

CITY COUNCIL
CITY OF NEW YORK

—————X

TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON PUBLIC SAFETY

—————X

June 13, 2013

Start: 10:05 a.m.

Recess: 11:53 a.m.

HELD AT: 250 Broadway
Committee Room, 16th Floor

B E F O R E:
PETER F. VALLONE, JR.
Chairperson

COUNCIL MEMBERS:
Daniel R. Garodnick
Vincent J. Gentile
Eric A. Ulrich
David G. Greenfield
Margaret Chin

A P P E A R A N C E S (CONTINUED)

Kathleen McGee
Director
Mayor's Office of Special Enforcement

Karen Turner
Prosecutor
Brooklyn District Attorney's Office

Valerie Salembier
President
Authenticity Foundation

Joseph Gioconda
Founder and Managing Attorney
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Brooke Larsen
Professor
School of Visual

Cathy Haft
Tribeca Resident
Organization - None

Wellington Chin
Position - None
Organization - None

John Hagen
Lispenard Street Resident
Organization - None

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2 CHAIRPERSON VALLONE: Okay, good
3 morning everyone. Welcome to the Public Safety
4 Committee hearing. Today we're discussing Intro
5 0544, sponsored by Council Member Margaret Chin,
6 to my left which would amend the Administrative
7 Code of the City of New York in relation to making
8 it a Class A misdemeanor to purchase counterfeit
9 goods. Counterfeiting is a multi-billion dollar
10 worldwide industry. In 2003 it was estimated that
11 \$23 billion was spent on counterfeit goods in New
12 York City alone. One of the biggest
13 misconceptions about the counterfeit market is
14 that it's a victimless crime, only hurting the
15 bottom line of a large retailer. Unfortunately,
16 that's not the case. Not only does it deprive the
17 City of an estimated one billion per year in lost
18 sales tax revenue, but money made selling
19 counterfeit items has been linked to terrorist
20 groups such as Hamas, Hezbollah and Al-Qaeda. For
21 instance, there is a proven financial link between
22 the 1993 World Trade Center bombing and the sale
23 of counterfeit textiles. In addition to terror
24 links, the proceeds of counterfeit sales also fund
25 crime syndicates, dealing with human trafficking,

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2 child labor and gang warfare. Although the
3 federal government, the state, and New York City
4 Police Department have made strides in punishing
5 counterfeiters, the unfortunate truth is that the
6 supply will continue as long as the demand for
7 counterfeit goods remains. Today's hearing is
8 about being proactive in solving this problem.
9 The bill that we are considering would make it an
10 A misdemeanor to purchase an item with counterfeit
11 trademark when the person knows or should have
12 known that it is a counterfeit item. The hope is
13 that by putting a penalty on this action, it will
14 deter individuals from continuing to buy
15 counterfeit products and perhaps unwittingly fund
16 criminal activities. Today's hearing is to
17 discuss this bill, how it works, and basically to
18 do oversight over this problem in general. I want
19 to commend Council Member Chin. She's been very
20 persistent in getting this hearing done, which is
21 why we're here because as I told her, I actually
22 don't personally support making it an A
23 misdemeanor. A year in jail is a little tough,
24 even for me, which is rare. It's probably the
25 only time Margaret Chin has been tougher on crime

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2 than I have. But I do want to know. I would
3 absolutely consider making it a violation and I
4 want to know what the City and the experts think,
5 and what we need to do to stop this problem,
6 because in New York City, again, to commend
7 Council Member Chin, there is no real fine, or
8 law, or anything again buying a counterfeit good.
9 And this is a serious problem. In other places,
10 in Europe, there are some pretty large fines, in
11 Italy and France and there's nothing in the law
12 now. And there aren't that many unwitting buyers,
13 at least of handbags anymore. It's kind of like a
14 hostage exchange now. You meet on the street
15 surreptitiously. You wind up in an alley. And
16 you meet somebody else and then they're in a
17 basement and they're coming up with pictures, and
18 then the hostages are exchanged. There aren't
19 really a lot of unwitting people going through
20 this who don't know what they're getting into. So
21 with that being said, I want to turn it over to
22 the sponsor of this bill, Council Member Margaret
23 Chin.

24 COUNCIL MEMBER CHIN: Thank you,
25 Chair Vallone. Good morning. I'm Council Member

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2 Margaret Chin. I'm pleased to be here for a
3 discussion of Intro 0544, a bill that I have
4 sponsored to make it a crime to purchase
5 counterfeit goods. I would like to thank the
6 chair of this committee, Peter Vallone, for
7 holding this hearing. And I look forward to
8 hearing the thoughts of everyone here today on
9 this serious issue. Making or selling counterfeit
10 trademarked goods is already a crime, but our
11 current laws only target the supply of these items
12 and not the demand. We cannot keep trying to
13 tackle this problem in the same way because it's
14 not working. We need to deter people from
15 purchasing these items. I believe this
16 legislation is smart crime fighting. It tackles
17 the problem from both ends and it gives law
18 enforcement extra tool. Some say a tourist from
19 the Midwest who comes to Chinatown and climb into
20 the back of an unmarked van to buy a Gucci
21 knockoff isn't really doing anything wrong, or
22 that she doesn't know that she's doing anything
23 wrong. But buying counterfeit goods hurts artists
24 and companies that are part of major New York City
25 industry. It also hurts the city because

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2 estimated counterfeit goods costs our city an
3 estimated \$1 billion in tax revenue annually. It
4 supports unsafe working conditions, low wages and
5 child labor that produces goods. It also funds
6 terrorism and international crime. And at the
7 local level, the illegal industry clogs our
8 streets and intimidates local residents. And it
9 makes people think that the only thing you can buy
10 in our neighborhood are cheap knockoffs, when we
11 have small business owner who are selling the real
12 thing, whether it's bags, or watches or jewelry.
13 I would like to thank our local community precinct
14 council, advocates in the fashion industry and
15 residents who are here today to share their
16 insight into how this trade affects their work,
17 livelihood and community. We cannot allow
18 counterfeit goods to overrun our community any
19 longer. Italy and France already severely punish
20 the purchase of counterfeit goods. Now here in
21 New York, we must do more. I hope my colleagues
22 will join me in taking a stand against counterfeit
23 goods. And I thank everyone for being here today.

24 CHAIRPERSON VALLONE: Thank you,
25 Council Member. We've been joined by Council

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2 Member Eric Ulrich. And I want to thank my staff
3 and Carmine Guiga and Oona Peterson sitting next
4 to me. We've done a lot of research on this topic
5 so that we could be here today. Ms. McGee, thank
6 you for being here with us today. If you would
7 please introduce yourself and then just begin your
8 testimony, thanks.

9 KATHLEEN MCGEE: Thank you. It's a
10 pleasure to be here today and to talk about a
11 relevant topic for my office. Good morning,
12 Chairman Vallone and members of the Council and
13 Council Member Chin. I'm Kathleen McGee. I'm the
14 director of the Mayor's Office of Special
15 Enforcement. And I'm here to offer the
16 administration's comments on Intro 0544 which
17 would make it a Class A misdemeanor for someone to
18 purchase an item containing a counterfeit
19 trademark when they know or should have known that
20 the trademark is counterfeit. We appreciate the
21 intent behind the bill as an effort to attack the
22 demand side of the problem of trademark
23 counterfeiting. On the supply side, significant
24 resources of my office and the police department,
25 as well as those of the government agencies and

1 industry representatives are devoted to
2 investigating this form of organized crime,
3 arresting those who distribute counterfeit goods
4 and seizing the offending property. The Office of
5 Special Enforcement investigates allegations of
6 counterfeit trademark wholesale and retail
7 activity, and where warranted, commences nuisance
8 abatement, civil legal actions against those brick
9 and mortar locations harboring that illegal
10 activity. To date, OSE has closed over 40
11 locations citywide, seized over \$52 million worth
12 of contraband and collected over \$2.5 million in
13 settlements, resulting from our civil cases. We
14 have initiated a landmark campaign against the
15 self-storage locations that provide safe harbor to
16 counterfeiters, and continue to be a best
17 practices model for cities worldwide in addressing
18 civil enforcement of counterfeit trademark
19 activity. The police department has a trademark
20 infringement unit that is unique among police
21 departments, as a unit that specifically targets
22 trademark violations. They gather intelligence
23 and target the manufacturers and distributors of
24 counterfeit goods, primarily enforcing the felony
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1 trademark counterfeiting crimes contained in the
2 New York State penal law. The patrol resources of
3 the police department are also brought to bear,
4 focusing on unlicensed street vendors who sell
5 counterfeit goods. Seizure of the contraband
6 property is complemented by power - - civil
7 remedies such as forfeiture and the nuisance
8 abatement actions I described earlier, to forfeit
9 the proceeds and instrumentalities of the crime
10 and to shut down as public nuisances the locations
11 where the crimes are committed. Notwithstanding
12 our efforts to curb the sale of counterfeit goods,
13 the market continues to exist. And customers
14 continue to purchase illegal replicas of both high
15 end merchandise and other goods. While we share
16 the Council's frustration with communities, with
17 the consumers' misguided support of this criminal
18 enterprise, we are unable to agree with this
19 approach taken by the bill. We are concerned that
20 enforcement of such a prohibition could deter both
21 New Yorkers and tourists from shopping for
22 legitimate goods. Rather than enacting Intro
23 0544, it might be worthwhile today to discuss how
24 we can work together to address the demand side of
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2 the equation through public education, stressing
3 the illegality of the sale, the possible funding
4 of other illegal activity through sale, including
5 terrorism and organized crime, the inherent lack
6 of quality of the goods, the lack of sales tax
7 revenue needed to fund our city works, and the
8 actual danger presented by certain types of
9 counterfeit goods, such as children's apparel and
10 toys, medication, auto parts, food items and
11 electronic goods. Thank you for the opportunity
12 to offer our thoughts on Intro 0544 and I would be
13 pleased to answer any questions that you have at
14 this time.

15 CHAIRPERSON VALLONE: Thank you.
16 I'm just going to go through your testimony. You
17 said that your office and the police department—
18 you went through your efforts. Can you sum those
19 efforts up for us? How is it going? Is it
20 getting worse? Are you making progress? How is
21 the fight against counterfeit goods in general
22 going?

23 KATHLEEN MCGEE: Right. I think
24 with respect to the Office of Special Enforcements
25 efforts, we've made a sizable impact on the brick

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2 and mortar locations that are vending. We
3 concentrate on a geographic area at one time
4 generally. So we used to be in the garment
5 district. Since 2007 and 2008 we focused on
6 Chinatown. And there are entire swaths of Canal
7 Street where the landlords have turned over their
8 properties to lawful tenants who are engaging in
9 lawful activity, or where they are soliciting
10 leases from preferred tenants. So that is a
11 victory. I think also going after the locations
12 where these counterfeit products are being
13 wholesale stored before point of sale, that is the
14 self-storage units in the outer lying boroughs.
15 We initiated the first landmark action last year
16 against a self-storage company that had a unit
17 based in Queens. And they reached a one of a
18 kind, unique best practices model with us that I
19 think struck a ripple cord through that entire
20 self-storage industry nationwide, indicating that
21 self-storage units that are operating in New York
22 City have to initiate a see something, say
23 something, when it comes to the storage of
24 counterfeit trademark activity. After our
25 lawsuit, we put self-storage locations on notice

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2 that we were going to be pursuing them and we
3 continue to do so. So I think that what we're
4 going for isn't just the point of sale and brick
5 and mortar. We're also going after the storage.
6 And our hope is to deter people who are profiting
7 by providing safe harbor for the counterfeit goods
8 before point of sale.

