THE CITY OF NEW YORK
BUSINESS INTEGRITY COMMISSION
100 CHURCH STREET, 20TH FLOOR
NEW YORK, NEW YORK 10007

DECISION OF THE BUSINESS INTEGRITY COMMISSION DENYING THE APPLICATION OF R AND S CIRCUS PRODUCE CORP. FOR REGISTRATION AS A WHOLESALE BUSINESS AT THE NEW YORK CITY TERMINAL PRODUCE COOPERATIVE MARKET

Local Law 28 of 1997 ("Local Law 28") and the rules promulgated thereunder require that wholesale businesses located or operating within the New York City Terminal Produce Cooperative Market ("Hunts Point Market" or "Market") register with the Commissioner of the Department of Business Services. See New York City Administrative Code ("Admin. Code") §22-253; 66 RCNY §1-13. The duties of the Commissioner of the Department of Business Services were later transferred to the Commissioner of the Organized Crime Control Commission ("Commissioner"), pursuant to a charter revision provision approved by voters in November 2001. The Organized Crime Control Commission was subsequently renamed the Business Integrity Commission ("Commission"), pursuant to Local Law 21 of 2002.

The Commission may refuse to register a wholesale business when any of its principals lacks good character, honesty and integrity. See Admin. Code §§22-253(b), 22-259(b); New York City Charter §2101(a), (b). Administrative Code §22-259(b) lists a number of factors which the Commission may consider in determining the fitness of an individual or a wholesale business. Among the factors that the Commission may consider in making a fitness determination are: failure to provide truthful information in connection with its registration application (id. at §22-259(b)(i)), a pending indictment or criminal action against such applicant or person for a crime which would provide the basis for denial (id. at §22-259(b)(ii)), and association with any member or associate of an organized crime group (id. at §22-259(b)(v)). Local Law 28 makes clear that the Commission is not limited to consideration of the enumerated factors; the list is meant to be illustrative and not exhaustive.

Based upon the record of R and S Circus Produce Corp. ("R and S" or the "Applicant"), the Commission denies the application of R and S for registration as a wholesaler in the Market for the following independently sufficient reasons:

(1) The Applicant's owner and President, Silvestro LoVerde, has knowingly associated with Frank Cali, an acting captain in the Gambino organized crime family.

(2) The Applicant's owner and President, Silvestro LoVerde, provided false and misleading information to the Commission.

I. THE APPLICANT

The disclosed principals of the Applicant are Silvestro LoVerde ("LoVerde") and Ronen Yamini. LoVerde is the President/Treasurer and 50% owner of the Applicant. See Public Wholesale Markets Wholesale Business Registration Application ("Application") at 22, 28; LoVerde Principal Information Form at 17-18.[1] Ronen Yamini is the Vice-President/Secretary and 50% owner of the Applicant. See Application at 22; Yamini Principal Information Form at 17-18.

On June 24, 2009, the staff issued a 24-page recommendation that R and S's application be denied. See Executive Staff's Recommendation to the Business Integrity Commission to Deny the Application of R and S Circus Produce Corp. for Registration as a Wholesale Business at the New York City Terminal Produce Cooperative Market ("Recommendation").

The Recommendation was served by regular mail and facsimile on the Applicant's attorney, Paul Gentile, Esq. ("Counsel"), on June 24, 2009, and the Applicant was given ten business days to respond (July 9, 2009). See 66 RCNY §§1-14(f); 1-17(d). A copy of the Recommendation was also sent to LoVerde. On June 26, 2009, the Commission's staff provided Counsel with copies of the non-public documents relied upon in the Recommendation. See Letter from Leigh Neren, dated June 26, 2009. On July 9, 2009, the Applicant submitted a thirteen-page response, which consisted of a two-page letter from Counsel[2] and an eleven-page affidavit from LoVerde. See Correspondence from Paul Gentile, Esq., dated July 9, 2009 ("Response"). The affidavit included LoVerde's description of his employment history, business investments, and his purported relationship with certain individuals, including Frank Cali ("Cali"). As discussed below, the affidavit was not responsive to many facts and conclusions discussed in the Recommendation, including that LoVerde knew or should have known that Cali was associated with organized crime.

In furtherance of its investigation into the Applicant, on July 23, 2008, Commission staff deposed LoVerde. The Commission's investigation of the Applicant revealed the following:

LoVerde was born in Palermo, Sicily, in 1969, and lived there until July 1987 when he emigrated to the United States. His father, Leonardo LoVerde, was in the

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[1] The certification page of the Application lists LoVerde solely as President. See Application at 27.

