, Ltd./Fittipaldi also failed to secure a surety bond payable to the People of the State of New York, and in an amount determinable by the income received from providing Immigration Services, as required by GBL § 460-g.
19. Similarly, Fittipaldi, Ltd./Fittipaldi failed to comply with the provisions of the New York City Immigration Service Provider Law § 20-770 *et seq.*, which mirror GBL § 460-a *et seq.*

Accordingly, the OAG has concluded that there is sufficient evidence to support a claim that Fittipaldi, Ltd./Fittipaldi violated New York General Business Law §§ 349, 350, and 460-a *et seq.*, New York Judiciary Law § 478, and New York Executive Law §§ 63(12) and 290 *et seq.*

PROSPECTIVE RELIEF

WHEREAS, New York Executive Law § 63(12); New York General Business Law §§ 349, 350, and 460-a *et seq.*; New York City Immigration Service Provider Law; New York Judiciary Law Article 15; and New York State and New York City Civil Rights Laws, prohibit, among other things: (1) individuals not admitted or registered as attorneys within New York State from practicing law, including but not limited to giving legal advice; (2) individuals from providing immigration services without the proper surety bond made out to the People of the State of New York and the People of the City of New York, and signs stating the provider is not an attorney, contracts in both the English language and a language the customers can understand; and (3) any conduct targeting a community because of that community's alienage, ethnicity, national origin and/or citizenship status;

WHEREAS, the OAG's investigation involved reviewing documents, pursuant to subpoena *duces tecum*, from Fittipaldi, Ltd./Fittipaldi;

WHEREAS, Fittipaldi, Ltd./Fittipaldi neither admit nor deny the OAG's Findings;

WHEREAS, the OAG is willing to accept the terms of this Assurance pursuant to New York Executive Law § 63(15) and to discontinue its investigation of Fittipaldi, Ltd./Fittipaldi; and

WHEREAS, the parties believe that the obligations imposed by this Assurance are prudent and appropriate;

IT IS HEREBY UNDERSTOOD AND AGREED, by and between Fittipaldi, Ltd./Fittipaldi and the OAG, as follows:

Entities Bound by Assurance

20. This Assurance binds Fittipaldi, Ltd./Fittipaldi, their principals, directors, beneficial owners, officers, shareholders, successors, assigns, “a/k/a” companies, “d/b/a” companies, and any other business entities whom any such individuals may hereafter form or control.

Monetary Payment

21. Fittipaldi, Ltd./Fittipaldi shall pay a total of twenty thousand dollars (\$20,000) to the State of New York to resolve this investigation.
22. Payment of twenty thousand dollars (\$20,000) shall be made on the Effective Date of this Assurance. The payment shall be in the form of a wire transfer, or a certified or bank check made out to the New York State Department of Law and forwarded to the Office of Attorney General, Civil Rights Bureau, 120 Broadway, 23rd Floor, New York, New York 10271, Attention: Alphonso B. David, Special Deputy Attorney General for Civil Rights. Any payments and all correspondence related to this Assurance must reference AOD No. 10-095.

Confession of Judgment

23. Fittipaldi agrees to execute an Affidavit of Confession of Judgment (“Confession of Judgment”) (attached as Exhibit A) upon the signing of this Assurance. The Confession of Judgment will be held in escrow and may be filed if Fittipaldi fails to make the payment, as set forth in Paragraph 22 of this Assurance. If the payment has not been made pursuant to this Assurance within thirty (30) days of the Effective Date, the OAG has the right to move to enforce the Judgment without further notice to Fittipaldi or his

counsel.

Written and Verbal Notice to Customers

24. Within fourteen (14) days of the Effective Date, Fittipaldi, Ltd./Fittipaldi shall send a letter to all current and former customers who received immigration services from Fittipaldi, Ltd./Fittipaldi. The letter should be translated into Spanish and any other language spoken by Fittipaldi, Ltd./Fittipaldi's current and former customers. The letter shall include the following:
- (a) a statement that the New York State Office of the Attorney General has entered into an agreement with Fittipaldi, Ltd./Fittipaldi;
 - (b) a statement that Fittipaldi, Ltd./Fittipaldi have agreed to stop offering and providing immigration services effective immediately and indicating the date when the office will be officially closed;
 - (c) a statement that the customer has the right to obtain their file from Fittipaldi, Ltd./Fittipaldi (including the time and place the request for files may be made and whether requests may be made by phone, facsimile or e-mail), or may request that Fittipaldi, Ltd./Fittipaldi, at Fittipaldi, Ltd./Fittipaldi's expense, mail the files to the customer;
 - (d) a statement that immigration matters are time-sensitive and the customer should promptly seek the assistance of an immigration attorney, an accredited organization or other authorized immigration service provider;

