The City of New York
BUSINESS INTEGRITY COMMISSION
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DECISION OF THE BUSINESS INTEGRITY COMMISSION DENYING THE LICENSE RENEWAL APPLICATION OF GREASE MONKEYS OF NY INC. (BIC #3531) TO OPERATE AS A TRADE WASTE BUSINESS

I. INTRODUCTION & BACKGROUND

A. Introduction

On November 25, 2013, Grease Monkeys of NY Inc. (BIC #3531) (the "Applicant" or "Grease Monkeys") applied to the New York City Business Integrity Commission (the "Commission")[1] for the second renewal of its license to operate as a trade waste businesses in the City of New York (the "Instant Application").[2] Local Law 42 of 1996 ("Local Law 42") authorizes the Commission to review and make determinations on such license applications. See Title 16-A, New York City Administrative Code ("Administrative Code" or "Admin. Code") § 16-505(a). The Commission's review of a license application focuses on a determination of whether the applicant possesses business integrity, i.e., good character, honesty and integrity. See Title 17, Rules of the City of New York § 1-09 (prohibiting numerous types of conduct reflecting lack of business integrity, including violations of law, knowing association with organized crime figures, false or misleading statements to the Commission, and deceptive trade practices); Admin. Code § 16-504(a) (empowering the Commission to issue and establish standards for issuance, suspension, and revocation of licenses and registrations); Admin. Code § 16-509(a) (authorizing the Commission to refuse to issue licenses to applicants lacking "good character, honesty and integrity"). If the Commission grants the application, the Commission will issue the applicant a license renewal. See id.

On September 30, 2015, the Commission's staff served the Applicant with the Notice to Grease Monkeys of NY Inc. of the Grounds to Deny the License Renewal Application of Grease Monkeys of NY Inc. (BIC #3531) to Operate as a Trade Waste Business (the "Recommendation"). The Applicant had 10 business days to respond to the Recommendation, until October 15, 2015. See Title 17, Rules of the City of New York §2-08(a). The Applicant requested and was granted an extension of time to respond to the Recommendation, until October 26, 2015. On October 21, 2015, the Commission received a one page letter from the Applicant's counsel (the "Response") stating: "Please be advised that due to current economic conditions, Grease Monkeys of NY Inc. is not seeking to renew its license to Operate as a Trade Waste Business with the Business Integrity Commission." See Response (emphasis in original). The Response does not dispute, or even address, any of the facts or findings made by the Commission's staff in the Recommendation. See

[1] The Commission was formerly known as the New York City Trade Waste Commission.
[2] "Trade waste" or "waste" is defined at Admin. Code § 16-501(f)(1) and includes "construction and demolition debris."

Id. The Commission has now completed its review of the Instant Application, having carefully considered the Commission staff's Recommendation and the Applicant's Response. Based on the record as to the Applicant, the Commission denies the Instant Application based on the following independently sufficient reasons:

1. **The Applicant violated Local Law 42 by illegally transferring its trade waste license to two unlicensed companies; and**

2. **The Applicant failed to provide truthful and non-misleading information in connection with the Instant Application.**

B. Background and Statutory Framework

Every commercial business establishment in New York City must contract with a private carting company to remove and dispose of the waste it generates, known as trade waste. Historically, the private carting industry in the City was operated as a cartel controlled by organized crime. As evidenced by numerous criminal prosecutions, the industry was plagued by pervasive racketeering, anticompetitive practices and other corruption. See, e.g., United States v. Int'l Brotherhood of Teamsters (Adelstein), 998 F.2d 120 (2d Cir. 1993); People v. Ass'n of Trade Waste Removers of Greater New York Inc., Indictment No. 5614/95 (Sup. Ct. N.Y. Cty.); United States v. Mario Gigante, No. 96 Cr. 466 (S.D.N.Y.); People v. Ass'n of Trade Waste Removers of Greater New York, 701 N.Y.S.2d 12 (1st Dep't 1999). The construction and demolition debris removal sector of the City's carting industry specifically has also been the subject of significant successful racketeering prosecutions. See United States v. Paccione, 949 F.2d 1183, 1186-88 (2d Cir. 1991), cert. denied, 505 U.S. 1220 (1992); United States v. Cafra, No. 94 Cr. 380 (S.D.N.Y.); United States v. Barbieri, No. 94 Cr. 518 (S.D.N.Y.).