9 CHAIRPERSON VALLONE: Can I stop
10 you for a second?

11 KATHLEEN MCGEE: Sure.

12 CHAIRPERSON VALLONE: You said,
13 "See something, say something," when it comes to
14 these counterfeit goods.

15 KATHLEEN MCGEE: That's right.

16 CHAIRPERSON VALLONE: Is that just
17 something you hope they do, or is there something
18 in the law someplace that you think forces them to
19 do that?

20 KATHLEEN MCGEE: It's not something
21 in the law that forces them to do it. But unless
22 we're talking about real property—

23 CHAIRPERSON VALLONE: Because maybe
24 there will be.

25 KATHLEEN MCGEE: Right.

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2 CHAIRPERSON VALLONE: Maybe there
3 should be.

4 KATHLEEN MCGEE: Real property law,
5 the nuisance abatement law which is in the
6 Administrative Code that I operate under and the
7 Real Property Law of New York mandate that
8 landlords have an affirmative responsibility to
9 ensure that criminal activity is not happening on
10 premises. So when you're a self-storage unit and
11 you have video, and key cards, and all sorts of
12 apparatus in place to track your users, and you
13 have contracts that establish these users cannot
14 engage in illegal activity, when you start to
15 notice a pattern of activity that indicates more
16 than just someone moving product in or out because
17 they're moving to a new location or do a seasonal
18 change of clothing, it's worth taking a look. And
19 they are able to do that, and if they see illegal
20 activity, they report it to the police.

21 CHAIRPERSON VALLONE: And if they
22 don't?

23 KATHLEEN MCGEE: They had not
24 always previously, it was on an ad hoc basis. So
25 with our initial lawsuit, we got the self-storage

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2 community to pay attention to the fact that if you
3 reach out to the NYPD when you notice there is
4 suspicious activity, they can help you de-braid
5 the business of that problem, but more than that,
6 go after the suppliers. And that's what the NYPD
7 is best at.

8 CHAIRPERSON VALLONE: But is there
9 something Council Member Chin and I can do with
10 regard to the law that would put more of a burden
11 on self-storage type places?

12 KATHLEEN MCGEE: I would be more
13 than happy to consider that and get back to you on
14 that.

15 CHAIRPERSON VALLONE: Okay.

16 KATHLEEN MCGEE: It would take a
17 little—I would have to mull that over a little
18 bit, but—

19 CHAIRPERSON VALLONE: Yes, let's
20 all work on that. Maybe we can make that an
21 affirmative responsibility, as opposed to just
22 something in a lease or that would allow you to
23 set something down. Maybe we should make it,
24 maybe not a year in jail, but some sort of penalty
25 on the landlords. That's something interesting.

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I actually did pass a nuisance abatement law improvements a few years ago that would allowed you to shut things down a little bit more easily. You said you've closed 40 locations. Over what time period is that?

KATHLEEN MCGEE: That's since 2006.

CHAIRPERSON VALLONE: Okay. That's not a lot.

KATHLEEN MCGEE: We're not huge.

CHAIRPERSON VALLONE: Okay. Well how big are you? What kind of resources do you have?

KATHLEEN MCGEE: For example, the counterfeit triangle which was a large operation, we consider that one location, even though it's a full city block.

CHAIRPERSON VALLONE: Where is that?

KATHLEEN MCGEE: That is on Baxter, Walker, and Canal Street. So it was three buildings. It was over 32 storefronts, but we considered that one location. So when we do something, we're doing it generally in a geographically targeted area, with an idea of

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2 providing a deterrent of facts to the neighbors.
3 And I believe that we're accomplishing that goal.
4 Now the problem is, of course, you do then spread
5 it elsewhere. Or it does become, as you've
6 indicated, a hostage transaction done in a back
7 alley, which certainly isn't something that we
8 want to see welcome tourists to New York City
9 with, so certainly there's more to be done. But
10 we just don't think that this is perhaps the right
11 way to do it. The knowledge factor alone is going
12 to be difficult to prove.

13 CHAIRPERSON VALLONE: Is there
14 something we can do with nuisance abatement law
15 that would make it easier for you to shut these
16 places down?

17 KATHLEEN MCGEE: I think that that
18 would be tied in to what we could do vis-a-vis
19 landlords generally, mini-storage generally, self-
20 storage generally. One item that pops to mind as
21 I've been mulling it over since we just talked
22 about it is adding it as an enumerated violation
23 under the nuisance abatement. At present it's
24 just categorized as a criminal nuisance, but
25 making it an enumerated factor, as a violation

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under the nuisance abatement law, certainly would be helpful. We have taken great strides over the past years with the courts to establish that this is in fact a nuisance. But having a statement like that in the code would certainly be helpful.

CHAIRPERSON VALLONE: Well I'm going to have my staff look into that with you. And Margaret and I will put in all of those requests to have that drafted, if possible.

KATHLEEN MCGEE: It can help.

CHAIRPERSON VALLONE: But you said one of the reasons you've only closed 40 is that you're not huge. What type of resources are you working with?

KATHLEEN MCGEE: Well we're a multi agency task force. But the P.D. and the other agencies that work with us just don't have the resources to focus all of their time on nuisance abatement. That is all that I do, so it's useful in that way. But we have three police officers and then a cadre of other agency building inspectors that are all brought to bear. Now keep in mind, I think we're very effective at what we do, but this isn't the only thing we do. We also

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2 address other quality of life conditions citywide,
3 so we have to divide our time equally amongst all
4 of our problems.

5 CHAIRPERSON VALLONE: That's
6 another argument for more police officers that
7 I've been making for years. Are you also
8 responsible for, say, awareness campaigns against
9 buying these things? Who would be in charge of
10 that?

11 KATHLEEN MCGEE: We have been in
12 the past through the mayor's office back in, I
13 think 2009, the New York City, in collaboration
14 with the international anti-counterfeiting
15 coalition and Kraft Advertising, which was a
16 locally based advertising work, put together a PSA
17 campaign on counterfeit and how it hurts the city,
18 costs the city billions of dollars, supports
19 organized crime. And that was a successful run
20 that has since been replicated globally. But as I
21 indicated in my testimony, the administration
22 feels that a huge step forward could be taken if
23 there was a much larger public statement, in terms
24 of educating consumers and the public about why
25 counterfeit trademark actually hurts them and

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hurts the city that we live in.

CHAIRPERSON VALLONE: Well are you working with the federal government and the companies that are getting hurt by this to fund these kinds of things?

KATHLEEN MCGEE: Well they have provided funding in the past. At present we don't have anything ongoing, but this might start that dialogue anew and that might be greatly welcome. We do work closely in our office, again, with the Anti-counterfeiting Coalition, which is an international spectrum. And we are locally part of the New York Trademark Task Force. And I'm happy to bring this back to them and talk about future collaborations.

CHAIRPERSON VALLONE: And maybe we can help with that. I only have one or two more and then I'll turn it over to Margaret. The one thing I do disagree with that you said, though, is that you're concerned that enforcement of this law could deter both New Yorkers and tourists from shopping for legitimate goods. First of all, you're in charge of the enforcement, so I don't think you're going to be out there nabbing

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2 tourists and legitimate New Yorkers who are buying
3 legitimate goods. And part of the problem with
4 this law is the proof problem, as you know, trying
5 to prove that someone knew this. So I can't
6 imagine anybody who, being deterred from shopping
7 for legitimate goods. Why do you think that would
8 be of concern? Why is that a concern?

9 KATHLEEN MCGEE: Sure. First of
10 all, just to clarify, my office doesn't generally
11 make arrests. We only do the civil enforcement
12 aspect. But to the extent that we're concerned
13 that this is going to have an impact on legitimate
14 purchasers, while perhaps in Canal Street or other
15 bazaars, where it is public knowledge that going
16 to make a purchase is generally going to be a
17 counterfeit purchase, there are other areas of the
18 city where counterfeit goods are actually sold to
19 consumers who are unaware. And the concern would
20 be that the high penalty, a Class A misdemeanor,
21 would cause some people to not shop for a bargain
22 when in fact, it might not, not be a legitimate
23 good. There are some price points that are close.
24 There are some items that look quite a lot like
25 the genuine article, which I'm sure some people

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2 can talk to today. More than that, when we're
3 talking about counterfeit trademark goods in New
4 York City, it's a pervasive problem. It's not
5 limited to, as I say, bags and tags, and luxury
6 goods. It ranges from health and beauty products
7 to electronics and everything in between, brakes
8 for cars. Even the U.S. military has a problem.
9 So we want to dissuade this, but we don't want to
10 place such a high criminal price tag on it for the
11 consumer that they then don't go shopping. And
12 frankly, New York City is full of people looking
13 for bargains. We want to encourage shopping in
14 New York, but not to the detriment of risking an A
15 misdemeanor.

16 CHAIRPERSON VALLONE: I understand
17 that, but I don't agree at all because I'm a
18 former persecutor. And the standard, the level of
19 proof is so high, beyond a reasonable doubt, that
20 someone knew or should have known. No one is
21 going to be arrested. If they are, the police
22 would not be doing their job, for just buying
23 something in a store on sale. That would never,
24 ever happen. And the police officer would be
25 removed from the force if that ever happened. So

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2 I don't think that's going to happen in such a way
3 that it's going to deter tourists from shopping in
4 New York City. But we'll disagree on that one
5 part of your testimony.

6 KATHLEEN MCGEE: Okay. And you do
7 raise-

8 CHAIRPERSON VALLONE: Yes.

9 KATHLEEN MCGEE: I would just
10 interject. You do raise a strong point, which is
11 the knowledge element is difficult to establish.
12 I would raise, just as a point of fact, in Italy,
13 they do have a knowledge element in the purchase.
14 And they made a few strong arrests at the
15 commencement of the enactment of this legislation.
16 But my understanding from talking to the
17 international Anti-counterfeiting Coalition is
18 that since then, arrests have fallen steeply, not
19 because of purchasing. It has dissuaded the
20 purchase of counterfeit, but because establishing
21 the elements are so difficult.

22 CHAIRPERSON VALLONE: It is very
23 difficult. That's what I-I don't think we can
24 have it both ways. It's very difficult to prove
25 and it could deter tourists from shopping.

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Council Member Chin?

