



City Attorney Dennis Herrera News Release

For Immediate Release:
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San Francisco cracks down on Justin Bieber graffiti

City Attorney blasts illegal guerrilla marketing stunt for telling youth ‘that likeminded lawlessness and contempt for public property are condoned and encouraged’

SAN FRANCISCO (Dec. 28, 2015)—San Francisco City Attorney Dennis Herrera is demanding the full cooperation of recording artist Justin Bieber’s record label and distribution company to identify and punish those responsible for a guerrilla marketing campaign that includes pervasive ads spray-painted on public sidewalks to promote Bieber’s album, “Purpose.” Herrera, who called the graffiti vandalism “illegal and actionable” in a letter today to executives from Def Jam Records and Universal Music Group, vowed to “aggressively pursue all available penalties and costs from those responsible for lawless marketing tactics that intend to financially benefit your respective companies.”

San Francisco Public Works has for weeks responded to neighborhood complaints about the stenciled ads, which have otherwise persisted undiminished through several rainstorms. Unlike other recent instances of illegal sidewalk advertising that was chalk-based, according to Herrera’s letter, the Bieber-related graffiti appears to have been applied with permanent spray paint. Such defiant guerrilla marketing tactics have become an increasingly unwelcome sight to many San Francisco residents, according to their reactions on social media, in published news accounts, and in complaints to City officials.

“Far more infuriating to the San Franciscans I hear from is commercially-sponsored graffiti vandalism,” Herrera wrote to Def Jam CEO Steve Bartels and Universal Music General Counsel and EVP Jeffrey Harleston. “This prohibited marketing practice illegally exploits our City’s walkable neighborhoods and robust tourism; intentionally creates visual distractions that pose risks to pedestrians on busy rights of way; and irresponsibly tells our youth that likeminded lawlessness and contempt for public property are condoned and encouraged by its beneficiaries—including Mr. Bieber and the record labels that produce and promote him.”

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“Our sidewalks in San Francisco are not canvasses for corporate advertising, and we have made that clear. Yet these guerrilla marketers believe they are above the law when it comes to blighting our city and we will take a strong stand against them,” said San Francisco Public Works Director Mohammed Nuru. “The definition of graffiti is tagging someone else’s property without permission, and they certainly did not have our permission to do this to our sidewalks.”

The Bieber-related vandalism represents the worst example of the problem’s recent re-emergence over the last year, according to the San Francisco City Attorney’s Office. In his letter today, Herrera noted that he is working with City leaders on legislation to “substantially enhance civil penalties” for unlawful guerrilla marketing tactics. San Francisco Supervisor Aaron Peskin has already begun drafting the legislation, which will include input from Herrera’s office and San Francisco Public Works.

“Graffiti abatement and prevention are important aspects of protecting the quality of life in San Francisco neighborhoods,” said Peskin. “Unfortunately, current penalties for ‘guerrilla marketing’ graffiti seem to reflect an acceptable cost of doing business by irresponsible companies competing for consumers’ attention. It’s clear that we need to enact tougher penalties to more effectively discourage this practice. I’m grateful to City Attorney Herrera’s office and San Francisco Public Works for working with me to improve codes intended to keep our sidewalks and neighborhoods clean.”

Herrera’s office has successfully resolved similar violations over the years by corporate bad actors, including IBM, NBC Universal, Turner Broadcasting and Zynga. Past disputes, which also centered on illegal sidewalk graffiti ads, ended with substantial financial settlements to compensate city taxpayers for all costs, civilly punish wrongdoing, and publicly discourage such illicit conduct by other would-be commercial vandals. State and local laws authorize San Francisco’s City Attorney to pursue civil litigation for such unlawful guerrilla marketing practices. Such actions could secure court-ordered injunctions, civil penalties of up to \$2,500 for each violation, and restitution for fees and costs if successful.

In his letter today, Herrera demanded the full cooperation of Def Jam Records and Universal Music Group in his office’s investigation to identify all parties responsible for the graffiti vandalism. Herrera additionally seeks cooperation from the companies to detail the nature and extent of graffiti marketing related to Mr. Bieber’s album, together with “a proposal to resolve the full scope of wrongdoing and avoid civil litigation.”

Photographs of the illegal graffiti and a PDF presskit (which includes City Attorney Dennis Herrera’s letter to Def Jam and Universal Music and photographs) are available on the San Francisco City Attorney’s office’s website at: <http://www.sfcityattorney.org/>.

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City Attorney

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December 28, 2015

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Mr. Jeffrey Harleston, General Counsel and Executive Vice President
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Re: Illegal graffiti marketing for Justin Bieber in San Francisco

Messrs. Bartels and Harleston:

I write regarding the unlawful "guerrilla marketing" graffiti on public sidewalks owned and maintained by the City and County of San Francisco on behalf of your recording artist, Justin Bieber.

The illegally stenciled advertisements, which promote Mr. Bieber's album "Purpose" and its November 13 release date, have been reported to my office as well as to San Francisco Public Works by numerous residents from several city neighborhoods. Their appearance has also earned highly unfavorable news coverage in the *San Francisco Chronicle* and the United Kingdom's *Daily Mail*.¹ Unlike other recent instances of illegal chalk-based sidewalk marketing that my office has pursued civilly, the graffiti vandalism promoting the work newly produced and marketed by your companies appears to have been applied with permanent spray paint. Although Public Works has responded to several of these applications at considerable time and taxpayer expense, we continue to learn of other

¹ See: "Justin Bieber graffiti in Haight draws ire from San Francisco residents" by Alyssa Pereira, *San Francisco Chronicle*, Dec. 11, 2015, <http://www.sfgate.com/entertainment/article/Justin-Bieber-graffiti-in-Haight-draws-ire-from-6692701.php>; and "Justin Bieber draws ire of San Francisco after he defaces sidewalks promoting his Purpose album" by Kiri Blakeley, *Daily Mail*, Dec. 13, 2015, <http://www.dailymail.co.uk/news/article-3358230/Justin-Bieber-draws-ire-San-Francisco-defaces-sidewalks-promoting-Purpose-album.html#ixzz3vWn98cGQ>.

