

**Statement of Kris Buckner
President, Investigative Consultants
Before the Little Hoover Commission
23 JANUARY 2014**

“The Underground Economy”



My name is Kris Buckner and I am the President of Investigative Consultants (IC). IC is a licensed private investigative company based in California that specializes in investigations related to trademark counterfeiting, piracy and other Intellectual Property matters. Our job is to investigate the manufacture, sales and distribution of illicit products on behalf of the brands we represent. IC is one of the nation's leading investigative firms specializing in these types of cases and investigations.

I have been conducting these types of investigations for almost 19 years and my company represents some of the world's largest and most famous brands, along with many smaller upstart brands that are just starting to make their mark in the marketplace. IC currently represents over 100 different brands.

Our company represents all types of industries, including pharmaceutical, consumer goods, electronics, tobacco, luxury, apparel, music, entertainment, and many others in their efforts to protect their brands and consumers.

IC conducts training for law enforcement officers all over the United States and we have trained well over 10,000 officers in the methods of conducting counterfeiting and piracy investigations. Our training classes have been approved by P.O.S.T. in the past.

I founded Investigative Consultants in 1994. At that time, IC was a single person operation and over the past several years, we have grown tremendously and now employ almost thirty fulltime employees that our focused solely on battling the ever growing problem of counterfeiting & piracy. The reason for our massive growth is because the problem of counterfeiting and piracy has grown substantially over the years and there are no indications that the problem is going away anytime soon.

The problem has grown and will continue to grow because these crimes are considered by criminals to be very low risk and very high reward. The criminals could not be more accurate in their assessment. This is like no other crime that I am aware of. You can make millions in illicit profits and face very little risk of serving any significant prison time.

Our team conducts investigations all over the state of California and on the internet. We have located counterfeit and pirated goods being sold in all types of establishments. There is no shortage of individuals or companies, who are engaging in the sales and distribution of counterfeit goods. The problem is a major issue for the state of California and our entire country.

The role of IC is to investigate on behalf of the brand owners we represent to uncover evidence of counterfeiting activities. If we develop solid evidence that some person or group is engaged in the counterfeit goods trade, we will provide the evidence developed to the appropriate law enforcement agency. If, in the course of law enforcement's investigation, counterfeit goods are seized, our company will assist law enforcement, on behalf of the brand owner, in the identification, inventory, and storage of the counterfeit items. In sum, we represent victim companies and assist law enforcement to ensure that counterfeiters are brought to justice.

We have worked on hundreds of cases with agencies ranging from The LAPD, The Los Angeles County Sheriff's Department, The Sacramento County Sheriff's Department, The Placer County Sheriff's Department, The Riverside County District Attorney's Office, The FBI, Homeland Security Investigations, The United States Secret Service, California Board of Equalization, and many other outstanding agencies.

Our team has encountered difficulties in getting some local agencies involved in working these types of investigations due to budgetary issues or the lack of understanding how serious these crimes really are. Many of these cases cross county lines and quite often, the local agencies we are working with are unable to pursue to the case into another jurisdiction.

Intellectual Property crimes and the other related crimes associated to the Underground Economy are leading to the Economic Undermining of America. I am very thankful that the commission is looking into the Underground Economy and its ties to Intellectual Property crimes and how it impacts the State of California and how we can better battle these issues.

The Underground Economy – The Current Landscape

Simply stated, the Underground Economy is out of control. Counterfeiting and piracy is just one aspect of the problem. In a study conducted by the Los Angeles Economic

Development Corporation (LAEDC) on counterfeiting and piracy, the study showed that Los Angeles County lost 485 million dollars in lost tax revenue and 105,000 jobs in the year 2005 alone.

This study was focused solely on Los Angeles County, so imagine what the lost tax revenue is for the entire state of California. I wonder how many jobs the state of California is losing because of the Underground Economy? These numbers are staggering and I believe the problem is only getting worse.

Trademark Counterfeiting is not just limited to the latest designer purse or that high end luxury watch. Counterfeiters will counterfeit anything as long as they are making money and they do not care if anyone gets hurt or killed as long as cash is making it into their pockets.

We have seen cases involving counterfeit cancer medication and other lifesaving pharmaceutical products. There are other cases involving counterfeit brake pads, aircraft parts, electronics, cough syrup, shampoo, bullet proof vests, and tobacco. The manufacturers of counterfeit products have no regard for the public's health and safety.