- (e) a phone number where clients may contact a representative of Fittipaldi, Ltd./Fittipaldi until the dissolution of Fittipaldi, Ltd. is complete with questions about their cases and any documents in connection with their files;
 - (f) a notice that a monetary fund has been created to compensate customers who are entitled to a refund of their money (attached as Exhibit B);
 - (g) a notice that Fittipaldi, Ltd./Fittipaldi may not refer customers to any attorneys; and
 - (h) an attachment of the list of BIA and pro-bono accredited organizations provided to Fittipaldi, Ltd./Fittipaldi by the OAG.
25. Fittipaldi, Ltd./Fittipaldi shall, within three (3) days of the Effective Date, forward the draft letter as required by Paragraph 24 along with translations of the letter, to the OAG for approval.
26. Within ten (10) days of the Effective Date, Fittipaldi, Ltd./Fittipaldi shall identify the files of customers who may have upcoming deadlines or pending hearing dates in their cases. Fittipaldi, Ltd./Fittipaldi shall contact these customers by phone and give notice of the information required by Paragraph 24 followed by the written notice.

Signage

27. Within five (5) days of the Effective Date, Fittipaldi, Ltd./Fittipaldi shall post and maintain in a conspicuous place at each place of business a sign alerting individuals that, pursuant to the OAG's investigation and findings, Fittipaldi, Ltd./Fittipaldi are no longer providing immigration services, and to recommend that individuals contact an accredited organization or an immigration attorney. The sign shall be no smaller than 18" x 22" and

in 60-point type and be translated into Spanish and any other language spoken by the customers who received immigration services from Fittipaldi, Ltd./Fittipaldi. Fittipaldi, Ltd./Fittipaldi shall submit a copy of the sign to be posted for approval to the OAG.

28. Within five (5) days of the Effective Date, Fittipaldi, Ltd./Fittipaldi shall also post a sign in each place of business alerting customers that they may file a complaint with the OAG if they believe they have been a victim of immigration fraud (attached as Exhibit C).

Advertising

29. Within seven (7) days of the Effective Date, Fittipaldi, Ltd./Fittipaldi shall send a notice to all applicable communication outlets, including but not limited to, newspapers, television and radio stations and web-based outlets, canceling any future written and/or oral advertisements, whether in English or any other language in which Fittipaldi, Ltd./Fittipaldi advertised. Prior to mailing such notice, Fittipaldi, Ltd./Fittipaldi shall submit it to the OAG for approval.

Dissolution of Business Entity

30. Fittipaldi, Ltd./Fittipaldi shall cease and desist from operating any business which provides immigration services to customers including, but not limited to, assisting customers in completing required forms and affidavits for submission to the USCIS or other government agencies.
31. Fittipaldi shall dissolve Fittipaldi, Ltd. and its successors in interest, assigns, "d/b/a companies," "a/k/a companies," affiliates, and subsidiaries and submit proof of the dissolution(s) to the OAG within sixty days (60) days of Effective Date.
32. Fittipaldi agrees that he is permanently barred from serving as an officer, director, trustee,

manager or fundraiser of a not-for-profit entity or for-profit entity that is in the business of providing immigration-related services in the State of New York.

Record-Keeping

33. Fittipaldi, Ltd./Fittipaldi shall maintain the following records during the duration of the Assurance:

- (a) All documents concerning the letter and other communication Fittipaldi, Ltd./Fittipaldi have with customers as required by Paragraphs 24 and 25;
- (b) All documents concerning the posting and/or recording of any sign or advertisement affected by the provisions in Paragraphs 27-29;
- (c) All documents concerning any individual complaints related to the provision of immigration services;
- (d) All documents concerning any complaints alleging that Fittipaldi, Ltd./Fittipaldi have engaged in unlawful practices or failed to comply with this Assurance;
- (e) Any and all customer files that were not retrieved by the customer or were returned by mail as undeliverable.