[2] The letter from Counsel did not address any of the substantive issues raised in the Recommendation, but consisted almost exclusively of ad hominem attacks on both Commission staff members as well as the Assistant Corporation Counsel who represented the City during the legal action commenced by the Applicant pursuant to Article 78 of the Civil Practice Law and Rules on March 17, 2009. ("Article 78 proceeding"). See Letter from Paul Gentile, Esq., dated July 9, 2009 ("Response"). See infra at fn 11 for a discussion of the Article 78 proceeding.

produce business in Italy and emigrated to the United States approximately two years after LoVerde arrived. See LoVerde Deposition Transcript ("LoVerde Tr.") at 17-22; LoVerde Questionnaire at 1, 3.[3]

When LoVerde moved to the United States, he lived on 18th Avenue in Bensonhurst, Brooklyn, New York, in an apartment with his mother and siblings for one year, until August 1988, at which time the family moved one block away to 17th Avenue, Brooklyn. LoVerde resided there until 2005 when he moved to Bayridge, Brooklyn. See LoVerde Tr. at 17-20; LoVerde Questionnaire at 3.

LoVerde testified that shortly after his arrival in the United States, he worked as a driver/helper at a food distribution company called Ferro Food, a job that LoVerde's cousin, Sal Adamita, obtained for him. LoVerde Tr. at 41-43.[4]

In 1992, LoVerde and his brother, Antonino LoVerde, formed Two Brothers Produce, Inc. ("Two Brothers Produce"). They purchased produce at farms in New Jersey and sold the product to retail businesses in Brooklyn. LoVerde Tr. at 42, 44-45. According to LoVerde, Two Brothers Produce was located at Antonino LoVerde's home address, 2266 7th Street, Brooklyn, New York, and no one other than he and his brother ever had an interest in the company. See Principal Information Form at 4; LoVerde Notarized Statement dated 5/14/08; LoVerde Notarized Statement dated 1/25/08; LoVerde Tr. at 44-45, 63, 96-97.

LoVerde testified that although Two Brothers Produce closed in 1998, he left the company three years earlier, in approximately 1995, in order to purchase and operate Circus Fruits, Inc. ("Circus Fruits"), a retail fruit store located on Fort Hamilton Parkway in Brooklyn, New York. LoVerde purchased the business with Frank Inzerillo, a close friend from Bensonhurst, Brooklyn, the neighborhood where they both lived.[5] LoVerde's brother, Antonino LoVerde, worked at Circus Fruits as a manager, and LoVerde's father, Leonardo LoVerde, has been employed there as a buyer since he arrived in the United States. LoVerde testified that he was partners with Frank Inzerillo until 2006 at which time LoVerde gave his interest in Circus Fruits to his brother, Antonino LoVerde. Frank

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[3] In the Response, LoVerde stated that prior to immigrating to the United States, his father operated a supermarket in Sicily. See Response at 3.

[4] Ferro Foods Corp. reportedly had ties to Gambino crime family boss Carlo Gambino and was the distribution center for supplies used in the pizza industry in the 1980s when the Gambinos tried to take control over the pizza industry through arson, death threats and other measures. In March 2001, the New York City Board of Education cancelled a multi-million dollar contract with a company affiliated with Ferro Foods Corp., Liberty Food Group, finding that Liberty Food was essentially the same company as Ferro Foods and therefore had the same organized crime issues. See Lynette Holloway, "Schools Contract Cancelled After Mob Ties are Alleged," The New York Times, March 20, 2001. In the Response, LoVerde stated that he did not know who owned the company and had no reason to believe that "Ferro was anything but a legitimate business." See Response at 4.

[5] Frank Inzerillo has been publicly identified as an associate of the Gambino organized crime family. See infra at 6, 21-22.

Inzerillo and Antonino LoVerde have been reportedly operating the company since then. See LoVerde Tr. at 20-22, 61-71; LoVerde Notarized Statement dated 5/14/08.[6]

LoVerde testified that after operating Circus Fruits for approximately one year, he decided that he did not enjoy the retail business, so in 1999, he formed Circus Fruits Wholesale Corp. ("Circus Fruits Wholesale"), a vegetable and fruit wholesale business located at 145 Hamilton Parkway, Brooklyn. He worked at both Circus Fruits and Circus Fruits Wholesale until 2006, but prior to that devoted most of his time to Circus Fruits Wholesale.[7] According to LoVerde, no one other than he has had an interest in Circus Fruits Wholesale.[8] See LoVerde Tr. at 61-71; LoVerde Notarized Statement dated 5/14/08; LoVerde Prinicpal Information Form at 5.[9]

LoVerde testified that in June 2003, he invested approximately $170,000 in Bontel USA Corp. ("Bontel"), a food import company.[10] The Chief Executive Officer of Bontel was and is Cali, an acting captain in the Gambino organized crime family who personally invited LoVerde to buy into Bontel. See LoVerde Principal Information Form at 5; LoVerde Tr. at 81; Accurint Business Report Bontel USA Corp.; United States v. Agate, *et al.*, Cr. 08-76 (EDNY) Indictment ("Indictment") at 9.

