The Comprehensive Immigration Reform Saga
By Pierre Bonnefil

On June 19, 2008, my firm, Epstein Becker and Green, P.C., co-hosted a very special event at the Yale Club in New York along with the Mexican Law firm, Bryan, Gonzalez, Vargas y Gonzalez-Baz, S.C., and Pinnacle Achievement President Daniel Gutierrez. It was designed to be an informal meet-and-greet of the new Consul General of Mexico, Ambassador Ruben Beltran Guerrero. The evening turned out to be a success, because of the positive energy and the sheer enthusiasm of the participants. As expected, Ambassador Beltran was charming and presented a number of interesting points regarding Mexico and the US and the need to continue working together as business partners—especially during these difficult economic times.

He also stated that the Mexicans and the Hispanics, in general, are a very big part of this country, and will also continue to be an integral part of the economic solution and prosperity of the US and its neighbors to the south.

He added further, that in an attempt to assist the Hispanic communities of the tri-state area, he and other Consul Generals were going to host the June 21 Feria Consular Latinoamericana in Harrison, New Jersey. Here the consulates Mexico, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Peru, the Dominican Republic, and Uruguay provided services to their constituents. It would be the first time that several consulates of Latin America in the U.S came together to provide services in a joint fashion simultaneously. I found this to be a strong step in the right direction and something on which I commend Ambassador Beltran and the other eight consulates that participated in this groundbreaking event.

This is a strong representation to the world of what we can accomplish as a group, if we put our heads together and work for the greater good of our people. There is strength in our diversity. However, as similar or different as we may be, we ultimately face the same problems on a daily basis—especially in the larger immigration context. As mentioned in last month’s segment, the immigrant community is facing an uphill battle because of the lack of comprehensive immigration reform. The individual states have been trying on their own to come up with immigration reform, which has proved to be quite messy. Since a number of the state immigration laws contradict each other on immigration compliance, employers who have offices/facilities in different states have a compliance nightmare on their plates.

With regards to immigration reform, I was recently asked to prepare a position paper for one of my clients, in which I was asked to set forth the concerns facing big business in this fight for immigration reform. During my research and interview process, I concluded that yes, we need to take care of the undocumented and the problems they are facing, but that it is just as important to keep our sights on the problems facing big businesses in their attempt to hire the best and the brightest, who often times are foreign nationals.

In order to get an idea of the horrible state the business of immigration is in, all we have to do is look at the ill-fated H-1B nonimmigrant visa program. The H-1B visa is the workhorse of the business immigration practice since it provides professionals with the opportunity to accept temporary employment with US employers. This year, as in the last two years, the immigration practitioners were faced with a very hectic task: putting together H-1B petitions and filing them on April 1—with no real guarantee that our petitions would even be accepted. The USCIS provided us with a strict guide as to exactly how...
the petitions had to be prepared and set forth a zero tolerance policy for non compliance.

After the random lottery was announced and conducted, we received filing receipts for those who were lucky enough to be accepted and rejections for those who were not selected. That is when the real “fun” began. We had to notify those unfortunate applicants that their petitions were not selected. As can be imagined, the news of non-selection was not well received by the corporations and their employees.

We then began the mad scramble to come up with a plan of action for each of these unlucky people. As many of my corporate clients have told me over and over again: How are we expected to run a business in this way? Our hand-picked prospective employees are subject to an arbitrary and random selection process, which we can not prepare influence in any way, what can we do? They added further that in order to remain competitive in these trying economic times it is imperative that they be able to attract the best and brightest—but that under the current immigration system this is impossible.

Many of the immigrants who would have been more than happy to remain in this country have set their eyes on other more immigrant friendly countries and this, unfortunately, is not helping us compete in today’s economy. We are rapidly losing our edge and our ability to compete with other countries vis-à-vis the recruitment and employment of the next generation of scientists and other business professionals. As a reaction to the above, many employers have set up operations in Canada and Europe where they can more easily navigate the immigration minefield.

I am aware that we face an uphill battle with the illegal immigrants in this country but we must not lose track of the professionals and their plight. Without these two groups we are in danger of losing our standing in the world, as a country that is immigrant friendly.

© Babbalu.com, All rights reserved.