The Commission is charged with, among other things, combating the influence of organized crime and preventing its return to the City's private carting industry, including the construction and demolition debris removal industry. Instrumental to this core mission is the licensing scheme set forth in Local Law 42, which created the Commission and granted it the power and duty to license and regulate the trade waste removal industry in New York City. Admin. Code § 16-505(a). This regulatory framework continues to be the primary means of ensuring that an industry once overrun by corruption remains free from organized crime and other criminality, and that commercial businesses that use private carters can be ensured of a fair, competitive market.

Pursuant to Local Law 42, a company "solely engaged in the removal of waste materials resulting from building demolition, construction, alteration or excavation," also known as construction and demolition debris, must apply to the Commission for an exemption from the licensing requirement. Id. If, upon review of an application, the Commission grants an exemption from the licensing requirement, it issues the applicant a Class 2 registration. Id. at § 16-505(a)-(b). Before issuing such registration, the Commission must evaluate the "good character, honesty and integrity of the applicant." Id. at § 16-508(b); see also id. at § 16-504(a). An "applicant" for a license or registration means both the business entity and each principal thereof. Id. at § 16-501(a).

The Administrative Code provides an illustrative list of relevant factors for the Commission to consider in making a decision on an application for a license or registration:

1. failure by such applicant to provide truthful information in connection with the application;

2. a pending indictment or criminal action against such applicant for a crime which under this subdivision would provide a basis for the refusal of such license, or a pending civil or administrative action to which such applicant is a party and which directly relates to the fitness to conduct the business or perform the work for which the license is sought, in which cases the commission may defer consideration of an application until a decision has been reached by the court or administrative tribunal before which such action is pending;

3. conviction of such applicant for a crime which, considering the factors set forth in section seven hundred fifty-three of the correction law, would provide a basis under such law for the refusal of such license;

4. a finding of liability in a civil or administrative action that bears a direct relationship to the fitness of the applicant to conduct the business for which the license is sought;

5. commission of a racketeering activity or knowing association with a person who has been convicted of a racketeering activity, including but not limited to the offenses listed in subdivision one of section nineteen hundred sixty-one of the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. §1961 et seq.) or of an offense listed in subdivision one of section 460.10 of the penal law, as such statutes may be amended from time to time, or the equivalent offense under the laws of any other jurisdiction;

6. association with any member or associate of an organized crime group as identified by a federal, state or city law enforcement or investigative agency when the applicant knew or should have known of the organized crime associations of such person;

7. having been a principal in a predecessor trade waste business as such term is defined in subdivision a of section 16-508 of this chapter where the commission would be authorized to deny a license to such predecessor business pursuant to this subdivision;

8. current membership in a trade association where such membership would be prohibited to a licensee pursuant to subdivision j of section 16-520 of this chapter unless the commission has determined,

pursuant to such subdivision, that such association does not operate in a manner inconsistent with the purposes of this chapter;

9. the holding of a position in a trade association where membership or the holding of such position would be prohibited to a licensee pursuant to subdivision j of section 16-520 of this chapter;

10. failure to pay any tax, fine, penalty, or fee related to the applicant's business for which liability has been admitted by the person liable therefor, or for which judgment has been entered by a court or administrative tribunal of competent jurisdiction.

Id. at § 16-509(a)(i)-(x). See also id. at § 16-504(a).