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[6] LoVerde testified that he transferred his share informally and has no records evidencing either that he left the company or that he transferred his share of it. See LoVerde Notarized Statement dated 5/14/08; LoVerde Tr. at 66-67.

[7] LoVerde testified that Circus Fruits and Circus Fruits Wholesale operate together – Circus Fruits as the retail business and Circus Fruits Wholesale as the supplier of product for the retail business. Throughout his testimony before the Commission, LoVerde repeatedly referred to Circus Fruits Wholesale as "Circus Fruits." See LoVerde Tr. at 18, 47, 52. Additionally, Circus Fruits Wholesale provides products to Circus Fruits on an almost daily basis. See LoVerde Tr. at 89-90. Public records also reveal that Circus Fruits Wholesale was located at 5915 Fort Hamilton Parkway, Brooklyn, the reported location for Circus Fruits. See Accurint Report Circus Fruits Wholesale. In addition to buying from Circus Fruits Wholesale, Circus Fruits buys product at the Hunts Point Market. LoVerde Tr. at 67-68

[8] Press accounts have reported that Italian and American authorities investigating the connections between the Italian and American mafia determined that although LoVerde is officially listed in business records as the owner of Circus Fruits Wholesale, Frank Cali directs the operations of the company. See "Cosa Nostra - LCN Connections The Documents from Palermo Antimafia," LaRepubblica, February 7, 2008; "Old Bridge," www.guidasicilia.it; Patricia Hurtado and Steve Scherer, "U.S., Italian Police Arrest 80 in Gambino Crackdown," Bloomberg.com; Attilio Bolzoni, "Franky Boy, the Invisible Boss Who Wanted to Have Palermo Back," La Repubblica, February 8, 2008. When providing sworn testimony before the Commission, Frank Cali was asked whether he has or had any interest, involvement, or position with Circus Fruits Wholesale. In response, he asserted his Fifth Amendment privilege against self incrimination. See Cali Deposition Transcript ("Cali Tr.") at 10-11.

[9] In the Response, the Applicant argued that the article, "Franky Boy, the Invisible Boss Who Wanted to Have Palermo Back," supra, is "completely false" and that a retraction was published by the newspaper. In fact, on October 7, 2008, the Applicant submitted documentation to the Commission evidencing that an attorney submitted a letter to the editor on LoVerde's behalf, which was subsequently published in the newspaper, that proclaimed that an aspect of the article -- that LoVerde was arrested and convicted of being a drug courier -- was false. Other aspects of the article were not refuted, and, as demonstrated above, have been corroborated by other sources.

[10] As discussed infra at 18, in the Response, LoVerde stated that he invested $189,000 in Bontel.

R and S was incorporated on October 28, 2005. On October 19, 2007, R and S applied to the Commission for registration as a wholesaler in the Hunts Point Market. See Application.[11]

LoVerde testified that R and S will differ from Circus Fruits Wholesale in that it will operate in the Hunts Point Market. LoVerde anticipates that the customers, many from Circus Fruits Wholesale, will come to the market, thereby eliminating the need for delivery of products. R and S will employ the Circus Fruits Wholesale employees, and the product sold will be the same. Therefore, essentially, R and S will be the successor to Circus Fruits Wholesale. See LoVerde Tr. at 45-47, 52-53.

During his deposition before the Commission, LoVerde was questioned about various topics, including his relationship with Cali. Throughout the deposition, LoVerde claimed to be unknowledgeable about the organized crime associations of Cali, a long-time friend and business associate. As demonstrated below, LoVerde has numerous connections to Cali – both business and personal – and there is ample basis upon which to conclude that LoVerde knew or should have known of Cali's organized crime ties, and the Commission so finds. In addition, the Commission also finds that LoVerde sought to conceal his true relationship with Cali.

The Commission has carefully considered both the staff's recommendation and the Applicant's response. For the reasons set forth below, the Commission finds that the Applicant lacks good character, honesty, and integrity, denies its wholesale business registration application.