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instances, which have remained undiminished for several weeks through multiple rainstorms.

Graffiti vandalism, as I expect you are aware, is illegal and actionable. California Penal Code § 594 and San Francisco Public Works Code § 184.56 *et seq.* both broadly prohibit such lawless signage on public property, and San Francisco Public Works Code § 184.57(b) specifically provides that no one “shall erect, construct or maintain, paste, paint, print, nail, tack or otherwise fasten or affix any Sign, or cause or suffer the same to be done, on any Lamp Post, Utility Pole, traffic control sign or signal, curbstone, bench, hydrant, wall, span wire, sidewalk, bridge, tree, fence, building or structure owned or controlled by the City.” San Francisco Public Works Code §§ 184.62-63 further provide both civil and criminal penalties for violations of § 184.56 *et seq.*

As San Francisco’s elected City Attorney, I am empowered to pursue civil claims wherever cause exists—as it does here—on behalf of the City and its taxpayers. (S.F. Charter § 6.102) Under state law, I can to sue on behalf of the People of the State of California for violations of our Unfair Competition Law (Cal. Bus. and Prof. Code §§ 17200 *et seq.*), which would certainly include the unfair and unlawful practices reflected in the guerrilla marketing for Mr. Bieber’s album on our public sidewalks. Potential remedies for such actions successfully brought under state and local law include civil penalties of up to \$2,500 for each act of unlawful or unfair competition, remuneration for costs, and injunctive relief.

Over the years, San Franciscans and their elected leaders have acted to limit the presence of graffiti vandalism and enhance penalties on its perpetrators so as to protect our City’s unique charms, and avoid the myriad nuisances that accompany such visual blight. Graffiti prevention and removal is a top priority for San Francisco Public Works, and city taxpayers spend some \$20 million annually to remove it from our public property. Far more infuriating to the San Franciscans I hear from is commercially-sponsored graffiti vandalism. This prohibited marketing practice illegally exploits our City’s walkable neighborhoods and robust tourism; intentionally creates visual distractions that pose risks to pedestrians on busy rights of way; and irresponsibly communicates to young people that likeminded lawlessness and contempt for public property are condoned and encouraged by its beneficiaries—including Mr. Bieber and the record labels that produce and promote him. For this reason, I am again working with City policymakers on legislation to substantially enhance civil penalties for these unlawful guerrilla marketing tactics.

For nearly a decade-and-a-half, my office has aggressively pursued virtually identical violations by corporate bad actors that have included IBM, NBC Universal, Turner Broadcasting and Zynga. We have successfully resolved these cases by securing substantial financial settlements to compensate San Francisco taxpayers for their costs; to civilly punish wrongdoing; and to publicly discourage such illicit conduct by other would-be corporate vandals. As City Attorney, I take the illegal graffiti marketed for Mr. Bieber’s album seriously, and I will aggressively pursue all available penalties and costs from those

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responsible for lawless marketing tactics that intend to financially benefit your respective companies.

With this letter, in accordance with my authority under state and local law, I demand your cooperation in my office's investigation to identify all parties—including but not limited to business entities, individuals, contractors, subcontractors, or their agents—responsible for the aforementioned illegal graffiti vandalism in San Francisco. I also request your cooperation in providing my attorneys and investigators with a detailed accounting of the nature and extent of graffiti marketing relating to Mr. Bieber's album on all public property and rights of way within our City limits, together with a proposal to resolve the full scope of wrongdoing and avoid civil litigation.

At your earliest convenience, please contact Deputy City Attorney Tom Lakritz, Chief of my office's Neighborhood and Resident Protection Team, at (415) 554-3963 or by email at tom.lakritz@sfgov.org to begin the process of resolving the harms done to San Francisco and its residents on your companies' behalf.

Sincerely,



DENNIS HERRERA

cc: Hon. Aaron Peskin, San Francisco Board of Supervisors
Mohammed Nuru, Director of San Francisco Public Works



Illegal Justin Bieber graffiti at 1083 Howard Street, photographed on Dec. 26 — several weeks and multiple rainstorms after it was applied. (San Francisco City Attorney's Office)



Illegal Justin Bieber graffiti on Valencia Street at 23rd Street (via Twitter, <https://twitter.com/kiskerfuffle/status/675377932404043776>)



Illegal Justin Bieber graffiti at Larkin and Bush Streets (via Twitter <https://twitter.com/moniza/status/667380640124268544>)



Illegal Justin Bieber graffiti at 1453 Haight Street (San Francisco Public Works)



Illegal Justin Bieber graffiti at Grove and Divisadero (San Francisco Public Works)



Illegal Justin Bieber graffiti at 616 Divisadero (San Francisco Public Works)



Illegal Justin Bieber graffiti at 550 Divisadero near Bi-Rite. (Photo: Andrew Dudley/Hoodline)



Illegal Justin Bieber graffiti (defaced with responsive graffiti) at Bush and Polk Streets,
(Via Twitter at <https://twitter.com/gabetron3030/status/670786809677246464>)