

# 7 FAM 990 LISTS OF ATTORNEYS

## 7 FAM 991 TRIENNIAL PREPARATION

(TL:CON-61; 8-30-94)

a. All posts shall submit triennially to the Department (CA/OCS), by memorandum, a list of attorneys of U.S. and foreign nationality who are active practitioners of good repute, who reside in the consular district, and who are believed to be qualified to perform legal services on behalf of U.S. citizens or firms, give advice as to foreign law, and to serve in a fiduciary capacity or as a transactional intermediary.

b. Consular officers should prepare the list carefully [see reporting schedule, 7 FAM 994]. It is a valuable tool for the Department and members of the public who rely on the list for assistance in a wide variety of cases, including arrests, child custody, property, estates, and judicial assistance.

c. Prepare each such list on reproducible master sheets. Send it to the Department (CA/OCS) as an enclosure to a memorandum (unless the post elects to reproduce its own list as indicated in sections 7 FAM 991 d and e). Begin each report with pertinent data on the limits of the consular district, banking and credit report information, and postage rates. Print the following waiver of responsibility preceding the attorneys' names:

"The [name and location of post] assumes no responsibility for the professional ability or integrity of the following persons or firms."

d. The Department is obliged to limit to 20 pages the lists sent to it for reproduction. (Posts reproducing the lists locally are not bound by that limit.) If the consular officer considers that 20 pages are insufficient, the list may be prepared on legal size paper, which can be reduced by photocopier for reproduction on 8 1/2" x 11" sheets. The Department will print the list on both sides of the paper.

e. Posts that have copiers should use them for reproducing lists of attorneys. Posts without copiers should investigate the cost of local printing by an outside contractor before using the Department's facilities. Posts that reproduce lists locally are requested to send the Department one clear copy of the list under cover of a memorandum.

## **7 FAM 992 COMPILING LISTS OF ATTORNEYS**

(TL:CON-61; 8-30-94)

a. When updating their list of attorneys, consular officers should send letters and questionnaires [see 7 FAM 992 Exhibit 992 ] to the attorneys in their consular districts. Use responses to these questionnaires as a guide in determining whether a name should be included on the consular list of attorneys. *The Department has no objections to inclusion of American attorneys in the list provided the post clearly differentiates lawyers licensed to practice in the country concerned from American attorneys present in the country available for consultation and legal advice, who cannot represent persons in court.*

b. Make every effort to recruit attorneys from outlying areas in the consular district; *do not* limit the list to attorneys in major cities. Local bar associations may be helpful in determining whether an attorney is in good standing.

c. *Because the list is for the benefit of U.S. citizens, the majority of whom may not speak the host country language, make efforts to include attorneys fluent in English and those willing to handle a variety of cases, including criminal cases.*

## **7 FAM 993 COMPLAINTS**

(TL:CON-61; 8-30-94)

a. Consular officers do not have the authority or the facilities to function as bar association disciplinary committees. Nevertheless, a complaint about an attorney included on the consular list should not be ignored. If the consular officer is unable to resolve amicably problems between a U.S. citizen and a local attorney, the consular officer should consider giving the address of the local bar association to the complainant. In a particularly egregious case, the consular officer may choose to bring the matter to the attention of the bar personally.

b. Consular officers should keep a record of such complaints. Any attorney about whom more than three complaints are received from separate persons in a 2-year period should be considered for deletion from the list following investigation of the problem by the consular officer. Never use the threat of deletion from the list as a lever against an attorney.

c. There is no valid reason for including or maintaining on the list the name of any attorney who has been suspended by a local bar association. This is more serious than personal complaints.

## **7 FAM 994 REPORTING SCHEDULE**

(TL:CON-61; 8-30-94)

All posts must submit the List of Attorneys to the Department triennially on June 30. *In the interim period, posts may at any time, but not later than one year, submit an addendum if significant changes occur.*

**NOTE:** If there are no changes on a list of attorneys from one reporting period to another, prepare a new cover sheet, using the current year, so that recipients will not assume that the list is out of date.

## **7 FAM 995 ASSISTANCE IN SELECTING ATTORNEYS IN UNITED STATES**

(TL:CON-61; 8-30-94)

When any person in the consular district desires to have the name of an attorney in the United States, refer that person to the Martindale-Hubbell Law Directory or to the Directory of Lawyer Referral Services [see *Appendix D at the end of this chapter*]. The consular officer should refrain from recommending any particular attorney.