II. GROUNDS FOR DENIAL

A. The Applicant's owner and president, Silvestro LoVerde, has knowingly associated with Frank Cali, an acting captain in the Gambino organized crime family.

The Commission may deny a registration application based on the "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 for registration or photo identification card knew or should have known of the organized crime associations of such person." See Admin. Code §22-259(b)(v). As more fully discussed below, LoVerde maintained a business and social relationship with Cali, an acting captain in the Gambino organized crime family, for many years, and therefore knew or should have

[11] On March 17, 2009, the Applicant ("Petitioner") moved pursuant to Article 78 of the Civil Practice Law and Rules to mandate the Commission ("Respondent") to render a determination on the Applicant's registration application. See R and S Circus Produce Corp. v. Business Integrity Commission, Index No. 103667/2009, Article 78 Petition. By decision dated April 15, 2009, the court held that the Commission was required to render a determination on the Application within 100 days from the date of service of notice of entry of the court's decision. See Decision and Judgment, dated April 15, 2009. On April 23, 2009, the Commission, through its attorney, was served with the notice of entry. See Notice of Entry of Order.

known about his organized crime associations. As a result, the Commission finds that Applicant is unfit to conduct business in the Market and denies R & S Circus's Application on this independently sufficient ground.

1. Frank Cali

Francesco Cali, aka "Frank," is a convicted felon and an acting captain in the Gambino crime family. He is related through marriage to the Inzerillo clan of the Sicilian *cosa nostra*, one of the losing factions of the so-called "Second Mafia War" in Italy in the early 1980s. See generally Alexander Stille, *Excellent Cadavers* (1993); see also United States v. Agate, *et al.*, Cr. 08-76, Memorandum of Law in Support of the Government's Motion for Permanent Orders of Detention ("Detention Memo") at 16; John Marzulli, "Gambino Bust Shines Light on Old Feud," Daily News, February 10, 2008; Jeff Harrell, "Reputed Dongan Hills Mobster Admits Role in Extortion Scheme," Staten Island Advance, June 5, 2008. The Inzerillo clan was heavily involved in the international heroin distribution ring that was disrupted in the mid-1980s by the so-called "Pizza Connection" case in New York and the "Maxi-trial" in Palermo. Id.[12] Cali is married to Rosaria aka "Roseanne" Cali *nee* Inzerillo, whose brother is Gambino soldier Pietro "Tall Pete" Inzerillo. Detention Memo at 16; OCID Report dated 4/13/09; LoVerde Tr. at 131-32, 143-44. Her cousins are Gambino associates Frank Inzerillo[13] and Thomas "Tommy" Gambino. See Detention Memo at 16; OCID Report dated 4/13/09; LoVerde Tr. at 93-95, 132, 143-44.

In addition to being an associate of the Gambino crime family, Frank Inzerillo is an "associate" of Cali's who since at least 2005 has been the conduit between Cali and other organized crime members, such as Gambino member Michael "Mickey Boy" Paradiso. Frank Inzerillo is the contact person utilized to set up meetings with Cali. See United States v. Frank Cali, Cr. 08-76, Transcript of Criminal Cause for Detention Hearing, February 19, 2008, ("Detention Hearing Transcript") at 7, 13-18, 25.

Former Gambino captain Michael DiLeonardo[14] ("DiLeonardo") has testified that Cali was a Gambino soldier as of 2002, and was in the crew of then captain John D'Amico, aka "Jackie Nose," who later became part of a three-man "administration" running the family and a co-defendant of Cali's. See Press Release, February 7, 2008, United States Attorney, Eastern District of New York ("Press Release"); Indictment; Detention Memo at 16-18, 20-22, 92-101; Detention Hearing Transcript; United States v.

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[12] The Sicilian and American mafia distributed heroin and laundered the proceeds using pizzerias in the United States as fronts. Authorities prosecuted and convicted numerous defendants, many Sicilian-born men in the food industry. See, e.g., Donald Baer and Brian Duffy, "Inside America's Biggest Drug Bust," U.S. News & World Report, April 11, 1988; Anthony M. DeStefano, "Drug Bust Nets 200, Including Priest," Newsday, April 1, 1988; Arnold H. Lubasch, "Summations Begin in the 'Pizza Connection' Trial,' The New York Times, January 28, 1987.

[13] See supra at 3 and infra at 19-20 for a discussion of LoVerde's relationship with Frank Inzerillo.

[14] Prior to his decision to become a cooperating witness for the government, Michael DiLeonardo, aka "Mikey Scars" was a captain in the Gambino crime family. He has testified in numerous federal trials of other members and associates of organized crime, including Peter Gotti, John A. Gotti, and Dominic Pizzonia, many resulting in convictions and guilty pleas.