COUNCIL MEMBER CHIN: Thank you, Ms. McGee, for testifying. And I do appreciate all of the effort, the mayor, the police commissioner and all the task force has done. You've closed down stores, like the one on the triangle—the Canal triangle that you were talking about. Yes, those stores are closed down. And for a couple of years gates are down and there is no traffic on that block. And finally, I think this year, the landlord is renting it out to legitimate business. But what happened in the last couple of years is that they're on the street, right? These people are on the street, selling out in the open with their little folder of the map, of the diagram of the goods that people want. And some of them, the jewelry, they just wear on their hand. And it's so out there in the open. Tourists walk down and they would be solicited, Gucci, Chanel, Rolex, whatever. And people stop and they talk to them about, okay, I want a Gucci bag. And they tell them to wait on the side by the Starbucks or in front of a church on Baxter Street. It's right out in the open,

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2 right? And so how do we stop that? I call the
3 5th Precinct. They come. When they see the
4 police coming they disperse and then they're back.
5 And where do they store those goods? They're not
6 storing in those storage lockers. Some of them
7 are hiding it, yes, back of the van, somebody
8 else. There are some of them that are also hiding
9 them in a senior's apartment or somebody's
10 apartment. So they go up, get it, come back down.
11 All this is happening on the street every day,
12 whether it's Canal Street or Baxter Street, on
13 Moss Street. It's plain out there. I mean,
14 people in the neighborhood tell me, "Margaret,
15 they're out there. Why couldn't the police do
16 something?" We don't have enough police force to
17 stand there every day and make the arrests, right?
18 It's already illegal to sell. But, the people,
19 the tourists, or the visitors, to them it's a fun
20 thing. Maybe it's an adventure. They got their
21 bag and I know we can tell because it always hangs
22 in a plastic bag that's black and you know that
23 they bought that. A lot of them just run back
24 into the subway or on the bus that they came in.
25 So how do we put a dent in that? And I think that

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2 we've got to let people know that, hey, if you
3 engage in this activity, you're committing a
4 crime. And I think that's the only way to scare
5 people. We could do a lot of public education and
6 we plan to do that when the law is passed to
7 discourage people that, yes. I don't think it
8 will discourage tourists, and visitors, and New
9 Yorkers from buying legitimate goods because we do
10 have a lot of famous discount department stores
11 that you can get a really good deal. And when you
12 walk in to them, like down here I have Century 21.
13 Every day it's crowded with tourists and visitors.
14 And they have big shopping bags of goods, of bags
15 and clothes. And they also buy suitcases to put
16 them in to bring home. All right? So I don't
17 think that people will stop buying if they know
18 there's a law to buy the counterfeit goods. It
19 might stop people. I think for some people who
20 are law abiding citizens, when they hear that, and
21 when they know that it's against the law, they'll
22 stop. So I mean, if you think a Class A
23 misdemeanor is too severe, what would you suggest?

24 KATHLEEN MCGEE: Well I'm not going
25 to come out with a direct suggestion. I think we

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2 need to engage in a dialogue. Council Member
3 Vallone obviously had mentioned perhaps a
4 violation or some sort of ticket, and that's
5 something that we can take back and discuss
6 internally, and discuss with P.D., and discuss
7 with your office, and with the Council. And how
8 that would be implemented and whether or not we
9 really are going after still a knowledge element.
10 And I think that there are aspects of this bill
11 that we can bring back and discuss. But I do
12 think that having a public campaign that's purely
13 related to criminalizing the act sort of misses
14 the larger opportunity to channel the interest
15 that we have here and make a statement that there
16 should be a public awareness, not just about
17 shopping in a location, like you said, the
18 surreptitious purchasing on Canal Street or
19 elsewhere in our city, but that counterfeit
20 trademark goods pervade our daily life, and that
21 we should be more aware of where we make our
22 purchases, whether it's online or whether it's in
23 a retail establishment. And by that, we're
24 talking about everything from health and beauty to
25 electronics, children's toys. So I think that a

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2 larger opportunity to educate our public shouldn't
3 be necessarily just tied just to criminalization
4 of the act. I think it should be a broader
5 opportunity for us to engage the public in a
6 discourse about all of the various things that are
7 tied to counterfeit activity and why it's such a
8 problem for our city. But I also sympathize with
9 the quality of life problems that the community
10 you represent faces, in particular. We often get
11 thanks when we're doing our actions, our pre-done
12 actions in Chinatown, from the members of the
13 community who are there. And I appreciate that
14 standing alone, you're right. This is not going
15 to solve the problem. We can talk about—and I
16 would be happy to talk with you more about various
17 options, of course. It's a criminal act. I don't
18 arrest people so it would be something that would
19 have to involve NYPD as well.

20 COUNCIL MEMBER CHIN: Well we talk
21 to police officers. Yes, they can arrest the
22 person who is selling it, but they can't do
23 anything about the person who is buying it. And
24 to them, it's an extra tool that they could use.
25 And the other thing too is that when you talk

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2 about quality of life, it's not just in Chinatown.
3 And even in Tribeca, a lot of the people who are
4 selling the counterfeit goods, they take over
5 people's doorways, and they commit crimes in that
6 area and it's really a nuisance. But it's really
7 scary to the resident who lives over there and how
8 much can they call the police? The police cannot
9 respond every day or every hour. We've just got
10 to figure a way to do something. I'm not tackling
11 this as a worldwide problem. I just wanted to get
12 something done here in our city, in our community
13 to sort of send a strong message. And then we can
14 tackle the rest of the problem. But it's got to
15 start somewhere, and I think it's a good way to at
16 least let people know that it is a crime and you
17 are going to get punished for doing this. I'm
18 open to talking about how we can make it more
19 reasonable. A year in jail maybe is a lot. But I
20 tell you, there are people who buy this stuff and
21 they bring it back home to resell it. In those
22 kinds of situations, they definitely should spend
23 a year in jail, possibly. But we've just got to
24 find a way to stop this problem and I think later
25 on we'll probably hear more testimony from people

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2 from the community and also in the industry who
3 have been trying to tackle this and also talk
4 about the public education that's been done. But
5 we really need to do something. And I think this
6 is a first step that we could do to make it known
7 that it is a crime to buy these counterfeit goods.
8 Thank you.

9 CHAIRPERSON VALLONE: Thank you
10 Council Member and I agree. Maybe a year in jail
11 for someone whose purchasing a huge amount of
12 these things knowingly would be appropriate, but
13 not for that one purse, as we discussed. I know
14 the Brooklyn DA is going to testify next, and
15 they're actually in favor of this, which—but you
16 know, Margaret mentioned that this is a worldwide
17 problem, and it is. And we're sort of in the same
18 situation that we are with illegal guns. They get
19 here through no fault of New York City. It's the
20 federal government's fault and to some extent, the
21 state's fault. But then we have to deal with that
22 problem. So in your experience, is the federal
23 government doing enough to help you? Do they work
24 with you? What more can we—can they do to help
25 you?

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2 KATHLEEN MCGEE: The federal
3 government has actually been incredibly active
4 over the past four years. They've developed an
5 intellectual property rights center. It's called
6 the IPR. It's based out of Washington D.C. And
7 they've worked very hard to develop a
8 collaborative model, which in some ways is much
9 like the Office of Special Enforcement. They have
10 every federal agency that touches—has a touch
11 point on counterfeit trademark activity involved
12 customs and border, ICE, postal office. You name
13 it, they're there, and they work together
14 collaboratively every day to make cases and to
15 publicize the need to abate the activity. They've
16 also recently brought into the fold authorities
17 from Mexico and perhaps even Canada, but certainly
18 from Mexico, so that they have cross border
19 enforcement as well. And that has actually been
20 pretty effective in—customs and border has a huge
21 job when it comes to containers and trying to
22 figure out what's coming across our border from
23 the seas. So having a strategic, data driven,
24 coherent and consistent multi-agency task force
25 that does that job and does it well, I think the

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2 IPR is on their way to doing—to really doing the
3 best that any federal government could do.

4 Locally, they take our referrals. I've been down
5 and talked with them. We have an open discourse,
6 so for example, when we initiated our self-storage
7 actions last year, we were in consultation with
8 them to ask them what they would like to see, in
9 terms of a see something, say something model.

10 And the private industry, I would also add, is
11 very supportive of what the city as a whole does.
12 Through the New York Trademark Task Force, funds
13 are contributed so that NYPD and OSE can do what
14 they do for the storage and undercover buys, these
15 other things that do need to happen, city wide.
16 So we have a strong foundation. I think that as
17 you're elucidating today, there's always more that
18 can be done but the federal government is being
19 quite helpful.

20 CHAIRPERSON VALLONE: I'm glad,
21 although obviously it's not enough. And I don't
22 see that public service campaign that should be
23 out there that should be funded by the Louis
24 Vuittons and the Guccis and those people. We
25 should have signs up all over Margaret's district

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2 and the rest of New York, explaining the dangers
3 of buying this stuff and what this money is used
4 for, and maybe one day the penalties for buying
5 this stuff. I'm going to go now to Council Member
6 Eric Ulrich.

7 COUNCIL MEMBER ULRICH: Thank you,
8 Mr. Chairman and thank you Ms. McGee for your
9 testimony. I have a few questions, a few ideas.
10 Maybe we can go back and forth with them. I was
11 unaware of any enforcement by the office of
12 special enforcement. And in Queens it sounds like
13 most of your activities is centered in Manhattan.
14 Is that true?

15 CHAIRPERSON VALLONE: Most of it is
16 because we do a geographic concentration. But if
17 we do have a particular problem you would like to
18 bring to our attention - -.

19 COUNCIL MEMBER ULRICH: There are a
20 lot of counterfeit goods that are for sale in
21 Queens. Every time I'm in a pizzeria, somebody is
22 trying to sell me DVDs. You know they're not
23 real. You would think that the forces of the
24 market would really address those. I mean, they
25 put Blockbuster out of business because you can

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2 get anything on demand now on TV. But somehow or
3 another you can buy really terribly put together
4 DVDs relatively cheap, and they wouldn't be
5 selling them if people weren't buying them. So
6 that's an issue, and it's not as if, if you go out
7 and arrest all of the people that are selling them
8 that you're going to solve the problem because
9 clearly they're getting them from somebody. So
10 maybe they're getting them from a supply house and
11 I don't know, in Jackson Heights, or Flushing, or
12 Ozone Park, or Chinatown, wherever they're getting
13 them from. So I understand your concern about
14 trying to cut off the supply and you say that a
15 public service announcement campaign would be
16 effective in addressing the demand. But I really
17 don't think that, that's adequate. I really don't
18 think that that's going to go far enough to solve
19 the problem because the problem is not just in
20 Chinatown. It's out on Canal Street. It's on
21 Main Street. It's in my district. It's
22 everywhere, and I don't think that we're doing
23 enough to address it. And it does hurt legitimate
24 businesses who are paying taxes, the brick and
25 mortal establishments. I use, for example—the

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2 Chairman will remember—we had a hearing last year
3 and we had Consumer Affairs was testifying, it was
4 a joint hearing. And I was complaining about how
5 around Mother's Day and Easter that these people
6 can set up flowers on the side of the road and
7 they can sell flowers and baskets for \$20 cash.
8 They're not a legitimate business. They are not
9 paying sales tax. They're hurting the florists.
10 They're hurting the gift stores and the card
11 stores that are struggling to make it and
12 struggling to pay their way. And what is the city
13 doing to address that? And Consumer Affairs,
14 maybe you can follow up with them because maybe
15 they're under your auspices. They said, "Well we
16 don't have enforcement out there on holidays and
17 on the weekends." Well that's when they're
18 selling it. That's the problem. And they're
19 taking money out of the local economy. They're
20 taking money away from the City of New York.
21 They're breaking a law. Technically it's a
22 counterfeit good. Maybe it's not to the—it's not
23 a Gucci bag on Canal Street, but it's having the
24 same effect certainly, as what we're talking about
25 today. I mean, we're going to have to do a better

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2 job outside of Manhattan, in Queens and in other
3 places where this type of illegal activity is
4 taking place and it's rampant. And cop cars drive
5 by and other people are driving by and I'm driving
6 by. And the people that own the stores and the
7 small businesses, they drive by and then it makes
8 them angry and it makes them upset. And they have
9 a right to be angry and upset because they're
10 following the law and here are people making money
11 breaking the law, and nobody is doing anything
12 about it. So maybe the bill is not perfect. I
13 don't know that much about it, but it's a step in
14 the right direction, I would think, to try to
15 force the City to take this issue very seriously.
16 I had an idea. What about providing a reward
17 incentive? What about for people that provide
18 information like they do with other crimes with
19 the NYPD, to say that at this warehouse down the
20 block from me, they are storing 10,000 illegal
21 shoes, product, whatever. What about telling
22 people that if we are able to apprehend, to
23 confiscate this material, and make an arrest and
24 get a conviction, if you make an anonymous
25 complaint we'll give you \$1,000, no questions

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asked.

