



**Mayor's Office of Special Enforcement  
New York City Council  
Committee on Small Business  
August 13, 2020**

Good morning, Chairperson Gjonaj and members of the Committee on Small Business. My name is Christian Klossner and I am the Executive Director of the Office of Special Enforcement (OSE), which is overseen by the Mayor's Office of Criminal Justice. Thank you for the opportunity to testify today.

OSE's mandate, originating from a Mayoral Executive Order in 2006, is to coordinate efforts across City agencies to problem-solve around emerging issues adversely affecting neighborhood cohesion, livability, and safety. OSE has served this function in numerous issue areas, with the vast majority of this work over the past several years focused on preventing the housing loss and community disruption caused by illegal short term rentals. Since the emergence of Covid-19, OSE has been engaged in new work streams related to the pandemic, including, pursuant to a designation from the corporation counsel, taking a lead in investigating industry compliance with Local Law 51 and 52 of 2020.

Taken together, these laws prohibit a "third-party food delivery service," from 1) charging a food service establishment any fee for a telephone order if a telephone call does not result in an actual transaction, 2) charging a delivery fee more than 15% of the purchase price of an order, and 3) charging fees for the use of their service other than a delivery fee that total more than 5% of the purchase price of each online order. These laws carry significant penalties, and enable the City to seek both injunctive relief and monetary penalties, including fines, restitution for illegally charged establishments, and attorneys' fees.

OSE pivoted quickly to support the implementation of this law. The office interviewed several restaurant owners and gathered documents to understand current fee structures. Letters were sent to those companies identified as meeting the definition of "third-party food delivery service" and operating in New York City - including Grubhub and Seamless, Door Dash and Caviar, Postmates, and Uber Eats - explaining the prohibitions and potential penalties, and expressing the City's expectation that the companies would adjust their fee schedules to be in compliance with the law.

OSE also set up an email account - [Foodservicetips@ose.nyc.gov](mailto:Foodservicetips@ose.nyc.gov) - to receive tips from the restaurant industry regarding potential non-compliance. I'd like to take a moment to thank those restaurant owners who took the time and effort during

these challenging times to send information on charging practices and raise issues of concern, as well as being available for follow-up conversations. The tip line will remain open for the duration of the law, and owners are encouraged to send evidence of charges that may be illegal to the tip line, which is [Foodservicetips@ose.nyc.gov](mailto:Foodservicetips@ose.nyc.gov).

OSE is pleased to report that for the most part, it appears there has been universal compliance with the cap on fees relating to delivery services, and we have not yet heard of any instances where restaurants have been illegally charged for phone calls not resulting in an order.

There have, however, been issues of what may be concerning practices relating to fees other than delivery fees. One company has apparently charged 10% for orders which are picked up. Another company has taken the position that credit card processing fees are not covered by the 5% cap. OSE has documented these issues in letters to the respective companies inquiring about the practices, and requesting both full compliance with the law as well as restitution for any restaurants charged illegal fees. OSE is currently engaged in discussion with these companies about their fee structures, and both companies have engaged with us and are cooperating with the inquiries.

OSE understood that the intent of Local Laws 51 and 52 was that they would be in effect until 90 days after restaurants were allowed to resume normal operations. Shortly after these laws took effect, the City entered Phase 2 reopening and restaurants were permitted to offer outdoor dining under the Open Restaurant Program, raising the question of whether there was still a declared emergency in effect. Despite the intent, it was clear that the laws' definition of declared emergency as being when "all food service establishments in the city are prohibited from providing food for consumption on-premises" meant that there was no longer a declared emergency for purposes of the law once outdoor dining began on June 22, 2020.

Preconsidered Intros 6438 and 6439 are welcome clarifications to how long the original local laws were intended to be in effect, and the Administration supports passage of legislation ensuring the provisions added by Local Laws 51 and 52 remain in effect until restaurants are allowed to open fully.

Thank you again for the opportunity to provide testimony, and I welcome any questions you have.

**TESTIMONY**  
**BY**  
**COMMISSIONER JONNEL DORIS**  
**NEW YORK CITY**  
**DEPARTMENT OF SMALL BUSINESS SERVICES**  
**BEFORE**  
**THE COMMITTEE ON SMALL BUSINESS**  
**OF THE**  
**NEW YORK CITY COUNCIL**  
**THURSDAY, AUGUST 13, 2020**

Good morning Chair Gjonaj, and members of the Committee on Small Business. My name is Jonnel Doris, and I am the Commissioner of the New York City Department of Small Business Services (“SBS”). I want to acknowledge my partner in government, Christian Klossner, Executive Director of the Office of Special Enforcement (“OSE”).

It is my pleasure to testify before the City Council today, and it is my sincere hope that each of you and your loved ones are staying safe and healthy during these difficult times.

In January, we began to see the impacts of COVID-19 on businesses in commercial corridors across the five boroughs. Based on these concerns, we worked quickly to launch the **NYC Employee Retention Grant** and the **NYC Business Continuity Loan Fund** to serve as stopgap measures to rapidly assist small businesses who were experiencing slower foot-traffic and slumping sales while we waited for the federal government to respond. To date, through the NYC Employee Retention Grant, SBS has approved financial assistance totaling more than **\$24.9 million and \$22.3 million** through the NYC Business Continuity Loan Fund. We know that access to capital remains a major challenge for small business owners and SBS is utilizing all our tools to connect business owners to the resources they need.