The Commission also may refuse to issue a license or registration to any applicant who has "knowingly failed to provide information or documentation required by the Commission . . . or who has otherwise failed to demonstrate eligibility for a license." Id. at § 16-509(b). See also Elite Demolition Contracting Corp. v. The City of New York, __ N.Y.S.2d __, 125 A.D.3d 576 (1st Dep't 2015); Breeze Carting Corp. v. The City of New York, 52 A.D.3d 424 (1st Dep't 2008); Attonito v. Maldonado, 3 A.D.3d 415 (1st Dep't) (Commission may deny an application for an exemption "where the applicant fails to provide the necessary information, or knowingly provides false information"); leave denied 2 N.Y.3d 705 (N.Y. 2004). See also Admin. Code § 16-509(a)(i) (failure to provide truthful information in connection with application as a consideration for denial). In addition, the Commission may refuse to issue a license or registration to an applicant that "has been determined to have committed any of the acts which would be a basis for the suspension or revocation of a license." Id. at § 16-509(c). See also id. at § 16-504(a). Finally, the Commission may refuse to issue a license or registration to any applicant where the applicant or its principals have previously had their license or registration revoked. Id. at § 16-509(d); see also id. at § 16-504(a).

An applicant for a private carting license (including a registration for hauling construction and demolition debris) has no entitlement to and no property interest in a license or registration, and the Commission is vested with broad discretion to grant or deny a license or registration application. Sanitation & Recycling Indus., Inc., 107 F.3d 985, 995 (2d Cir. 1997); see also Daxor Corp. v. New York Dep't of Health, 90 N.Y.2d 89, 98-100 (N.Y. 1997).

II. DISCUSSION

A. Statement of Facts

The Applications

On August 17, 2009, Grease Monkeys applied to the Commission for a trade waste removal license. See Grease Monkeys 2009 Application for a Trade Waste Removal License (the "2009 Initial Application"). The 2009 Initial Application disclosed Valery Goykhberg ("Goykhberg") as Grease Monkeys' sole principal. See id. at p.20. On November 11, 2009, the Commission granted Grease Monkeys a trade waste removal license, which was valid for a two year period ending

November 30, 2011. See Initial Trade Waste License. On October 10, 2011, Grease Monkeys applied for the first renewal of its trade waste removal license. See Grease Monkeys 2011 Renewal Application (the "2011 Renewal Application"). On September 27, 2012, the Commission renewed Grease Monkeys' trade waste removal license. See First Renewal Trade Waste License. That renewed license was due to expire on November 30, 2013. See id.

On November 25, 2013, Grease Monkeys submitted the Instant Application for a second renewal of its trade waste removal license. See Instant Application. In the Instant Application, Grease Monkeys disclosed Goykhberg as its sole principal. See id. at p.20. The Instant Application also disclosed seven employees, including three vehicle operators.[3] See id. at pp.10-11. In addition, Grease Monkeys disclosed five vehicles used by its business. See id. at p.8. Goykhberg certified that the information provided in the Application were true. See id. at p.12.

On January 21, 2015, Goykhberg appeared at the Commission's offices for a sworn interview regarding the Instant Application. See Transcript of the Sworn Interview of Valery Goykhberg, dated January 21, 2015 ("Goykhberg Tr.").[4] After reviewing the Instant Application on the record, which was marked as Commission Exhibit 1, Goykhberg again swore and affirmed that the information contained in the Instant Application was true. Goykhberg Tr. at 7:16-8:14. Goykhberg further testified that the Applicant collects used cooking oil, also known as grease, within New York City and New Jersey. Id. at 40:1-40:25. He stated that, because the price of oil had dropped considerably, making his business much less profitable, Grease Monkeys had only one employee besides himself at the time. Id. at 41:2-41:6. This employee is named Ivan Arkip, who works as a warehouseman. Id. at 43:9-17. Moreover, Goykhberg's statements indicated that he was Grease Monkeys' only remaining driver. Id. However, despite that claim, Goykhberg also stated that Grease Monkeys continued to own five trucks. Id. at 41:7-41:10.