KATHLEEN MCGEE: I could talk to the NYPD about it.

COUNCIL MEMBER ULRICH: It's a good idea. We're giving out cash for guns and everything else. This is insane. So you want help with enforcing the law. Get people to provide information anonymously. Maybe you provide an incentive for them. What about counterfeit free zones where you talk about concentrated enforcement? Why don't you make Chinatown a counterfeit free zone, and have multi-agency go in there like a SWAT team and just wipe the place out. And put up signage in Chinese and English, and any other language you want to letting people know this is a counterfeit free zone, and that if tourists or anyone else—because there are a lot of tourists there suspected of purchasing counterfeit goods, they can be stopped, questioned, not frisked, by the police. That would be a deterrent, putting up signage and establishing in black in white, in plain English and in any other language, that this is unacceptable. That might go a long way towards

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2 making people aware that it's illegal for people
3 to buy it and also scaring people or deterring
4 them from trying to sell it in areas where it's
5 also rampant and taking place. Those are just two
6 ideas I have. And the third idea I had, what
7 about the street vendors? I like this tie. This
8 is Sean John. You could buy the same tie that
9 says Sean Jean, but you wouldn't tell the
10 difference from where you're sitting, right? But
11 the vendors in New York City, some of them are
12 selling these, but they have to get licenses from
13 the city. So why not suspend the license for
14 street vendors who are selling illegal of
15 counterfeit goods? That's going to cut off a lot
16 of the sale of these items, too. If they're going
17 to lose their license, they can't make money.
18 Maybe nine out of the ten items that they are
19 selling are legitimate, but one of them is not.
20 It could be this tie or something else. Why not
21 having DCA crack down on that as well? I don't
22 know, but something has to be done. Margaret is
23 really on to something and it doesn't just affect
24 her district. It's happening city wide and we
25 have to come up with a much better approach

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2 because what we're doing now is not working. And
3 I commend her for coming up with the bill because
4 at least it's something because it doesn't seem
5 like we're doing very much, if anything. Or if we
6 are, we're not really making a dent. I'm done,
7 unless you want to buy this tie from me. By the
8 way, I wouldn't buy those bags. I can't afford
9 those bags, Gucci bags or anything else. I don't
10 know.

11 CHAIRPERSON VALLONE: And I don't
12 wear Sean John, so sorry.

13 COUNCIL MEMBER ULRICH: You've got
14 to shop at Men's Warehouse, all right?

15 CHAIRPERSON VALLONE: Where were
16 we? We're just about done with this panel, it's
17 not really a panel, but it was supposed to be.
18 We've made some progress, I think, with some
19 potential laws that we can help to close some of
20 these places down because I think we can all agree
21 that 40 closed in 7 years is not enough.
22 Obviously, though, what you're doing is having an
23 effect or they wouldn't have moved into the back
24 alleys the way they are, and doing these hostage
25 exchanges for the money and the goods. Is there

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2 anything else before we let you go that you think
3 that we can do as a lawmaking body to help you in
4 your job?

5 KATHLEEN MCGEE: I appreciate the
6 question. I think that we've talked about a
7 couple of key points of amending the nuisance
8 abatement law, working with the private industry
9 and the federal government to do a larger scale,
10 more sustained public service announcement. And
11 then we can engage with the NYPD in a discussion
12 about what, if anything, we could do on that, to
13 criminalize or violations, or what it is that
14 we're talking about, how to make things a little
15 more appealing in that regard. I just thank you
16 very much for drawing attention to the matter and
17 for giving us the opportunity to testify today.

18 CHAIRPERSON VALLONE: Okay. Well
19 thank you and look forward to working with you on
20 this major problem. And now we're going to hear
21 from the Brooklyn DA's office and Karen Turner is
22 here from that office.

23 KAREN TURNER: Thank you.

24 CHAIRPERSON VALLONE: Ms. Turner,
25 thank you for coming down this morning. We

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appreciate it and we look forward to your professional advice on this, so the floor is yours.

KAREN TURNER: That's on, okay.

Again, my name is Karen Turner. I'm a prosecutor in the Brooklyn DA's office. Speaking to the powers that be at my office, we are, in practice, in favor of something that could possibly go after the purchasers of counterfeit goods. A simple economics 101, if we can in some way cut off the demand, perhaps the supply will fall. But speaking as a prosecutor and I have done a number of small and large scale counterfeit prosecutions and I think we're all in agreement, the problem with the bill is essentially proving the knowledge. Unless the police officers—getting right down to the nuts and bolts of this, unless the police officer is present at the purchase and overhears a conversation of, "This is fake. You know that?" "Yes I do. I still want to pay \$50", it would be impossible for us to prove. Even in large scale counterfeit trademark prosecutions, let me just explain. The law itself and the penal law, it's broken down in to two parts. Either the

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2 seller has the intent to defraud the buyer, or the
3 seller is evading a lawful restriction. Now when
4 we do criminal prosecutions, I can't tell you how
5 many judges' law clerks I have gotten into heated
6 arguments with because they are trying to dismiss
7 my indictments telling me, "Come on, Turner.
8 You're telling me that the person that bought this
9 Gucci bag thought it was real? He had no intend
10 to defraud. The person knew it." And my argument
11 back is, "That's not my theory of prosecution.
12 Stop saying that to me. That's not what I'm
13 talking about." What I am talking about is the
14 seller is—his intent is to evade a lawful
15 restriction. That being he can't sell goods that
16 he doesn't have a license to sell. That mark is
17 registered with the trademark patent office and
18 he's evading the lawful restriction. He's not
19 getting his proper license. It still comes down
20 to a very factual case. I still can't just go in
21 there and accuse the guy with the bags of, "You
22 know, you're trying to evade a lawful
23 restriction." How do I prove that? I can't
24 simply walk in front of a jury and say, "Well he's
25 got 50 Gucci bags. Come on." You still have to

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2 have the evidence and it's important that we have
3 something to present to a jury. Now the sheer
4 volume itself is evidence. It's some evidence.
5 What I always tell police officers when we talk
6 about these cases and if they are doing
7 surveillance, undercover buys, whether it's a
8 small little storefront shop or the street is get
9 a picture of the table because when you see all of
10 the pocketbooks lined up and all of the Gucci,
11 Coach, the labels are facing the outsides for the
12 shoppers to look at, that's an indication of the
13 seller's intent. He is purposely putting that
14 fancy label outside to show because he knows what
15 it is. He knows that draws in. That's real
16 evidence that I can present in court. In my
17 office I've had some very successful counterfeit
18 prosecution cases and I've had some very
19 unsuccessful, in the sense of, well, let me just
20 say, when we do—when something comes to us from,
21 say, it's someone from the community or very often
22 we have some very good relationships with the
23 commercial industries, whether it's Major League
24 Baseball, Dooney Bourke, Dolce & Gabanna. Some of
25 them have been unbelievably delighted with

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2 happiness to send representatives down to our
3 office. They're so happy that we've found a
4 location and we're going after it. And they help
5 in any way they can. One of the other ways that
6 they can help is handing over to me any cease and
7 desist letters that they have sent to these
8 businesses in the past. That is also additional
9 proof that I can put in front of a judge or a jury
10 and say, "These people knew that they were selling
11 counterfeit product because they've been told.
12 Dolce and Gabanna sent them a letter." So whether
13 or not, whatever side of the law I'm trying to
14 use, whether it's the intent to defraud the
15 consumer, which by the way I've never used or the
16 evading a lawful restriction, I still must have
17 the evidence in front of me. Unfortunately, going
18 after the purchasers—and I've spoken to a lot of
19 colleagues because I'm saying maybe I'm just not
20 seeing it. But I find it hard to believe we could
21 ever prove knowledge. And the answer, 95% of the
22 time that I get is them saying, "Well, when
23 someone buys the Gucci bag, come on, they know
24 they bought—it's fake." But we can't apply this
25 law just to Gucci bags. What about, as Mr. Ulrich

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2 had said, what about the Sean Jean tie? Quite
3 frankly, a lot of people would walk down the
4 street and see a tie and they really don't know
5 who Sean John is. My 70 year old mother would not
6 know a Herme scarf from a Henry scarf. Okay, so
7 she would just think it's a pretty pink scarf and
8 buy it. Okay. And then to be arrested would be
9 shocking to her and how would we prove that my
10 mother knew that? Another thing is things, as we
11 said earlier, electronics. I don't know if anyone
12 has heard the term spaghetti cords. Those are
13 electrical cords with the multi-plugs in them that
14 are so prevalently sold as knock offs with the UL
15 trademark registration and it looks very real, and
16 they're not. And the only way you can really tell
17 is if you're sort of familiar with it and you know
18 pretty much how heavy a cord should be. And I
19 have seen these not just in small store front
20 areas, say in Chinatown or Flushing, but I've seen
21 them being sold at 99 cent stores. So it's not
22 just out on the street.

23 CHAIRPERSON VALLONE: Ms. Turner,
24 can I just focus you back for a second? The law
25 that Council Member Chin is putting in, and my

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2 problem with it is it's too strict for a year in
3 jail. But also as a prosecutor, I'm well aware of
4 the proof problems, which would mean that I don't
5 think your grandmother would ever get arrested for
6 the Herme scarf. But what can we do to make that?
7 Do you have any suggestions on what she can do to
8 make that law more usable for you?

9 KAREN TURNER: Well again, I think
10 if we were—I honestly do like the idea of a large
11 scale public awareness campaign. And I think
12 something that the public is not necessarily aware
13 of, people talk about this being a victimless
14 crime, but we have a very—I try on every large
15 scale prosecution on these things is to do a lot
16 of surveillance and undercover buys, surveillance
17 of the perpetrators. And we actually follow them
18 home and get into their homes. And if they're
19 carrying so much as a piece of paper into their
20 homes, that to me is records of illegal activity,
21 and we get search warrants for their homes. Once
22 we're in their homes, we find large amounts of
23 money, indication that they are on public
24 assistance. They're not paying taxes and the cars
25 that they're driving are a lot better than the

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2 cars that we are. So in a general sense, to show
3 the riches of these people, we work very hard and
4 we see a lot of our paychecks being taken out.
5 These people don't pay anything and they drive
6 nice cars, and they get food help, rent. So I
7 think that the public awareness campaign could be
8 larger, and to the extent that we would spend
9 money on police enforcement and going after the
10 buyer, I think those same funds could be sent to
11 making more tasks forces because I do think that a
12 collaboration-

13 CHAIRPERSON VALLONE: Sorry to keep
14 jumping in but I have to step across the street
15 for a second. So I want to ask you a question
16 before I leave it with Margaret. If you find
17 someone with a basement full of counterfeit goods,
18 that's it, no proof, not stolen, just a basement
19 full of counterfeit goods, is there something you
20 can charge them with right now?