Many people think counterfeiting is a victimless crime or its just some "big corporation" losing money. There is a lot more to it than most people realize. Many small legitimate businesses are also suffering, along with the legitimate company.

In my opinion, the general public has no appreciation for how many retail establishments are driven out of business every year by counterfeiters. As everyone knows, there is great demand for brand name products. How can a legitimate small retailer compete when consumers have the option of buying a \$20.00 pair of generic sunglasses in their store or a \$20.00 pair of brand name counterfeit sunglasses in the store next door. Far too many consumers buy the counterfeit brand name sunglasses and the legitimate business ends up losing a sale.

I receive calls regularly from legitimate small business owners begging me to investigate their "counterfeit competitors." These legitimate businesses know that they will be quickly driven out of business, if the seller of counterfeit goods is allowed to continue to operate next door to them. The legitimate business owner understands that the consumer only has a limited amount of money to spend and if the money is spent on counterfeit goods, the legitimate business loses out.

Counterfeiting and Piracy is a large "cash cow" business. A majority of all transactions are done in cash and these operations rarely charge tax or even provide a receipt. I see this on a daily basis during our investigations, where subjects are selling counterfeit goods and requiring that all payments be made in cash. Many of the operations do not even have the required state and city licenses that are required to do business. The

counterfeiters boast that they only accept cash because they do not want to pay taxes and do not want their funds to be traced.

During my 19 years of conducting these types of investigations, I have only come across one counterfeit organization that actually paid all their taxes and accounted for all their sales. This subject did not know it was a crime to sell counterfeit goods. Most of the other operations we see do not appear to be properly reporting their fair share of taxes.

I have interviewed several counterfeiters over the years and have been told time and time again that the counterfeit operations deal in huge sums of cash and that these organizations do not properly report their sales. I have also seen firsthand evidence of this. The counterfeiters advised me that they all take steps to “hide” their money, including wiring their money outside the United States or securing it in safety deposit boxes. The counterfeiters know that if they deposit the funds into a financial institution that they must make deposits under \$ 10,000.00 and not conduct transactions that will raise the suspicions of banking officials. It has been made very clear to me that counterfeiters are well educated and know how to “play the game” to avoid detection by law enforcement.

We have seen evidence of large scale money laundering and structuring during our investigations, along with ties to other more serious crimes, such as narcotics sales, assaults, human trafficking, robbery, and weapons trafficking.

Organized Crime groups, Gangs, and Terrorist Organizations have realized that the Underground Economy is a great way for them to make huge profits for their organizations and face less scrutiny by law enforcement if they were to engage in more traditional criminal activity known to be carried out by their groups. In the past several years, we have seen cases in California involving the 18th Street gang, MS 13, The Bloods, The Crips, Hezbollah and many others.

These groups of criminals see the Underground Economy as a “cash cow” and know that they can engage in such crimes as trademark counterfeiting and piracy and make millions of dollars.

I have spent countless hours interviewing counterfeiters and I have always asked them why they became involved in counterfeiting and the answer is always basically the same, they can make huge amounts of money selling counterfeit goods and face very little risk of going to prison. They always say that the risk is worth the reward.

There are estimates that counterfeiting and piracy costs the global economy in the area of 500 Billion Dollars a year and that up to 8% of goods in the marketplace may be counterfeit. This is just one small aspect of the Underground Economy. It is only logical

that California alone is suffering greatly because of the effects of the Underground Economy.

Sales of Counterfeit Goods in California

The sales of counterfeit goods are happening on a daily basis throughout the state. Whether you are at a local swap meet, Fisherman's Wharf in San Francisco or Santee Alley in Los Angeles, you will find counterfeit goods being sold. Counterfeit goods are being sold in every type of venue you can think of.

You can visit the internet and find endless postings for counterfeit goods and individuals willing to meet you at your local coffee shop parking lot with a trunk full of the latest knock off headphones, jerseys, purses, jewelry, sunglasses or anything you want.

Counterfeiting has evolved in the past several years and we have seen a huge increase in online sales. Counterfeiters can now communicate and arrange their sales and purchasing through various social media outlets and websites.