Employment Relationship with Melvin Howell

The 2011 Renewal Application disclosed an individual named Melvin Howell ("Howell") as a vehicle operator. See 2011 Renewal Application at p.11. However, the Instant Application did not disclose Howell as a driver or an employee. See Instant Application at pp.10-11. During the Commission's investigation in connection with the Instant Application, the Commission learned that, in March 2014, Howell was arrested in Brooklyn, New York for breaking into a tank to retrieve oil. See New York City Police Department ("NYPD") Arrest Report. A Kings County Criminal Court Complaint (the "Criminal Court Complaint") alleged that, Bill Jordan,[5] the owner

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[3] The disclosed drivers were Allen M. Ricks, Derrick Russ, and Lo Tsepak.

[4] At the time of the sworn interview, Goykhberg was also the sole principal, employee, and vehicle operator of Green Grid US, LLC d/b/a The Oil Doctors ("Green Grid") (BIC #3093). See 2013 Renewal Application of Green Grid at pp.10-11, 20. Goykhberg stated in his sworn interview that Green Grid collects motor oil, but had no customers as the business was not viable. Goykhberg Tr. at 31:7-32:23. However, soon after the sworn interview, new disclosures by Green Grid appeared to contradict that claim. On April 4, 2015, Green Grid disclosed Qi Dong "Peter" Zheng ("Zheng") as a principal. See Zheng Disclosure Form for Principal of a Trade Waste Business. According to a Shareholder Agreement filed by Green Grid with the Principal Information Form, Zheng became a Vice President and came into ownership of 49% of Green Grid. See Shareholder Agreement. On or about May 1, 2015, Goykhberg's remaining interest in Green Grid was sold to Zheng for $30,000. See Agreement for Stock Transfer and Sale and Purchase of Green Grid. It is unclear whether Goykhberg continues to maintain a role in Green Grid.

[5] The Criminal Court Complaint misspelled Jordan's name as "Jordon."

of Bill Jordan's Lobster,[6] kept an oil bin at his establishment for the collection of cooking oil. See Criminal Court Complaint. This oil bin allegedly was maintained by American By-Products.[7] See id. As alleged in the Criminal Court Complaint, Bill Jordan heard the noise of a generator and observed a box truck next to the oil bin. When the police arrived, Howell was allegedly observed in the box truck, which contained a large tank, hose and sump pump. See id. The owner of American By-Products stated that 300 gallons of cooking oil had been siphoned from the oil bin by Howell. See id. The Criminal Court Complaint also alleged that a large hole was cut into the top of the oil bin. See id. The owner of American By-Products told the police that the oil bin had not been not damaged when they last collected cooking oil from Bill Jordan's Lobster. See id.

Based on the above-referenced facts, Howell was charged with one count of criminal mischief in the third degree under Penal Law § 145.05, a class E felony; one count of criminal mischief in the fourth degree, under Penal Law § 145.00, a class A misdemeanor; one count of petit larceny under Penal Law § 155.25, a class A misdemeanor, and one count of criminal possession of stolen property in the fifth degree, under Penal Law § 165.40, a class A misdemeanor. See id. On March 25, 2015, Howell pled guilty to petit larceny and was sentenced to three years' probation, and the Court issued an order of protection. See Criminal History Report.

Commission investigators subsequently interviewed Howell and learned he was operating under the name Garg-Oil Recovery, LLC ("Garg-Oil"). See BIC Report, May 7, 2014. Howell said he was using his box truck to collect grease from former customers of Grease Monkeys. See id. Howell further told Commission investigators that he would take grease from customers that were not his if those customers' collection containers had already been broken into. See id.

In his sworn interview, Goykhberg was asked whether he had ever done business with a company called Garg-Oil. Goykhberg confirmed that Garg-Oil was operated by his former employee, Howell. With respect to Garg-Oil, Goykhberg testified as follows:

> Q: Have you ever done business with a company called Gargoyle [sic] Recovery?
>
> A: It's not a company. I mean, there's not a company; it is one guy, an employee I used to buy oil from. The guy selling the oil—
>
> Q: What is the name of the employee?
>
> A: His name is Melvin.
>
> Counsel: Melvin?
>
> A: Melvin.

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[6] Although the Criminal Court Complaint refers to the business as Bill Jordan's Lobster, a website address refers to the business located on 3165 Harkness Avenue as Jordan's Lobster Docks. See http://www.jordanslobster.com/.