21 KAREN TURNER: No. Possession
22 alone is not something-

23 CHAIRPERSON VALLONE: So we can-
24 that's what we want to do. That's part of what we
25 want to do, make sure that possession of this

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stuff is also—with knowledge obviously, is also illegal. I do have to run to City Hall for ten minutes and I'm going to be back. I'm going to leave Margaret Chin in charge, so you guys can continue this conversation.

KAREN TURNER: Okay. So no, possession alone, though, just is not. And in fact, we have had storage facilities contact our office to tell us that someone wasn't paying rent. They have information that that person has fled the country. And they finally went into their storage locker and they found all of these counterfeit goods. And they want us to come and clean it out, which is essentially—we don't know who the perpetrators are. We can't use this as evidence. They've obviously flown the country and abandoned this property. And we don't just come in, and it's not contraband per se. So you always, in any counterfeit trademark case, you need—the products alone are not, per se, contraband. You must have factual allegations surrounding it. So in that sense, when we talk about just merely selling and evading the lawful restriction, it really—the task force that I'm

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2 talking about, each and every one of these cases
3 takes time. It takes surveillance. It takes
4 under covers going there on repeated days during
5 the week, over the course of a couple of weeks or
6 a month, depending on the size of it, watching to
7 see what types of deliveries are coming in. But
8 it's all truly a circumstantial case because, as
9 many of us know, when you're talking about intent
10 and knowledge, and we say this all the time in
11 court. It's something that we can't see. It's an
12 invisible operation of our mind. So proving
13 intent, proving what someone knew, it's always a
14 circumstantial. Nobody is going to come right out
15 and say, even in a drug case, "I'm selling you
16 drugs. Do you want to buy my drugs? They're
17 illegal." "I'm selling you counterfeit product.
18 Do you want to buy it? It's counterfeit." You
19 always are talking around the event. You're
20 talking about where they're getting their product,
21 how much. If someone is selling a Gucci bag on a
22 stoop sale, would you call that a crime? Not
23 really, because you could never prove knowledge
24 there. So volume, in itself, is indication of
25 knowledge. Getting deliveries is indication.

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2 COUNCIL MEMBER CHIN: But what I'm
3 trying to address in this bill is to cut down on
4 the demand.

5 KAREN TURNER: Demand.

6 COUNCIL MEMBER CHIN: And so when
7 you have—when we have like tour companies or tour
8 bus advertising, bringing people in buses to Canal
9 Street for the purpose of buying the stuff. So
10 they know what they're getting. And even in
11 public education campaigns, people hear about it.
12 But there's got to be some consequence, right? So
13 if you think a Class A misdemeanor, a \$1,000 fine
14 or a year in jail is too harsh, well what can we
15 do to at least send a signal that it is wrong,
16 it's illegal?

17 KAREN TURNER: I do think the idea
18 of some sort of summons and the idea that was put
19 out there of the awareness that you will be
20 stopped and questioned, who wants that on a
21 vacation? That would be a deterrent. I do think
22 that that's a great thing to explore is the
23 facilitation of these tour buses because it would
24 be interesting to see what their advertising
25 materials are. Are they talking about—I doubt

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2 that their materials really indicate anything
3 about, we'll bring you to Canal Street and you can
4 by suitcase loads of counterfeit goods. It
5 probably doesn't say that. It probably says
6 something along the lines of the famous shopping
7 district of Canal Street. But that would
8 involve, say, undercover officers posing as
9 tourists and asking the tour operators, people in
10 charge going to like who looks like a supervisor.
11 Well what do you mean the famous tourist shopping
12 district of Chinatown. What is that? And them
13 saying it's where you go to get all of the
14 knockoff stuff. You don't want like the kid that
15 was hired for the summer, but you want someone
16 sort of in charge explaining to your undercover
17 officer what is the famous shopping district of
18 Chinatown? And then I would say that you could go
19 up the ladder and go after those tour bus
20 operators.

21 COUNCIL MEMBER CHIN: Well that is
22 something that we're looking at, too. We've been
23 joined by Council Member Gentile. Do you have any
24 questions?

25 COUNCIL MEMBER GENTILE: No, I

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don't.

COUNCIL MEMBER CHIN: Okay. Well I thank you so much for your testimony. But I really do want you to help us, you know, think about what punishment, what can we do to cut down on the demands and we would really welcome your input.

KAREN TURNER: Okay, thank you.

COUNCIL MEMBER CHIN: Thank you very much. I would like to call up the next panel. Valerie.

VALERIE SALEMBIER: Salembier.

COUNCIL MEMBER CHIN: Salembier, with the Authentics Foundation?

VALERIE SALEMBIER: Yes.

COUNCIL MEMBER CHIN: Joseph Gioconda and Brooke Larsen. Please identify yourself when you begin your testimony. Thank you.

VALERIE SALEMBIER: Good morning. She just took them. I have 20 copies. My name is Valerie Salembier. I have been a media executive throughout my career. I have been president of the New York Post. I have run national magazines.

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2 And as publisher of Harpers Bizarre, at the time,
3 from 2003 to 2011 I became very interested in the
4 counterfeit industry. Today I run a 501c3 called
5 the Authenticity Foundation. And at 5:59 a.m. this
6 morning, the website—my website dontbuyfakes.com
7 launched. So for those of you interested in this
8 issue, take a look because it provides consumer
9 education about the counterfeit industry overall.
10 Let me start here. First of all, I want to thank
11 city Councilwoman Chin for allowing my testimony
12 today. And she is to be commended for persevering
13 in her quest to make buying a counterfeit anything
14 a crime in New York City. And I'm going to begin
15 by stating some facts about the counterfeit
16 industry. Most importantly, counterfeiting is not
17 a victimless crime. It is not just a nuisance.
18 The sale of counterfeit supports egregious forced
19 child labor, practices drug cartels and yes, even
20 terrorism. And the sale of counterfeit products
21 has fast become a serious health and safety risk.
22 Fake pharmaceuticals, automobile parts, airline
23 parts, fragrance and beauty products pose serious
24 threats that I hope will influence your thinking
25 on the legislation that's before you today. I

1
2 would like to share some facts about
3 counterfeiting as reported by the—you've heard of
4 them before—the IACC, the international anti-
5 counterfeiting coalition, based in Washington D.C.
6 Some of these facts are abundantly clear, by the
7 way, to all of us. Counterfeiting is illegal and
8 purchasing counterfeit products supports criminal
9 activity. If the counterfeit industry or the
10 counterfeit economy were a business, it would be
11 the world's largest enterprise, twice the size of
12 Wal-Mart, its closest competitor. And the World
13 Customs Organization now estimates counterfeiting
14 as approximately 10% of world trade.

15 Counterfeiters don't pay taxes, critical for New
16 York City. This means that there is less money
17 for New York City schools, hospitals, parks and
18 other important social programs. In 2003 the then
19 New York City comptroller commissioned a research
20 project on the counterfeit industry in New York.
21 The results were horrifying. New York State and
22 New York City quoted the sale of counterfeit goods
23 during 2003 at \$34 billion. New York City alone
24 was deprived, as you've heard, of \$1 billion in
25 tax revenue. This was a direct result of the sale

1 of counterfeit goods not being taxed.
2 Counterfeiters don't pay their employees fair
3 wages or benefits. They have lousy working
4 conditions and often use child labor. Counterfeit
5 goods are made using cheap, substandard and
6 dangerous components that put the health and
7 safety of consumers at risk. Counterfeit
8 merchandise is directly responsible for the loss
9 of 750,000 U.S. jobs. The profit from
10 counterfeiting has been linked to funding
11 organized crime, drug trafficking and terrorist
12 activity. As an example, the 2004 Madrid train
13 bombings were funded by the illegal sale of
14 counterfeit CDs and DVDs. That money was
15 laundered through the remnants of an Al-Qaeda cell
16 formed in Spain a decade earlier. 191 innocent
17 commuters on their way to work in Madrid were
18 murdered as a result and 2,000 more were injured.
19 A study conducted by the Motion Picture
20 Association of America found that their six member
21 companies lost more than \$8 billion dollars in
22 sales and tax revenue in 2005. That number has
23 grown exponentially since then. From a 2012 24/7
24 Wall Street report, in value order, the most
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2 counterfeit products in America are handbags,
3 wallets, watches, jewelry, wearing apparel and
4 accessories, consumer electronics, footwear,
5 pharmaceuticals, personal care products, optical
6 computers, toys, labels and toys-labels, tags and
7 toys. The importing of counterfeit goods has been
8 on the rise, showing an increase of 142% in goods
9 seized in 2012 compared to the previous year. Of
10 the \$511 million worth of fake handbags seized in
11 2012, the vast majority were made in China. This
12 connects back to the point I made earlier on fair
13 wages benefits and poor working conditions, where
14 young children are employed. Children as young as
15 seven and eight years old are put to work in
16 factories and chained to their machines, to have
17 those little seven year old fingers put to work
18 every day with two meals of rice a day with their
19 little fingers putting together fake counterfeit
20 watch parts. Those are the watches for sale in
21 Chinatown as we speak. Let me give you some
22 examples of specific industries and brands that
23 are being affected by counterfeiting. Although my
24 personal focus has been in the luxury goods
25 sector, let me talk about fake pharmaceuticals

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2 because you can buy fake prescription drugs in too
3 many places in New York City. One example of a
4 pharmaceutical fake is a time bomb for cancer
5 patients. In 2012 the FDA issued an alert to
6 doctors that a counterfeit injectible cancer drug
7 had been distributed to clinics in the United
8 States. There was not one active ingredient in
9 this fake medication. Simply, if this drug had
10 been prescribed for you, you would not have
11 received any medical benefit for taking it. This
12 should frighten all of us. Another pharmaceutical
13 company, Pfizer, in their efforts to slow down,
14 their number one counterfeited drug in the world,
15 Viagra, announced that consumers can now purchase
16 real Viagra on their own website, on the Pfizer
17 website. That is they are doing this in order to
18 help stem the flow of consumers buying fake Viagra
19 online. It's a bold step for the pharmaceutical
20 industry. Let me talk again then about the luxury
21 goods sector. After a long investigation, Tiffany
22 & Company found that 73% of alleged Tiffany
23 product sales on eBay were counterfeits, 73%. Can
24 you imagine. And in the past six weeks,
25 storefronts in downtown L.A.'s fashion district