34. For the duration of this Assurance, the OAG shall have the right to request, at any time that Fittipaldi, Ltd./Fittipaldi produce, within fourteen (14) days of the request, any document required to be maintained by Fittipaldi, Ltd./Fittipaldi under this Assurance.

Penalties

35. If the OAG finds evidence that Fittipaldi, Ltd./Fittipaldi failed to comply with the applicable laws or any provision of this Assurance, Fittipaldi, Ltd./Fittipaldi shall pay a penalty to the OAG of five thousand dollars (\$5,000) for each instance of noncompliance,

including but not limited to, failing to cease and desist to conduct an immigration services business as required by Paragraph 30 or send letters to customers as required by Paragraph 24 and an additional five hundred dollars (\$500.00) per day where instances of noncompliance are not rectified.

36. Individuals may submit complaints alleging that Fittipaldi, Ltd./Fittipaldi have engaged in unlawful conduct or failed to comply with applicable laws. If an individual brings such a complaint directly to Fittipaldi, Ltd./Fittipaldi, Fittipaldi, Ltd./Fittipaldi shall forward the complaint to the OAG within two (2) days of receiving such complaint.

**SCOPE OF THE ASSURANCE, JURISDICTION,
AND ENFORCEMENT PROVISIONS**

37. The OAG has agreed to the terms of this Assurance based on, among other things, the representations made to the OAG by Fittipaldi, Ltd./Fittipaldi and their counsel and the OAG's own factual investigation as set forth in Findings 2-19 above. To the extent that any material representations are later found to be inaccurate or misleading, this Assurance is voidable by the OAG in its sole discretion. Unless another time period is provided with respect to particular relief being agreed upon, this Assurance will expire three (3) years after the Effective Date.
38. Notwithstanding any provision of this Assurance to the contrary, the OAG may, in its sole discretion, grant written requests for extensions of time for Fittipaldi, Ltd./Fittipaldi to comply with any provision of this Assurance upon a good-faith determination that Fittipaldi, Ltd./Fittipaldi has not complied with this Assurance, which non-compliance the OAG will discuss and attempt to resolve with Fittipaldi, Ltd./Fittipaldi in good-faith before making such determination.

39. The signatories to this Assurance warrant and represent that they are duly authorized to execute this Assurance and that they have the authority to take all appropriate action required or permitted to be taken pursuant to this Assurance to effectuate its terms.
40. No representation, inducement, promise, understanding, condition, or warranty not set forth in this Assurance has been made to or relied upon by Fittipaldi, Ltd./Fittipaldi in agreeing to this Assurance.
41. The OAG may seek to enforce this Assurance through enforcement proceedings including a civil action in federal or state court seeking appropriate relief, such as specific performance of the provisions of this Assurance. Pursuant to New York State Executive Law § 63(15), evidence of a violation of the Assurance will constitute *prima facie* proof of a violation of the applicable laws in any civil action or proceeding hereafter commenced by the OAG. In the event of a dispute among the parties regarding any issue arising hereunder, the parties will attempt in good faith to resolve the dispute before seeking judicial intervention.
42. If a court of competent jurisdiction determines that Fittipaldi, Ltd./Fittipaldi has breached this Assurance, Fittipaldi, Ltd./Fittipaldi shall pay to the OAG the cost, if any, of such determination and of enforcing this Assurance, including, without limitation, legal fees, expenses, and court costs.
43. Any failure by the OAG to enforce this entire Assurance or any provision thereof with respect to any deadline or any other provision herein shall not be construed as a waiver of the OAG's right to enforce other deadlines and provisions of this Assurance.
44. If any provision, term, or clause of this Assurance is declared illegal, unenforceable, or

ineffective in a legal forum, such provision, term, or clause shall be deemed severable, such that all other provisions, terms, and clauses of this Assurance shall remain valid and binding on the parties.