[7] The full name of this company is American By-Product Recyclers, LLC (BIC #1903), which has an active trade waste license with the Commission.

Q: Do you recall his last name?

A: Howell. He used to work for me.

Q: He worked for Grease Monkeys?

A: In the past. Now he has his own company. He was actually fired. I fired the guy a long time ago, because he was selling my oil. That was like two years ago, maybe more. In the end, I had no employee.

Goykhberg Tr. at 53:21-54:13.

Goykhberg described the scheme perpetrated by Howell against Grease Monkeys as follows:

A: He was collecting the oil from my stops and selling, I would call it, my oil, to some other people.

Q: Did he give you any money as a result of doing that?

A: Of course not.

Q: So he would come back with an empty truck?

A: Not an empty truck. I guess he was selling a little, not everything.

Q: So he was skimming?

A: I would say so.

* * *

Q: Have you fired any other employee for any type of grease or oil theft?

A: No . . . ."

Id. at 57:3-57:22.

Grease Monkeys' License Transfer to Melvin Howell and Garg-Oil Recovery, LLC

During his sworn interview, Goykhberg testified that he had recently bought used cooking oil from Howell's company, Garg-Oil. Moreover, Goykhberg stated that he has allowed Howell to use Grease Monkeys' trucks to collect grease. With respect to this issue, Goykhberg testified as follows:

Q: Well, how does – so he brings you oil?

A: Yes.

Q: He has a truck?

A: Mhmm.

Q: What kind of truck?

A: My truck. I gave him my truck to serve his customers. He's not doing it every day because he doesn't have a lot.

Q: He's driving around in a truck that say "Grease Monkeys"?

A: Yes, he's insured. I've put him down on my insurance. He's in the BIC and you --- he's not doing a lot.

Q: Who is the truck registered to?

A: Me.

Q: To you?

A: Yes.

Q: And the insurance –

A: Me.

Q: Is registered to you?

A: Yes.

Id. at 70:8-71:5.

When Goykhberg was asked whether Garg-Oil has a Commission-issued license number, Goykhberg responded, "I don't know. I don't think so." Id. at 71:10. Later, Goykhberg testified that he never checked if Garg-Oil was licensed by the Commission despite knowing that a list of licensed companies was available on the Commission website. Id. at 98:3-98:24. In fact, Garg-Oil is not licensed by the Commission. Nor has Garg-Oil ever applied for a license with the Commission.

Despite having actual knowledge that Howell stole oil from Grease Monkeys in the past and a strong belief that Garg-Oil was operating without a Commission-issued license, Goykhberg

failed to investigate whether the oil Howell was collecting while using Grease Monkeys' trucks was stolen. Goykhberg testified with respect to this issue as follows:

> Q: So does Mr. – do you have Mr. Howell sign anything or write anything to you, that tells you that the oil he is collecting is not stolen?
>
> A: I never – I've never asked him. He told me he has clients. Why would I question him, if he stole the oil?

Id. at 75:9-75:15.

Grease Monkeys' License Transfer to Bobby Green and Asor, Inc.

Goykhberg also testified that he permitted another individual, Bobby Green ("Green"), to use Grease Monkeys' trucks to collect grease:

> Q: Does anyone else borrow your truck?
>
> A: Yes, one guy also but – it's just a waste of my time.
>
> Q: Who borrows your truck?
>
> A: His name is Bobby Green.
>
> * * *
>
> Q: I understand, how often does Bobby Green borrow your truck?
>
> A: Oftentimes he works two days; sometimes he works one day; sometimes he work three days. It all depends.
>
> Q: Every week?
>
> A: Every week.

Id. at 86:1-86:6; 86:16-86:22.

According to Goykhberg, Green's arrangement was similar to Howell's:

> Q: Does Bobby have a company?
>
> A: Yes.
>
> Q: What is his company?

A: Asor.

Q: Is it an Inc.?

A: Yes.

Q: When you write out a check do you write it out to Asor?

A: Mhmm.

Q: And when you write Melvin a check, you write it out to Gargoyle [sic]?