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2 seemed to have a lot of empty shelves. That's the
3 result of \$14 million worth of counterfeit Hermes
4 handbags that were seized at the L.A. and Long
5 Beach ports. New York City's ports deal with the
6 same criminal activity. And seizures of
7 counterfeit goods arriving from the—around the
8 world have kept our New York based Homeland
9 Security enforcement executives very busy indeed.
10 Magazine journalist, Maria Ricapito [phonetic],
11 wrote in 2010 that since fragrance is absorbed by
12 your body, you surely want to buy perfume in a
13 legitimate store where one would expect to buy it.
14 An executive in Dior Perfumes in North America
15 said, quote, "Counterfeit fragrances have not been
16 subjected to the quality control tests and
17 research on which legitimate fragrance makers
18 spend money and time. Fake perfume has been found
19 to contain contaminated alcohol, anti-freeze,
20 harmful bacteria and urine." I'm not sure I would
21 want to be spraying that kind of thing on my body
22 and neither would you. Now I'm not going to be
23 buying counterfeit fragrance on Canal Street, but
24 it exists. It's all over Chinatown. France has
25 been the world leader in counterfeiting law

1 enforcement. Italy now and finally, has taken the
2 same hard stance. In France, if you are caught
3 not just purchasing, buying, but carrying a
4 counterfeit anything you can go to jail and you
5 will be fined up to \$360,000 Euro. That's half a
6 million U.S. That's an extraordinary figure. And
7 guess what, folks? Go to any city in Paris and
8 you're not going to see what you see in Chinatown.
9 So there's no question in my mind that passing
10 this legislation will act as a deterrent to those
11 people who come to Chinatown solely to buy fakes.
12 And think about this. I grew up here. My father
13 used to take me to Chinatown to the festivals to
14 eat great food, to all of the wonderful cultural
15 events that occur in Chinatown. Chinatown is now
16 a destination to buy fakes. The little boutique
17 in Alabama, the boutique in Des Moines, they come
18 to New York City to buy in quantity fakes to sell,
19 some as real, some as fakes in their little
20 stores. So I urge you to pass this legislation.
21 If we don't send a clear message to the end user,
22 the person who actually buys the counterfeit
23 product, this practice will continue to flourish
24 in New York City and will also continue to steal
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2 tax dollars, jobs and profits from those of us who
3 work and live in this great city. As I said
4 earlier, counterfeiting is absolutely not a
5 victimless crime. The last thing I would like to
6 say is that I have been a major supporter of our
7 mayor for the 12 years he's been in office, but I
8 respectfully, completely disagree with the mayor's
9 office of special enforcement on this subject.
10 What has—what they have been working on, and I
11 know all of these people, I also, by the way,
12 chair the New York City Police Foundation and I
13 have been working closely with the NYPD for over
14 20 years. I worked very closely with the
15 trademark infringement unit and know these
16 officers. I know what their jobs are. Do you
17 know that we have 6,000 less police officers on
18 the streets today than we did on 9/11/2001, 6,000
19 less. Would you rather that these officers try to
20 stop gang shootings or should they be patrolling
21 Canal Street? I mean, these are decisions we all
22 have to make, but what's been done by the city is
23 basically preserving the status quo. And that
24 testimony that you heard this morning would do
25 just that, it would do nothing. And I think,

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2 again, respectfully I say this, the woman who
3 testified said that there should be an awareness
4 campaign. Well no kidding. Who is going to pay
5 for it? Let me tell you that the luxury companies
6 whom I also have worked with for the past 17 years
7 are spending tens of millions of dollars every
8 single year on counterfeiting investigators around
9 the globe, on intellectual property lawyers, on
10 their own inter-company, anti-counterfeiting
11 initiatives. But you have to understand that they
12 don't want to be in front of the consumer issues.
13 They want to be behind it. They want to support
14 it. But there is no one to pay for that campaign
15 at the international anti-counterfeiting coalition
16 was a big help in 2009 when they did that. But
17 this—these are not stop gap measures that the
18 mayor's office is talking about. We need to get
19 going, we need to take action. If not, this will
20 never end. My final statement. Most Americans,
21 and certainly most New York City dwellers and
22 people who work here are honest, law abiding
23 citizens. If they understand, if they know that
24 there is a law that could potentially send them to
25 jail or, at the very least, fine them up to

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2 \$1,000, I am telling you those people will stop
3 buying fakes in New York City. Not everyone, but
4 most of them. Thank you very much.

5 COUNCIL MEMBER CHIN: Thank you,
6 Valerie, for your testimony. We've been joined by
7 Council Member Garodnick.

8 COUNCIL MEMBER GARODNICK: Hi.

9 COUNCIL MEMBER CHIN: Next?

10 JOSEPH GIOCONDA: I would first
11 like to thank Chairman Vallone and the New York
12 City Council Committee on Public Safety, and
13 particularly Council Member Margaret Chin and her
14 co-sponsors for the opportunity to testify here
15 today before the City Council on the proposed
16 amendment to the Administrative Code of the City
17 of New York. My name is Joseph Gioconda. I'm the
18 founder and managing attorney of Gioconda Law
19 Group PLLC, a litigation and investigation law
20 firm here in New York City. My firm has
21 represented numerous well known clients in the
22 fashion and luxury goods industries. At the
23 outset, I must stress I expressly disclaim
24 testifying here today on behalf of any one of my
25 law firm's client who may or may not agree with my

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2 personal position in this matter. Draconian
3 though the proposed amendment may seem to the
4 uninformed, I personally believe that the proposed
5 amendment is both warranted and necessary. The
6 commercial sale and distribution of counterfeit
7 goods in New York City is more than a mere public
8 nuisance, although it is that as well. In my
9 nearly 20 years of experience working as an
10 attorney and expert in various anti-counterfeiting
11 cases, I can say with absolute certainty that
12 counterfeit products pose a real and meaningful
13 threat to consumers and legitimate commerce in
14 several ways. First, as has been said several
15 times here today, counterfeiters typically obey no
16 laws. Therefore their goods do not comply with
17 health, safety or labeling regulations. For
18 example, a fake pair of sunglasses can cause
19 injury if they shatter or are not UV coated as to
20 protect retinas from scarring. Indeed, on many
21 occasions when handling counterfeit merchandise
22 that I or my investigators have purchased as
23 evidence in a court case, we have had to wear
24 rubber hospital gloves to avoid skin exposure and
25 contamination from residues such as blood, paint

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2 and cheap dye that are frequently used on these
3 substandard products. Further, product
4 counterfeiting directly funds an underground
5 economy that exploits workers, evades federal,
6 state and municipal taxes and flouts regulatory,
7 health and safety requirements. According to the
8 U.S. Chamber of Commerce and many others who have
9 studied this growing phenomenon, counterfeit goods
10 threaten more than 19 million American jobs,
11 damaging long term growth and prosperity.

12 Further, I have personally seen how counterfeit
13 products harm brand owners, both directly and
14 indirectly. When trademarks are used on products
15 that do not originate from a brand owner and are
16 therefore not authorized by it, that company is
17 irreparably damaged. When individuals or
18 companies use trademarks on goods without
19 authorization, they're taking an unauthorized
20 license of those trademarks without paying any
21 royalties to the brand owner. This is the first
22 form of lost revenue. Further, there is
23 widespread damage to the brand owner's reputation
24 and a likely loss of future sales from unlicensed
25 products. Brand owners typically set quality

1 standards and specifications for the manufacture
2 of their goods. This is done to assure
3 prospective consumers that the brand owner has
4 taken care to provide quality merchandise. When
5 individuals or companies affix trademarks to
6 counterfeits, consumers are provided with goods
7 that bear those same marks, but have not been
8 manufactured to any standard of quality control or
9 innovation and style. Therefore, these brands
10 become diluted and commonly associated with lower
11 quality cheap knockoffs. In addition, if these
12 goods should fail prematurely, as many counterfeit
13 goods do, and do not hold up to aesthetic
14 standards, the consumer, if still under the
15 misguided belief that the purchased goods
16 originated from or were authorized by the brand
17 owner, will also come to believe that the brand
18 owner does not offer quality and style. And this
19 causes not only damage to the brand owner's
20 reputation, but also to the direct loss of future
21 sales. Now as is the case with the law we are
22 discussing today, when a consumer is fully
23 informed that he or she is purchasing counterfeit
24 goods, that is goods that have not been authorized
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2 by the brand owner but still carry one or more of
3 its federally registered trademarks, that sale
4 will still damage the brand owner and the public
5 at large. For example, if the fake product
6 purchased by the consumer is seen by other
7 prospective consumers, they may come to believe
8 that the brand owner does not offer quality
9 merchandise. This also results in damage to the
10 designer's reputation and loss of future sales.
11 Further, as many prominent federal appeals courts
12 have noted, there is absolutely no bar to
13 confusion occurring after the point of sale once
14 the fake goods enter the stream of commerce, such
15 as on eBay. Harm to consumers occurs both before,
16 at and after the point of sale, and the U.S. Court
17 of Appeals for the Second Circuit said that in a
18 case *Hermes v. Letterer* 219F Third 104 in the year
19 2000. The court said, quote, "A loss occurs when
20 a sophisticated buyer purchases a knockoff and
21 passes it off to the public as the genuine
22 article, thereby confusing the viewing public and
23 achieving the status of owning the genuine article
24 at a knockoff price." And that was a unanimous
25 decision. Further, designer merchandise, in

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2 particular, is meant to be exclusive. This
3 exclusivity is controlled by deliberate decisions
4 and several key factors, including the quality of
5 the merchandise, price points and distribution
6 channels. Exclusivity is a marketing decision,
7 aimed at driving and maintaining sales. When
8 companies and individuals use trademarks and goods
9 without authorization it damages this exclusivity,
10 which not only harms the designer, but causes loss
11 of sales. Additionally, counterfeiting results in
12 significant added enforcement cost for the brand
13 owners which are passed on to the consumer, in the
14 form of higher prices. In order to enforce their
15 trademark rights, designers must hire in-house
16 counsel, external counsel, such as myself, private
17 investigators and support staff at considerable
18 expense. Designers often have no choice but to
19 invest substantial resources in pursuing
20 counterfeiters because their trademarks are their
21 most valuable assets and must be protected. Now
22 numerous lawsuits against counterfeiters have been
23 filed by rights holders in recent years in an
24 attempt to address this intensifying threat. The
25 United States Department of Justice, the

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2 Department of Immigration and Customs Enforcement,
3 and the New York City Police Department have used
4 existing laws to cease millions of dollars in
5 assets, as well as close down many stores and
6 websites. Now, while there has been some success
7 in combating this scourge, it still continues to
8 pose significant threats to legitimate commerce
9 which is why we're here today. The reason that
10 counterfeiting persists is very simple.