Counterfeiters can be in instant contact with their suppliers in source countries outside the United States and arrange for counterfeit goods to be shipped to the USA in a matter of minutes. The counterfeit goods will be on a plane headed to the United States within hours of the order being placed. Some counterfeit operations are run more efficiently than a fortune 500 business.

The reason why counterfeit sales are rampant is simple, the public's thirst for a brand name item for a cheap price. The consumer demand for counterfeit goods is high and the general public does not understand what is truly behind counterfeiting and piracy.

Many of the counterfeit goods are manufactured outside the United States in countries that do not abide by the same laws as our country does. As a result of this, many of the counterfeit goods are made in factories that expose the workers to unsafe working conditions and in some instances employ child labor.

We need to educate the public about the Underground Economy and the negative impact these crimes have on our communities. The Los Angeles Crime Stoppers program has done an outstanding job to educate the public about counterfeiting and piracy. They have put up billboards and also produced numerous television segments about the issue. More educational efforts like this need to be done to stem the demand for counterfeit goods.

The criminals that are engaged in the Underground Economy are very well educated in the laws and know what exposure they face if they get caught. For instance, a subject that is selling unstamped cigarettes knows that he must get caught with thousands of cartons of unstamped cigarettes before he will face felony charges. The threshold to

reach a felony standard is far too high and the perpetrators feel the risk is worth the reward. For them, it is worth it. That is why law enforcement catches the same subjects time and time again being engaged in this activity.

Combatting the Problem in California

There are multiple agencies in the State of California that have done outstanding work to address the problem of counterfeiting and understand the importance of pursuing these cases. The Los Angeles County District Attorney's Office has been aggressively prosecuting these crimes for several years and has done a great job. The Los Angeles County Sheriff's Department and The LAPD have dedicated units that are tasked to investigate these crimes and are regularly serving search warrants, making arrests, and seizing large amounts of counterfeit goods. These agencies have done a great job with the limited resources they have been provided to address the problem.

The Riverside County District Attorney Office has a specialized prosecutor that is grant funded to prosecute these cases. This has led to an increase in cases being investigated and additional prosecutions with outstanding resolutions.

Law enforcement in the State of California has been on the forefront of investigating and prosecuting these crimes, however more needs to be done and law enforcement agencies need additional resources to properly attack the issues.

Many law enforcement agencies from around the world have looked to California law enforcement agencies for training when it comes to investigating counterfeiting and piracy matters.

The formation of the statewide taskforce to address the Underground Economy is an outstanding development however the taskforce must be properly funded and given all the needed resources in order for them to have the ability to dismantle the massive counterfeit operations that are operating throughout California.

The counterfeit trade is very similar to the drug trade. In order to be fully effective against the organizations, you must dismantle the entire organization. The lower level groups must be addressed, along with the higher level subjects. The issue must be addressed from the ground up with a focused plan.

Agencies must coordinate their efforts to maximize their investigative and enforcement efforts.

Improvements needed

There are many additional things that need to be done to properly address the Underground Economy and Counterfeiting. The following items are suggested improvements:

- Specialized Prosecutors
- Legislative changes making it easier to seize illicit profits by local law enforcement
- Mandatory fines to fund additional enforcement efforts
- Legislative changes making the possession of over 100 cartons of cigarettes a felony
- Increased Taskforce capabilities to operate throughout California
- Grant funding for local agencies
- Public Education and Awareness
- Creation of a centralized database to track offenders

In order to properly fight the Underground Economy, we must remove the huge financial incentive that these criminals currently have. Law enforcement must have the ability and resources to investigate these cases and seize illicit profits and fruits of the crime. Convicted counterfeiters should have to pay mandatory fines that are used to fund law enforcement's efforts to combat the Underground Economy.

Too often, counterfeiters are arrested and convicted, but are allowed to keep their illicit proceeds. In a recent case in Arizona, The Phoenix Police Department worked with the Maricopa County Attorney's Office and seized over 2 million dollars in assets from a woman who was operating a website selling counterfeit coupons. The woman had made millions of dollars from operating a very simple website selling counterfeit coupons to unknowing consumers throughout the United States.

Many of these counterfeit operations are making millions of dollars off their illicit activity and the coupon case is just one example.

The Underground Economy is a serious threat to the State of California and must be hit head on. The economic stability of our state and country must be protected and should not be allowed to be undermined by those who chose to violate the law and steal from the citizens of California.