A: Yes.

Id. at 87:7-87:18.

However, Goykhberg could not clearly recollect how Green came to work for him:

Q: Well, how did – how did Bobby get in touch with you?

A: I don't remember. Probably someone gave him my number and called me or – he called me or – I don't remember.

* * *

Q: Well, someone told you to trust this guy?

A: No.

Q: Well, someone recommended him?

A: Yes.

Q: But you don't recall who it was?

A: No. Someone told me that he used to work for another company, a collection company, but I don't remember who it was.

Q: Do you recall what company it was?

A: No.

Id. at 89:5-90:1.

Green had indeed been employed in the grease collection industry, including at Tri State Bio-Diesel, LLC ("TSB") (BIC #2084) and P.M. Waste & Rubbish Contractors, Inc. ("PM") (BIC #84). In the fall of 2013, Green left his job at TSB to work for PM. See Transcript of the Sworn Interview of Wendy Wang ("Wang"), dated October 20, 2014 and October 28, 2014 ("Wang Tr.") at 55:15-55:25; 57:22-58:4. (Wang was an employee of PM.) However, after only one week of employment at PM, Green was terminated based on accusations of grease theft. Wang Tr. at 59:10-59:24.

Months later, on or about February 21, 2014, TSB filed a complaint in New York State Supreme Court, Bronx County. See Tri-State Biodiesel, LLC v. P.M. Waste & Rubbish Contractors Inc., No. 307335-2013 (Sup. Ct., Bronx County, filed February 21, 2014) (the "TSB Complaint"). The TSB Complaint alleges that, in the fall of 2013, Green and Tysheen Trammell ("Trammell"), another former TSB employee who was working for PM, stole grease from TSB customers. After leaving the company, Green and Trammell remained in possession of TSB uniforms and keys to TSB's grease collection barrels. See id. at ¶ 6. They allegedly used their knowledge of TSB's customer lists and routes to steal oil from TSB customers while falsely holding themselves out as TSB employees. See id. at ¶¶ 7-12. The TSB Complaint alleged that Green and Trammell stole grease from 56 TSB customers, resulting in damages to TSB of $122,300.[8] See id. at ¶ 76.

At the time of Green's firing, Wang was responsible for scheduling drivers for grease collection. Wang Tr. at 58:8-58:10; 103:10-104:5. Separate and apart from the TSB allegations, Wang had her own suspicions of Green. Id. at 59:25-60:14. She testified that, on one occasion, Green took the collection truck out for several hours only to call and say the truck had broken down. Id. Wang said that she found the roof of the truck had been opened and suspected that Green sold some of the collected oil to others. Id. Wang indicated that this incident also factored into PM's decision to no longer employ Green. Id.

Had Goykhberg conducted a cursory check with Green's former employers, he would have learned of the allegations against Green relating to TSB. Instead, Goykhberg conducted almost no due diligence, relying on a reference he now no longer recalls before giving Green the keys to his trucks.

Moreover, Asor (Green's company) did not have a Commission-issued trade waste license; nor had it ever applied for a license with the Commission. Goykhberg stated he never checked the Commission website to see if Asor was licensed, because he believed the company was not licensed. Goykhberg Tr. at 96:12-96:23. Goykhberg also testified that it was his understanding that, since Green did not have a vehicle or insurance, he could not possibly have been licensed by the Commission. Id. at 97:7-97:16.

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[8] On or about November 12, 2013, TSB informed the Commission via the Commission complaint line that Tysheen Trammell, as an employee of PM, was engaging in grease theft from TSB customers. The facts alleged in that complaint mirror the allegations in the TSB Complaint. The Commission undertook a number of enforcement patrols where the alleged thefts had occurred during late 2013 and early 2014, but Commission investigators did not observe any theft during those patrols. It is likely that Trammell had been fired by PM before the thefts were reported to the Commission.

Furthermore, as with Howell, Goykhberg displayed little concern that Green could be stealing oil while using Grease Monkeys' trucks. Goykhberg testified as follows on this issue:

> Q: Does Bobby have customers?
>
> A: If he brings oil, it means he has customers.
>
> Q: Have you ever asked him to produce a customer list.
>
> A: No.