11 Counterfeiters generate significant profits by
12 nearly doubling their initial investment with the
13 sale of each counterfeit item. Because of this
14 extraordinary return on investment or ROI, we have
15 found that online counterfeiting, as an example,
16 can spread exponentially like an infection because
17 the ROI from a single successful sale of a
18 counterfeit handbag can encourage investment and
19 even more counterfeit merchandise. I wish to note
20 that it is already illegal under federal statute
21 when stolen or counterfeit property is used in
22 interstate commerce. It is also illegal under New
23 York State law to, quote, "Knowingly possess stolen
24 property with intent to benefit himself or a
25 person other than an owner thereof or to impede

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2 the recovery by an owner." So in cases where the
3 defendant asserts that it did not possess property
4 that it knew was stolen, the law has developed a
5 successful and substantial body of precedent to
6 work through the various evidentiary issues. For
7 example, there is a statutory, but rebuttable
8 presumption when a person buys an item without
9 inquiring as to the legal right of the person from
10 whom he or she acquired it. And I cite *People v.*
11 *Grossfield* and *People v. Agnello*, two recent cases
12 in which the courts of appeals have struggled with
13 and articulated the legal standards for how a
14 buyer can have constructive knowledge that goods
15 were obtained illegally, even in the absence and
16 direct evidence. So with all due respect to my
17 colleague, the district attorney from Brooklyn,
18 you can, in many cases, prove intent from
19 circumstantial evidence. It is not necessarily
20 the case that a police officer has to have
21 probable cause generated directly by overhearing
22 the person making an admission, saying that I want
23 to buy a fake good or here is a fake good. For
24 example, in the stolen property context, if
25 someone says to me, "I've got a great deal for

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2 you. Here's a genuine Rolex for \$20," and it
3 turns out that Rolex was stolen, I have an uphill
4 battle to convince the police that I didn't have
5 constructive knowledge that the watch was stolen
6 because I cannot argue legitimately that I'm a
7 bona fide purchaser for value if the genuine item
8 would have been \$10,000 and I was paying \$20. Now
9 I suppose I could argue under the existing law the
10 anomaly that, well, I just thought it was fake and
11 thereby get a pass. This law would seem to close
12 that loophole. So the innocent purchaser who pays
13 full or nearly full price for a wristwatch from
14 someone on Canal Street would be able to raise
15 sufficient doubt as to the necessary knowledge of
16 wrongdoing with the police, the district attorney
17 and the jury. So there are those who express
18 these concerns that the law will be unable to
19 handle the marginal cases when an innocent
20 purchaser stumbles on to a, quote, "Great deal,"
21 only to later be arrested or fined. I would
22 remind them that if the product turns out to be
23 counterfeit under this proposed law, the purchaser
24 would be in exactly the same legal position as if
25 it turned out to be stolen. Councilwoman Chin's

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2 proposed law would achieve parity in this regard,
3 something that the law should desire. It is also
4 worth noting, as has been previously noted by my
5 colleagues, that outside of the United States,
6 several other nations have enacted strict laws
7 that are even far more stringent than Councilwoman
8 Chin's proposed amendment and suffered no adverse
9 consequences, to my knowledge. For example, in
10 Italy, the law makes parties of counterfeit goods
11 liable for fines that are quite extraordinary, and
12 I lay out the specifics in my testimony. And in
13 France there are maximum fines of over 300,000
14 Euros or three years imprisonment. For this
15 reason, tourists visiting these destinations are
16 often warned by travel guides to avoid open air
17 markets touting designer goods for impossible to
18 believe prices, in contrast to the testimony we
19 heard earlier about the tour guides encouraging
20 tourists visiting Canal Street to do the opposite.
21 Finally, covering a recent news story about the
22 proposed amendment, a reporter asked one anonymous
23 tourist strolling the streets of downtown
24 Manhattan, "If buying a fake purse here was a
25 crime, would you still do it?" Her answer was a

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2 simple and emphatic, "No, it wouldn't be worth it
3 then." And that is exactly why I personally
4 support Councilwoman Chin's amendment. One last
5 remark. There has been some discussion today
6 about the knowledge element, and I've addressed
7 that. But to the extent that there could be a
8 compromise proposal discussed, one suggestion I
9 have not fully investigated, but have now come to
10 think about is the possibility that rather than
11 having a one year Class A misdemeanor with a high
12 standard of knowledge or perhaps in addition to
13 that proposed amendment, perhaps an additional
14 amendment that would make it a strict liability
15 offense, a summonable offense for a small fine,
16 let's say \$300 or \$400 without such strict proof
17 of knowledge of intent. And I haven't studied,
18 frankly, whether or not—how that passes
19 constitutional muster. But my thinking is that if
20 this is to some extent an economic analysis done
21 by a tourist that they can get a fake handbag for
22 \$50 that looks like \$1,000 one, if there is a fine
23 with a lower standard of proof and so the police
24 are actually potentially more likely to enforce
25 it, to write a ticket for \$100 or \$200 or \$300,

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2 perhaps that would go some way towards satisfying
3 the concerns raised about the effects on law
4 enforcement's inability and prosecutorial
5 inability to meet the high standard of proof, and
6 also the one year imprisonment perhaps perceived
7 as draconian. I'm not suggesting that the law is
8 draconian, but I'm suggesting that perhaps an
9 additional amendment could be discussed. That
10 could have the net effect of actually creating
11 revenue and having a similar or the same desired
12 effect. And I'm available to answer any questions
13 the Committee may have, thank you.

14 COUNCIL MEMBER CHIN: Thank you
15 very much for your testimony. Mr. Larson?

16 BROOKE LARSEN: -you both one of
17 these.

18 COUNCIL MEMBER CHIN: Can you speak
19 into the mike?

20 BROOKE LARSEN: I seldom use a mike
21 when I'm teaching because I am thought to be
22 fairly loud. However, I represent originality.
23 So I think that I am here now, since having heard
24 so much of the testimony that has been stated
25 about what is originals. I am a professor at the

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2 School of Visual Arts. My name is Brooke Larsen.
3 I am very much involved in making originals. Now
4 I did not have for all of you, but I have--this is
5 my home. All of these photographs are where I
6 live every day. And so I'm going to just go
7 through this. I am, as I said, an artist and a
8 teacher. I am not a lawyer. I am not a police.
9 I do represent the 1st Precinct Community Council.
10 Okay. First I consider this to be a crime and I
11 consider it should be treated as one. And I
12 therefore begin my testimony in favor of this law
13 that Margaret Chin has put before us.
14 Counterfeiting money is, to my understanding--all
15 of these are my opinions of course and not--do not
16 represent what I think others should necessarily -
17 -. Counterfeiting money is illegal. If I attempt
18 to buy something with counterfeit money, I will be
19 arrested or at least, if I'm at the bank and I'm
20 depositing something and have reasonable statement
21 of how I came to that money. But it will be taken
22 from me. The bank will take a counterfeit bill
23 from you and you do not get a return proper bill.
24 You lose that money. You can write it off in your
25 income tax, but you do not get a replacement. So

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2 I believe that we should show everyone that we do
3 still stand up for what is right. Now this is not
4 just a bag, or a watch or a whatever, to quote the
5 younger generation who are being taught that this
6 is not really important. It is just one of the
7 ways business is done today. Well, I think it's
8 criminal and just plain un-American. Families who
9 participate in crime stay together. I attempted
10 to add some humor. Yes, I see entire families,
11 parents, children, boyfriends, girlfriends, even
12 grandparents in groups on my street shopping for
13 counterfeit. Did that go off—shopping for
14 counterfeit goods, in training, one generation to
15 the next. A very dangerous set of ethics and
16 morals to teach our future leaders considering the
17 problems already facing our current officials.
18 People learn to get away with small crimes and
19 then move on. Now, money, money, money. There
20 was a very famous French movie that was brilliant
21 with that title, three times. No sales tax is
22 paid to the state and yet we continue to complain
23 about the deficit. No rent is being paid and yet
24 we want legitimate businesses to pay theirs. No
25 income tax is collected, all cash business. And

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2 yet many of those same people who are supporting
3 this illegal trade will be asking for benefits
4 later on in life that result from taxation. The
5 Sheraton Tribeca New York Hotel, that is the way
6 it is listed on the website, advertises in—it's a
7 larger advertisement, but this is part of it.

8 "Discover the Tribeca neighborhood. Discover the
9 Tribeca neighborhood. Barter with local vendors
10 on Canal Street." Gee, I wonder what that means.
11 I personally pay property tax; federal, state and
12 city income tax, and sales tax. And you want me
13 to teach your children. Maybe there will not be
14 any creative jobs that aren't knock offs. So you
15 want your children to go to art school or
16 wherever. It doesn't matter what they're doing
17 anyway—to study something legitimately. And there
18 won't be any jobs because everyone buys something
19 for less. I think that's something I want to
20 fight against. By the way—oh, you want me to
21 teach them that plagiarism is wrong, which it is.
22 And by the way, in college, we expel students for
23 this offense. This is not a theoretical crime.
24 And I think it's extremely important to practice
25 what we teach. Let's call it what it really is.

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2 We know right and wrong. We just have to stand up
3 to it. Anyways, then this undermines the
4 authority of the police by diminishing belief in
5 the value of the law. I remember when arresting
6 turnstile jumpers was championed because it also
7 resulted in the apprehension of more serious
8 criminals. Most people would agree that jumping
9 the turnstile was, in and of itself, possibly by a
10 very young person, not a serious crime. However,
11 the police department found that they came up with
12 a lot of other criminals. We ended fireworks, for
13 any of you who have been around as long as I have.
14 I have lived in Tribeca since 1979. And though
15 that dates me, I'm willing to take that chance. I
16 was interviewed in a film of the Pioneers of
17 Tribeca. And anyway, fireworks on Broadway and
18 Canal made it impossible to walk. I'm not a
19 particularly fearful person. I still drive an 850
20 Commando Norton, which is a sizeable motorcycle.
21 I was afraid to walk there for at least or four
22 weeks around July 4th. And any of you who were in
23 that area would know of that. Now how they
24 effectively changed it was they went after the
25 people who purchased the fireworks. Now I think

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2 there was even a time when they were impounding
3 cars. And I think if you've taken a father and a
4 son who have come in from New Jersey to buy
5 fireworks illegally in their car, and you impound
6 the car, and Dad and son have to go home on the
7 bus, he may have difficulty explaining to his son
8 about "big daddy." Anyway, I think that the
9 buying of these illegal goods through this crime
10 fits both of those examples, the one of the
11 fireworks and—but anyway, okay. Now in
12 conclusion—by the way, I teach six hour classes,
13 so even if you don't appreciate—I would ask you to
14 appreciate how I have made this into a
15 substantially shorter time. Will there come a
16 time when one of those big plastic bags or
17 oversized suitcases everyone knows or thinks has
18 counterfeit bags in them turn out to have a bomb
19 in it? But then it will be too late. Just a
20 thought. But now, I have some response to many of
21 the things that were brought up today, if I may.

22 CHAIRPERSON VALLONE: You're not
23 going to get the six hours. You want another
24 minute?

25 BROOKE LARSEN: Okay. These are

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four points, very quick.

CHAIRPERSON VALLONE: You want another minute or two? That's it, thanks.

BROOKE LARSEN: You know when you're buying something legitimately because you pay tax and you get a receipt. Everyone knows that they are buying knock-offs, and that's sort of silly. And people will care if they're going to get a ticket. It will deter many of them. It does when you're speeding. You think you may get a ticket or you may not. You don't necessarily speed. And by the way, when you go by a speed sign, coming into a small town, and it says, "35 miles an hour," you're supposed to be going 35 miles an hour. And if you say you don't know that it was there or see it, it doesn't matter. You still get the ticket. Okay. Thank you.

CHAIRPERSON VALLONE: Thank you all.

COUNCIL MEMBER CHIN: I really want to thank you all for your testimony and for supporting this legislation. And if you have any other thought, in terms of helping us, how we can really cut down the demand. I really liked Mr.

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2 Gioconda, yes, your suggestion. Maybe we could
3 add another component to it of a lesser fine, to
4 really help get some revenues for the City and
5 also to really cut down on the demand. But thank
6 you so much for taking the time today to testify.