45. This Assurance constitutes the entire agreement between Fittipaldi, Ltd./Fittipaldi and the OAG on the matters raised herein, and no other statement, promise or agreement, either written or oral, made by either party or agents of either party that is not contained in this Assurance shall be enforceable.
46. Nothing in this Assurance is intended to, nor shall, limit the OAG's investigatory or compliance review powers otherwise provided by law or this Assurance.
47. Nothing in this Assurance shall be construed to prevent any individual from pursuing any right or remedy under the law.
48. This Assurance may be executed in multiple counterparts, each of which shall be deemed a duplicate original.
49. This Assurance is final and binding on the parties, including principals, directors, beneficial owners, officers, shareholders, agents and representatives, successors in interest, assigns, "d/b/a companies," "a/k/a companies," affiliates, subsidiaries, legal representatives thereof, and any other business entities whom any such individuals may hereafter form or control. No assignment by any party hereto shall operate to relieve such party of its obligations herewith.
50. Fittipaldi, Ltd./Fittipaldi represents and warrants, through the signatures below, that the terms and conditions of this Assurance are duly approved, and execution of this Assurance is duly authorized. Fittipaldi, Ltd./Fittipaldi agree not to take any action or to

make or permit to be made any public statement denying, directly or indirectly, any finding in this Assurance or creating the impression that this Assurance is without factual basis. Nothing in this paragraph affects Fittipaldi, Ltd./Fittipaldi's (a) testimonial obligations; or (b) right to take legal or factual positions in defense of litigation or other legal proceedings to which the Attorney General is not a party.

51. This Assurance may not be amended except by an instrument in writing signed on behalf of all the parties to this Assurance.
52. This Assurance shall be binding on and inure to the benefit of the parties to this Assurance and their respective successors and assigns, provided that no party, other than the OAG, may assign, delegate, or otherwise transfer any of its rights or obligations under this Assurance without the prior written consent of the OAG.
53. Any payments and all correspondence related to this Assurance shall reference the OAG Assurance Number AOD 10-095.
54. All communications and notices regarding this Assurance shall be sent by first-class mail and, if twenty-five (25) pages or fewer in length, by facsimile, to:

Office of the NYS Attorney General:
Vilda Vera Mayuga
Civil Rights Bureau
Office of the NYS Attorney General
120 Broadway, 23rd Floor
New York, New York 10271
Tel. (212) 416-8250
Fax (212) 416-8074

Attorney for Fittipaldi, Ltd./Fittipaldi:
Justin Levine
859 Concourse Village West
Bronx, New York 10451
Tel. (718) 992-9601
Fax (718) 293-2891

Any changes in the person to whom communications should be specifically directed shall be made in advance of the change.

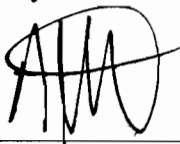
55. Acceptance of this Assurance by the OAG shall not be deemed approval by the OAG of


any of the practices or procedures referenced herein, and Fittipaldi, Ltd./Fittipaldi shall make no representation to the contrary.

56. The OAG finds the relief and agreements contained in this Assurance appropriate and in the public interest. The OAG is willing to accept this Assurance pursuant to Executive Law § 63(15), in lieu of commencing a statutory proceeding. This Assurance shall be governed by the laws of the State of New York without regard to any conflict of law principles.

IN WITNESS THEREOF, this Assurance is executed by the parties hereto as follows:

ANDREW M. CUOMO
Attorney General of the State of New York

By: 
ALPHONSO B. DAVID
Special Deputy Attorney General
for Civil Rights

By: 
SPENCER FREEDMAN
Chief Counsel for Civil Rights

VILDA VERA MAYUGA
Assistant Attorney General

SANDRA ABELES
Assistant Attorney General

Civil Rights Bureau
120 Broadway
New York, New York 10271

Dated: ~~July~~ ^{August} 17, 2010

MIGUEL FITTIPALDI

By:


Miguel Fittipaldi

In his personal and individual capacity

Dated: July 28, 2010

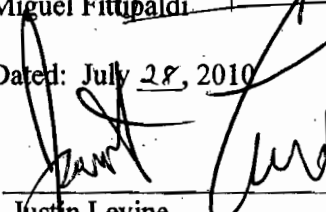
MIGUEL FITTIPALDI, J.D., LTD.

By:


Miguel Fittipaldi

Dated: July 28, 2010

By:


Justin Levine
Counsel for Miguel Fittipaldi and
Miguel Fittipaldi, J.D., Ltd.

Dated: July 28, 2010