Id. at 90:9-90:14.

> Q: Did you ask [Green] whether he's ever stolen any grease?
>
> A: I didn't ask. I just tell him, "Do not steal grease."
>
> Q: And what did he say?
>
> A: He didn't say anything. He'll say, "I got you. I'm not stealing oil."

Id. at 93:23-94:5.

Goykhberg's controls with respect to his trucks and who was using them were severely deficient. Goykhberg was well aware that there is theft in the grease collection industry. In fact, in 2010, Goykhberg himself was arrested for stealing grease. Id. at 13:25-24:8.[9] Although there was no proven wrongdoing by Goykhberg, the fact that he was charged with stealing grease clearly should have made him aware of the fact that the consequences for potentially enabling grease theft could be serious. Yet, Goykhberg allowed two unlicensed companies to operate using Grease Monkeys' trucks, activities that are expressly prohibited under the Administrative Code.

Grease Monkeys' Failure to Disclose Howell and Green

As Goykhberg admitted in his sworn interview, Howell was not disclosed as an employee of Grease Monkeys on the Instant Application. Id. at 71:11-72:6. Furthermore, Goykhberg clearly stated that he does not consider Howell or Green to be his employees. Id. at 101:22-101:24. However, in an apparent contradiction to that testimony, Goykhberg also claimed that approximately six months prior to the date of the sworn interview, he sent a letter to the Commission disclosing Howell and Green as drivers for Grease Monkeys. Id. at 94:17-95:8. He explained that this purported disclosure was done merely to keep his company from having issues if Howell or Green were stopped by the Commission. Id. at 95:9-95:22. A review of Commission

[9] Goykhberg received an adjournment in contemplation of dismissal for that case, and the case ultimately was dismissed and sealed. As a result, the Commission is not relying on any aspect of that case in making its decision with respect to the Instant Application.

records has revealed that that Commission received no such letter or other disclosure from Goykhberg regarding those two employees. However, even if the Commission had received such a letter, the disclosure would have been fraudulent: Goykhberg stated that the Howell and Green were not actually employees of Grease Monkeys, and he was only disclosing them to avoid trouble with the Commission.

Grease Monkeys' Payment Records

By letter dated April 17, 2015, the Commission staff requested that the Applicant list all payments made by the Applicant to Garg-Oil, Asor, Howell and Green. See letter from Commission staff to Grease Monkeys, dated April 17, 2015 (requesting that and other documentation). On April 30, 2015, the Applicant provided the Commission with the requested records. See Payment Records of Grease Monkeys, obtained April 30, 2015. The payment records demonstrate that the Applicant derived a considerable amount of business from the illegal arrangements with Garg-Oil, Asor and their principals. According to the records, the Applicant paid $85,651.19 to Garg-Oil for grease collected during the period between March 24, 2014 and April 8, 2015. See id. The Applicant also paid $109,824.79 to Asor during that same time period. See id. In addition, the Applicant paid $2,058 to Howell and $6,460 to Green for grease collections by the Applicant.[10] See id.

By unlawfully transferring control of its vehicles to unlicensed companies, the Applicant was at the center of a scheme that encouraged and enabled unlicensed cooking oil collection in New York City. In the course of one year, the Applicant purchased over $200,000 of illegally collected grease. See Payment Records of Grease Monkeys, obtained April 30, 2015.