## **7 FAM 996 INCLUSION OF NOTARIES, INTERPRETERS, AND COURT REPORTERS ON LIST OF ATTORNEYS**

(TL:CON-61; 8-30-94)

The Department (CA/OCS) receives many inquiries about which notaries' seals are on file with the consular officer and whether interpreters and court reporters are available locally. Include such information as an addendum to the list of attorneys.

## **7 FAM 997 INFORMATION SHEET ON RETAINING AN ATTORNEY ABROAD**

(TL:CON-61; 8-30-94)

The Department (CA/OCS) has prepared an information sheet on how to select a foreign attorney. *Posts may distribute* this sheet with each list of attorneys given to requesting parties [see 7 FAM 997 Exhibit 997 ].

## **7 FAM 998 THROUGH 999 UNASSIGNED**

## 7 FAM 992 Exhibit 992

### SAMPLE OF A LETTER TO FOREIGN ATTORNEY AND QUESTIONNAIRE FOR ATTORNEYS WILLING TO REPRESENT U.S. CITIZENS ABROAD

Sample of a Letter to a Foreign Attorney

Embassy of the United States  
of America  
Guatemala City, Guatemala,  
*January 3, 1994*

*Diego SALAZAR Perez*  
*Attorney at Law*  
*32 Avenida Mudejar*  
*Zona 3, 80. Nivel*  
Guatemala City, Guatemala

*Dear Mr. Salazar:*

*This office often receives requests from persons or firms in the United States for a list of attorneys in our consular district interested in representing them in private legal matters. Increased international trade, travel, cultural exchange and crime have contributed to the greater need of United States citizens to retain competent local attorneys.*

*If you would like your name to appear on such a list, kindly complete and return the enclosed questionnaire. An extra copy of the questionnaire is included as you may wish to retain one for your files.*

Such lists are not published. They are distributed privately upon request to United States citizens in need of legal counsel in Guatemala. The lists are revised *triennially with interim addendum as needed*, to ensure that local counsel are still practicing in the consular district and are willing to represent clients from the United States.

Sincerely,

*Roberta M. Teasdale*  
American Consul General

Enclosures:  
Questionnaires (2 Copies)

Questionnaire For Attorneys Who Are  
Willing to Represent U.S. Citizens Abroad

Your answers to the following questions will help U.S. citizens and businesses decide whether you are the local attorney they should retain to represent them in Guatemala.

1. What is your name?
2. Your Date and Place of Birth:
3. What is the name of your law firm?
4. Partners, if any:
5. What is the address of your law firm?  
Office Telephone:  
FAX Number:  
Home Telephone:
6. Describe your ability to read and speak English:  
Fluent/Good/Limited. *Also include any other languages, outside of your native language.*
7. Describe your educational background:
8. Which of the following types of cases are you willing to handle? *(Please indicate your choice by checking the appropriate letters.)*

<i>a. Adoptions</i>	<i>m. Government Relations</i>
<i>b. Aeronautical/Maritime</i>	<i>n. Insurance</i>
<i>c. Auto/Accidents</i>	<i>o. Investment</i>
<i>d. Banking/Financial</i>	<i>p. Immigration</i>
<i>e. Child Custody</i>	<i>q. Labor Relations</i>
<i>f. Civil Damages</i>	<i>r. Marketing Agreements</i>
<i>g. Collections</i>	<i>s. Marriage/Divorce</i>
<i>h. Contracts</i>	<i>t. Mining</i>
<i>i. Corporations</i>	<i>u. Narcotics</i>
<i>j. Estates</i>	<i>v. Patents/Trademarks/Copyrights</i>
<i>k. Foreign Claims</i>	<i>w. Taxes</i>
<i>l. Foreign Investments</i>	<i>x. Theft/Fraud/Embezzlement</i>
9. Can you provide the services of a certified translator, court reporter/stenographer or notary?
10. Will you take cases outside of the City?
11. Do you represent any U.S. law firms or companies?
12. *How long and in what locations have you practiced law?*

# 7 FAM 997 Exhibit 997

## SAMPLE INFORMATION SHEET ON RETAINING AN ATTORNEY ABROAD

### RETAINING AN ATTORNEY ABROAD

*The following guidelines may be helpful to you in retaining the services of an attorney abroad to protect your interest.*