Through these new initiatives and our broader financial assistance offerings, including the Contract Financing Loan Fund, WE NYC financing products, and the technical assistance programming via our NYC Business Solutions Centers, SBS has connected small business owners to more than **\$78 Million** in financing awards since the start of the pandemic.

In June, we began to recover and reopen our economy. We wanted to make sure we did this safely, so we quickly launched several resources to help businesses reopen and provide the necessary guidance and support. Our goal was to educate and help small businesses navigate the reopening process and stay up to date with the latest health regulations from the City and State. Through our reopening resources, we've hosted over **92 webinars** reaching **over 2,600 attendees** and published plain-language industry guides available in several languages. To directly engage and answer small business owners' questions, we created and launched our restart hotline. To date, we have received over **28,000 calls** - for reopening guidance, financing assistance, legal services, compliance support and much more. SBS has done its best to be nimble, and adaptable in addressing the challenges faced by our constituents. The City's **Open Restaurants program**, which allows qualifying restaurants and bars to expand outdoor seating is a prime example of agencies

working together. We worked with DOT to establish the program, which offers an expedited approval process allowing restaurants and bars to self-certify their eligibility, extending a lifeline and helping local businesses get back on their feet. Over **9,500 restaurants** are currently participating in this popular program.

To ensure that businesses participating in the Open Restaurants program understand how to comply with key City rules and avoid potential fines, we launched our **Virtual Compliance Consultations: Open Restaurants Program**. Providing free virtual one-on-one consultations, the program aims to clarify existing regulations and helps businesses understand common compliance challenges. I want to reiterate that these consultations are at no cost, SBS does not issue violations or fines, and our compliance advisors are available to offer guidance and support in multiple languages.

When I joined SBS, I committed to thinking creatively about how to effectively and equitably deploy our resources, double down on community engagement, and connect small businesses with additional financing.

Chair, Gjonaj, I appreciate the opportunity to walk your district with you and distribute PPE to small businesses. We have continued this engagement and have worked with over 80 community partners to

distribute 7.5 million face coverings, as well as creating a PPE marketplace where 52% of suppliers are M/WBE's. In executing my five-borough strategy, I continued to visit different corridors throughout the city and directly listened to the challenges small business owners are facing.

We know that rent has posed an enormous pressure on our business owners, disproportionately affecting our communities of color. Earlier this week, the Mayor announced the continuation of the **Commercial Lease Assistance Program (“CLA”)**, extending funding to offer free legal services to commercial tenants citywide. Through our Commercial Lease Assistance program, SBS has helped over **800 businesses** with their lease related issues. Since the onset of COVID, we have supported over **200 businesses**, primarily from marginalized communities, understand the legal requirements as they faced uncertainty around rent payments and other lease related issues. We also partnered with the **City Bar Justice Center, via their Neighborhood Entrepreneurship Law Project** to connect over **150 business** owners to free legal assistance and support with navigating insurance-related claims, contracts, force majeure clauses, and access to federal relief programs. As small businesses started on the path towards recovery, some primarily in the Bronx, were impacted by looting and vandalism due to civic unrest. We partnered with the Mayor's

Fund to Advance NYC and private partners to launch the **Small Business Emergency Grant Program**. The fund was created as an initial cash grant to help jumpstart small businesses and assist with recovery from loss and physical damages caused by looting. The grant focused on MWBEs and mom-and-pop shops with less than \$1.5M in annual revenue. We worked closely with local community organizations such as BIDs, Chambers of Commerce and local merchant associations to ensure that we reached those businesses that were severely impacted and needed support with gathering necessary documentation to complete the application process. To date we have **144** completed applications with **138 grants** paid out, totaling **\$1.23M**. In addition, our virtual Workforce I Centers have assisted over 600 businesses, connected New Yorkers to 10,800 job opportunities to fill 2,850 jobs.

Turning the page to current and pre-considered legislation: I want to address Council Member Moya and Chair Gjonaj on Pre-considered Intros - 6439 and 6438, amending conditions of existing Local Laws 51 and 52 of 2020. While delivery apps can provide helpful marketing, infrastructure, and delivery services for small restaurants, particularly during the pandemic, small business owners have voiced concerns around the high cost of utilizing these delivery service applications. Extended relief from these



costs will protect businesses during this difficult time. We are supportive of the extension and amendments and look forward to working together with the Council. Additionally, Council Member Richard's Intro 1958 calls for SBS to report detailed information of recipients such as the name of the business, location including cross streets, zip code, and neighborhood, as well as the amount received from the employee retention program and small business continuity loan fund. We support the Council's commitment to creating broader transparency around these awards as the City assesses its COVID19 response; however, we hope to work with the Council to enact legislation that balances transparency with business owner privacy.

Thank you for providing me with this opportunity to update you on the work SBS is doing to help our small businesses recover from the financial devastation caused by the pandemic and how we can work together towards creating broader transparency around the disbursement of our awards. We have major challenges to overcome, but our City is at its best when we are working collaboratively and listening to one another. I look forward to our continued collaboration as we support our small business owners. Thank you, and I would be happy to take your questions.