B. Basis of Denial

1. The Applicant violated Local Law 42 by illegally transferring its trade waste license to two unlicensed companies.

"A license or registration issued pursuant to this chapter . . . shall not be transferred or assigned to any person or used by any person other than the licensee or registrant to whom it was issued." See Admin. Code §16-505(c). In violation of this provision, the Applicant (through its sole principal Goykhberg) transferred its Commission-issued license to Garg-Oil and Asor by permitting them to use Grease Monkeys trucks to collect oil. This illegal transfer enabled two unlicensed companies (Garg-Oil and Asor) to operate under Grease Monkeys' license. Goykhberg had little or no control over these companies' operations. Furthermore, as demonstrated above, the owners of Garg-Oil and Asor (Howell and Green) lack good character, honesty and integrity and would be unable to receive a Commission-issued license if they applied. Howell pled guilty to a misdemeanor in connection with stealing grease; Green has been accused of and sued for

[10] As Goykhberg had earlier indicated that former vehicle operators were sometimes called in to drive when disclosed vehicle operators were not able to work, the payments to Howell and Green also support the conclusion that those two individuals periodically acted as undisclosed drivers for the Applicant. Goykhberg Tr. at 71:16-72:9. Interestingly, the payment records indicate that within days of Howell's arrest by the NYPD (March 18, 2014), he began to operate under the guise of Grease Monkeys' trade waste license. On March 24, 2014, the Applicant paid the first of many checks to Garg-Oil for grease collection. See Payment Records of Grease Monkeys, obtained April 30, 2015.

stealing grease from his former employer's customers. The Applicant's illegal transfer of its Commission-issued license and the circumstances surrounding that transfer, demonstrate strong evidence of the Applicant's lack of good character, honesty and integrity and merits the denial of its Instant Application. The Applicant's Response does not refute these facts or this finding. Accordingly, the Commission denies the Instant Application based on this independently sufficient ground. See Admin. Code §§16-505(c), 16-509(a).

2. The Applicant failed to provide truthful and non-misleading information in connection with the Instant Application.

Under Administrative Code §16-509(a)(1), the Commission may consider an applicant's failure to provide truthful information to the Commission in connection with the application in determining whether the applicant lacks good character, honesty and integrity. As set forth above, the Applicant provided false information in response to the question of whether Howell and Green were employed by Grease Monkeys. First, Goykhberg falsely stated that Howell and Green had been disclosed to the Commission as drivers of Grease Monkeys. Second, Goykhberg indicated that he had attempted to defraud the Commission by disclosing Howell and Green as drivers (in the event either was stopped by Commission personnel), despite the fact Goykhberg did not consider Howell and Green to be his employees. Finally, Goykhberg was untruthful in his sworn interview by stating that the Instant Application was accurate. Statements made by Goykhberg regarding the use of undisclosed fill-in drivers, as well as Grease Monkeys payment records, indicate that Howell and Green were on occasion, in fact, acting as employees of Grease Monkeys. However, Howell and Green were never disclosed on the Instant Application or in any subsequent updates to the Instant Application or other disclosures to the Commission.

Therefore, the Commission finds that the Applicant knowingly failed to provide the Commission with truthful and non-misleading information required by the Commission in the Instant Application. The Applicant's Response does not refute these facts or this finding. Accordingly, the Commission denies the Instant Application based on this independently sufficient ground. See Admin. Code §16-509(a)(1).

III. CONCLUSION

The Commission is vested with broad discretion to refuse to issue a license or registration to any applicant that it determines is lacking in good character, honesty and integrity. The record as detailed above demonstrates that the Applicant lacks those qualities. Accordingly, based on the two independently sufficient reasons set forth above, the Commission denies the Instant Application.

This denial decision is effective 14 days from the date hereof. So that the Applicant's customers may make other grease collection arrangements without an interruption in service, the Applicant is directed to continue servicing its customers for the next 14 days in accordance with existing contractual arrangements, unless advised to not to do so by particular customers. The Applicant shall not service any customers, or otherwise operate as a trade waste removal business in the City of New York, after the expiration of the 14 day period.

Dated: November 9, 2015

THE NEW YORK CITY
BUSINESS INTEGRITY COMMISSION

Daniel D. Brownell
Commissioner and Chair

Deputy Commissioner Robert Orlin
(Designee)
Department of Sanitation

Deputy General Counsel Tracy N. Wright
(Designee)
Department of Investigation

Commissioner Julie Menin
Department of Consumer Affairs

Acting Commissioner Andrew Schwartz
Department of Small Business Services

Inspector John Denesopolis
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New York City Police Department