#### I. Selecting an Attorney

*It is wise to contact several attorneys, briefly describing the nature of the services you desire. Before deciding which attorney to employ, ask for a written schedule of fees generally charged for the services you need. Be sure to ask whether the attorney is fluent in English. Do not turn over documents or funds until you are certain that the attorney fully understands your legal needs and is willing to handle your case.*

#### II. Barristers and Solicitors

In some foreign cities, districts, or provinces it may be necessary to retain the services of both a solicitor and a barrister. In such jurisdictions, barristers are allowed to appear in court, including trial courts and higher courts of appeal or other courts. Solicitors are allowed to advise clients and sometimes represent them in the lower courts. They may also prepare cases for barristers to try in the higher courts.

#### III. Notaries Public, "Notaries" and "Huissiers"

In some foreign countries, notaries public, "notaries" and "huissiers" can perform many of the functions performed by attorneys in the United States. Foreign notaries frequently draft instruments, wills and conveyances. In some countries a notary is a public official, appointed by the Ministry of Justice, whose functions include not only the preparation of documents, but the administration and settlement of estates. Such notaries serve as repositories for wills and are empowered to serve legal documents. In some countries the "huissiers" serve documents. They are not lawyers but are very specialized members of the legal profession. They may not plead cases in court.

#### IV. Assistance of the U.S. Embassy or Consulate

*Should your communication with a foreign attorney prove unsatisfactory, a U.S. consular officer may, if appropriate, communicate with the attorney on your behalf. In addition, complaints against foreign attorneys whose names appear on the list can result in the removal of their names from the list.*

#### V. Coordination with Counsel in the United States

American attorneys may not be in a position to represent your interests abroad, particularly because they will not be permitted to participate in foreign court proceedings under the laws of the foreign country. American attorneys experienced in international *procedure* may be helpful in explaining the complex international issues involved in your case and some may have associates or partners abroad to whom they can refer you.

VI. Legal Aid Association

There may be facilities in the foreign country for low cost or free legal services. If the information about such assistance is not included in the list of attorneys, ask the local bar association or the Ministry of Justice about the availability of legal aid.

VII. How to Deal With Your Foreign Attorney

- a. Find out the attorney's qualifications and experience.
- b. Find out how the attorney plans to represent you. Ask specific questions *and expect the attorney to explain the legal process in the country concerned, as well as the legal activities planned on your behalf, in language that you can understand. Have your attorney analyze your case, giving you the positive and negative aspects and probable outcome. Be honest with your attorney. Tell the attorney every relevant fact in order to get the best representation of your interests. Do not fail to ask how much time the attorney anticipates the case may take to complete.*
- c. Find out what fees the attorney, "notarie" or "huissier" charge and *what fees are expected*, "Notaries" and "huissiers" are usually government officials who must charge fees established by their governments. Some *attorneys expect payment in advance*; some demand payment after each action *taken, refusing to proceed until they are paid*. Others may take the case on a percentage basis, collecting a pre-arranged percentage of the monies awarded by a foreign court.
- d. Ask that your attorney keep you advised of the progress of your case according to a pre-established schedule. *Remember your responsibility to keep your attorney informed of any new developments in your case. Request copies of all letters and documents prepared on your behalf.*
- e. Do not expect your attorney to give a simple answer to a complex legal problem. Be sure you understand the technical language contained in *any* contract or other legal document prepared by your attorney.

NOTE: In some countries the court recess for a period of several months *during the summer*. In addition, even if the case is resolved, currency control laws are *often complex and may delay the transfer* of funds awarded to you from the foreign country for an indefinite time.

VII. Assistance of the Department of State

If you have additional questions, contact the appropriate division of the Office of Citizens Service, Room 4817, Department of State, Washington, D.C. 20520.

Europe and Canada Division, (202) 647-3445  
Inter-American Division, (202) 647-3712  
East Asia and Pacific Division, (202) 67-3675  
African Division, (202) 647-4994  
Near East and South Asia Division, (202) 647-3926

XI. Complaints Against Foreign Attorneys

If the service of your foreign attorney proves unsatisfactory, in addition to notifying the Department of State and the U.S. embassy or consulate abroad, you may address your complaints to the local foreign bar association.