7 CHAIRPERSON VALLONE: Thank you
8 all. The next panel is going to be Cathy—it looks
9 like Hat or Haft, Wellington Chin, John Hogan, and
10 Dan Thomas. And if you could all attempt to limit
11 your testimony to three minutes, please.

12 [pause]

13 CHAIRPERSON VALLONE: Thank you.
14 Margaret, since you're the one I'm sure is
15 actually Margaret, why don't you start and we'll
16 go that way?

17 CATHY HAFT: No, I'm not Margaret.
18 She's Margaret.

19 CHAIRPERSON VALLONE: You got me.
20 There's one woman on this panel.

21 CATHY HAFT: I'm Cathy Haft. I
22 live in Tribeca since 1987. And I want to talk
23 about what's happened to our neighborhood from the
24 illegal vendors. And first of all, the people who
25 are coming in and buying these bags, they do know.

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2 I have mentioned it to them. I said, "This is
3 illegal. You know these are counterfeit." "Yes,
4 that's why we're here." So speaking to this, that
5 nobody knows, they all know. Whether you can
6 prove it is something else. But try, please.
7 Let's see. I made some notes. Our quality of
8 life has been seriously impacted. We have to walk
9 in the street on the weekends when it's really
10 crowded on the corners of Broadway and Canal, and
11 Walker Street. And somebody is going to get
12 killed. It's dangerous. It's really dangerous.
13 We call the police all the time. The 1st Precinct
14 is wonderful. But frankly, there is no way they
15 can keep up with the amount of phone calls I
16 myself make. So they need help and I think this
17 law would really do that. The garbage that's
18 left, I won't even talk about that. I pay taxes.
19 I pay really high taxes and these folks do not.
20 It doesn't seem fair to me somehow that they're
21 killing my neighborhood and not giving anything
22 positive back, at all. Oh, I once told tourists
23 that they found somebody cut up in little pieces.
24 Somebody was buying a bag and going up into one of
25 buildings. They scattered, so they didn't want a

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2 consequence. I lied, but they didn't want that
3 consequence. So they need to have some
4 consequence. I am happy to walk around with a
5 sign and say, "You're buying counterfeit goods."
6 It's terrible. It's ruining my neighborhood. And
7 I disagree with what Ms. McGee said. Tourists do
8 not care about the illegality. If there is a
9 consequence, that they will care about. And I
10 would personally just love to see a few of them
11 arrested. The tour buses will announce it to
12 everybody, "Do not buy from the vendors on the
13 street." And that really will take care of the
14 problem, I think. So I've seen New Jersey
15 housewives come in with—I don't know if they're
16 housewives, but they have a business. They come
17 in and they load up their station wagons, and
18 bring it back to their neighborhoods and resell
19 them. They know what they're doing is illegal.
20 And there is no way that they can profess
21 innocence from this. And the police have this
22 revolving door. They arrest the vendors and the
23 vendors go right out the back. So we've got to do
24 something. And I really thank you, Councilwoman
25 Quinn for doing—Chin, sorry. That was a real

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slip. Let me tell you. No, that was a real slip.
Thank you.

WELLINGTON CHIN: Good morning,
Chair Vallone, Councilman Chin and members of the
Council. Thank you for this opportunity for me to
say a few words. I'm here to hopefully offer some
personal—oh, I'm Wellington Chin. And I'm here to
maybe offer some personal observations, and
context, and hopefully some perhaps solutions to
this worldwide phenomenon. As one speaker said
correctly, as a proud Asian American, Councilman
Chin is onto something. And I don't mean just a
normal, local cat and mouse game that is going on
here. But we're all onto something historic
because if you were to go to the Metropolitan
Museum, the Asian Gallery today, the first item on
the Asian Gallery that you will see is a porcelain
that is blue and white. And on the back of it, it
says, "Made in China." Well, that's a
counterfeit. That was made in France. And that
shows you how things have come full cycle, because
China used to be the pride, where Henry Hudson and
Verrazano was looking for the Northwest Passage to
make the trade. China has everything, as well.

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2 So now we come to—if we look at the historic
3 context of Japan, post war Japan was the made in
4 Japan was made in China today. It is all full of
5 counterfeit. But what it tells us is that they
6 are not sustainable. They are all transitional
7 periods. So the question then becomes what are
8 you going to do about it? And I propose a big M
9 question. Chinatown, right now, today is in
10 mostly what is called M zone, including a good
11 part of SoHo. So the M stands for what?
12 Residential is not allowed. That's the big 800
13 pound gorilla in the room. So what are we making?
14 Are we making ideas? Are we making products? So
15 this is the big question for us, that's a
16 solution. I wish Steve Jobs is alive today
17 because the innovative economy requires us to
18 produce something new because no, Japan did not
19 invent the TV. Japan did not invent the VCR.
20 They took that idea and repackaged it, so did
21 Steve Jobs. Steve Jobs did not create the mobile
22 phone. He took it to a new product that - -. So
23 the idea of not killing the demand, but shifting
24 the demand, to me I believe is the fundamental
25 solution to this. So it has to be something that

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2 we are going to make with pride, that we make it
3 as durable, that's made in America, that's made in
4 local Chinatown U.S.A. And it's something I offer
5 as a potential solution. I have two bright
6 interns sitting in the audience today, and they
7 are both here. One is from legal standpoint of
8 view. I don't think any of us want to give them
9 as an example that from legal standpoint of view,
10 we want to perpetuate this pattern. The second
11 one is Cathy Lu. They're both volunteers, to
12 offer holistic medicine as an alternative. So you
13 don't want competent medicine. So I think the
14 best is the hybrid between East and West, to come
15 up with new solutions with the creative talent and
16 the manufacturing power of China. We're bound to
17 find a solution. Thank you very much.

18 JOHN HAGEN: I'm John Hagen. I
19 live on Lispenard Street. I've lived here for 30
20 years. So as Mr. Larsen referred to, I was there
21 long before the counterfeit trade was on our
22 street. I was there for the fireworks sales. The
23 fireworks sales were a nightmare for a month or
24 so, around either side of the Fourth of July. I
25 guess they were showing what their wares could do

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2 because they kept setting off the bombs. And then
3 they would sell them. Once a car hood was opened
4 right in front of my door, and it was filled with
5 fireworks. If that thing had exploded, it would
6 have caused horrible damage. Anyway, I've got to
7 say, Mayor Giuliani kicked in and stopped it,
8 because I definitely remember he was mayor and it
9 definitely stopped. I'm amazed that Bloomberg's
10 people are not being more in favor of this bill.
11 I was very surprised to listen to the first
12 speaker. It can be stopped, because the fireworks
13 got stopped. So if one can be stopped, I think
14 the other can be stopped. It just may be a more
15 difficult effort. But as you referred to, it has
16 ruined our block. I cannot walk down the block.
17 We were able to kind of get them away from our
18 front door. But there were lots of arguments and
19 things. And we actually have cameras. And I used
20 to say, "You're on our camera. We're getting
21 you." And there were arguments and almost fights.
22 Mostly they've pushed down to the corners. But I
23 live in it. I get out of my house every day and
24 walk right into it. And I really want this to
25 stop. And I think that the suggestion of maybe a

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2 not so bad fine without a higher level of proof
3 might work. That was just to get it started
4 instead of a year in jail. But I'm totally in
5 favor of this. I'm sick of what this has done to
6 our neighborhood. And I don't think that the
7 mayor's office indicated that we should put up
8 with this. Whatever they've been doing, all those
9 wonderful discussions, it hasn't been doing much.
10 The problem continues to increase. I live in it.
11 I'm there every day. I really want it to stop.
12 Thank you for writing this bill.

13 MR. DON THOMAS: I'm Don Thomas,
14 also from Lispenard Street [phonetic], which as
15 you can tell, from the number of people from
16 Lispenard Street, is heavily impacted by the
17 retail nature of this problem. And like the
18 previous testifiers, I've lived on Lispenard
19 Street for 30-plus years. And anecdotally, I can
20 tell you that currently quality of life on
21 Lispenard is worse than it was 30 years ago, with
22 the exception of the three weeks in late June and
23 July, when they would sell fireworks. I am here,
24 clearly to support the bill. After hearing
25 several suggestions and other people testify, it

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2 seems like it might make sense to modify the bill
3 so that there might be two levels of punishment,
4 one for—a fine, perhaps a violation maybe for
5 large scale or clear, former knowledge of a larger
6 fine or a more severe punishment. And I think all
7 of this should be tied together, possibly in the
8 bill, with some sort of effort for public service
9 announcements. New York City clearly has a city
10 involved, as well as many private companies
11 involved in tourism. It is our largest industry,
12 I suppose—one of our largest. I don't know.
13 These people should all be called upon to work
14 together. And I think maybe this bill might be—if
15 it could be engineered together, or another bill
16 tied to it, or maybe a total separate bill. But
17 clearly, everyone here feels like something needs
18 to be done about this. I think this is a start.
19 And my only hope is that whatever is going to come
20 out of this first hearing, and a new proposal
21 would have a chance to get in front of the City
22 Hall—in front of the City Council as soon as
23 possible because I think the most frustrating
24 thing for those of us who are involved on a daily
25 basis is how long it's taken. There has been an

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2 impact from the work that's been done, cracking
3 down on the suppliers. There has been an impact.
4 But it's not going away and it's not enough. So I
5 think that the idea of this bill is promising.
6 And I think it might help kill the next little
7 bit.

8 CHAIRPERSON VALLONE: Thank you.

9 And I'd just take one second. You're the last
10 panel. And I agree. I think with some work, this
11 may be able to move forward. And maybe make it a
12 violation to buy one, but a crime to have a whole
13 bunch of this stuff. We're going to look into
14 nuisance abatement laws and making those tougher.
15 I know that the attorney had some ideas while I
16 was out of the room. I'm done apparently. But I
17 wanted to thank you all for staying all morning to
18 testify. We're going to take all these ideas into
19 consideration. Margaret, do you want to say some
20 last words before—

21 COUNCIL MEMBER CHIN: I really
22 appreciate all of you for coming down. And then
23 we want to explore every possibility because I
24 know the quality of life issue is so severe that
25 we've got to do something to put a dent in there.

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2 And we will do everything we can to really get
3 this bill passed, so that we can make some changes
4 down here because when a visitor comes to New York
5 City, to Lower Manhattan, we want them to
6 experience the real authenticity of our
7 neighborhood, what we've got to offer, you know,
8 the creativity, the artists, the culture, the
9 treasures that we have. And I think that with the
10 people who testified today, it's like this
11 industry is a worldwide industry. I don't think
12 we can stop it totally, but let's do something in
13 our own neighborhood. And residents are suffering
14 every day. The pictures that Mr. Larsen sent, it
15 just shows every day this is happening in our
16 community. So I thank you and I just—communicate
17 with our office if you have any other suggestions,
18 so that we can really push forward on this bill.
19 Thank you very much for being here today. And
20 thank you Chair Vallone for finally holding this
21 hearing.

22 CHAIRPERSON VALLONE: Thank you for
23 being persistent. This Public Safety hearing is
24 adjourned.

C E R T I F I C A T E

I, Michelle R. Killen certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.



Signature

Date July 9, 2013