Peter Gotti, *et al.*, Cr. 02-743, (SDNY) (DiLeonardo testimony, December 7, 2004, at 2340-41, 2414); United States v. John A. Gotti, Jr., Cr. 04-690 (SDNY) (DiLeonardo testimony, February 23, 2006, at 501-07; DiLeonardo testimony, February 24, 2006, at 848-49). When D'Amico became acting boss of the family in 2005, Cali became acting captain and took over D'Amico's crew. See Detention Memo at 16-18; Detention Hearing Transcript at 3.

Although it is impossible to state with precision when Cali was first placed "on record" as an associate of the Gambino crime family,[15] there is evidence that he had attained that status sometime prior to 1994 and was an associate for some time thereafter. Cali has been observed at locations and events relating to the Gambino crime family as early as 1990. Detention Memo at 17. DiLeonardo testified that in April 1994, he traveled to the Foxwoods Casino in Connecticut with other members and associates of the Gambino family to discuss "the Connecticut rackets." See United States v. Pizzonia, Cr. 05-425 (EDNY) (DiLeonardo testimony, February 6, 2006, at 13-14, 79-81) (members and associates included, among others, John A. Gotti, John D'Amico, and Gambino soldier Frank Fappiano); US v. John A. Gotti, Jr., (DiLeonardo testimony, February 22, 2006, at 386-390). Also in attendance was Frank Cali, who DiLeonardo described as "an associate at the time." See US v. Pizzonia, (DiLeonardo testimony, February 6, 2006, at 13-14, 79-81). Consistent with his status as an associate at this earlier date, the government also has evidence that Cali was involved in loansharking in the early 1990s. See Detention Memo at 21-22. Cooperating witnesses would have testified that "in the mid-1990s, Cali was involved in a telephone card fraud with co-defendant John D'Amico and Gambino family associate Joseph Watts," and that, also in the 1990s, Cali was "involved in overseeing the Gambino family interest in the annual Italian Feast on 18th Avenue in Brooklyn." Detention Memo at 21. In the late 1990s, Cali operated illegal Joker Poker machines[16] in several businesses in Brooklyn, including four or five in Caffé Italia in Bensonhurst, Brooklyn. Id. at 20-22.[17] Cali split a percentage of the gambling profits with the owner of the restaurant and gave a percentage to the administration of the Gambino family. Id. Therefore, it is reasonable to conclude that Cali was an associate of the Gambino crime family dating from roughly the early 1990s.[18]

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[15] When someone is placed "on record" with a family, he is under the umbrella of that family. The family provides protection, and the individual who is now "on record" with the family must share the proceeds of any business ventures he undertakes with the family. See, e.g., US v. John A. Gotti, (Carillo testimony, February 21, 2006, at 101).

[16] Joker Poker machines are gambling devices similar to slot machines. A portion of the proceeds from the operation of the machines is given to the respective crime family to which the operator belongs. See, e.g., United States v. Cosoleto, Massino, *et al.*, Cr. 02-307 (EDNY) (Coppa testimony, May 24, 2004, at 2407-08.)

[17] As discussed below, for many years until 2005 LoVerde went each evening after work to Caffé Italia, located at 6921 18th Avenue in Brooklyn, to meet his friends and drink espresso. Caffé Italia was also an establishment frequented by Cali, D'Amico, and Cefalu. See infra at 10, 23-24.

[18] DiLeonardo's testimony is corroborated by another cooperating witness, former Gambino soldier Frank Fappiano. Press reports indicate Fappiano informed government authorities that Cali was introduced to him in 1999 already a made man. See Jeff Harrell, "Reputed Dongan Hills Mobster Admits Role in Extortion Scheme," Staten Island Advance, June 5, 2008; Attilio Bolzoni, "Franky Boy, the Invisible Boss

In 2002, "Cali was recorded during a consensually monitored meeting with a former high-ranking member of the Gambino family discussing promotions in the Gambino family." Detention Memo at 18. Additionally, Cali drove with DiLeonardo to the wake of John J. Gotti in June 2002, where he was observed by law enforcement, and has since been observed at other wakes and funerals of organized crime figures and their relatives. See US v. Peter Gotti, (Dileonardo testimony, December 7, 2004, at 2340-41); Detention Memo at 17-18. Cali was observed in late 2005 meeting with Gambino captain Michael Paradiso, and then John D'Amico and Domenico Cefalu. Detention Memo at 18. He was also observed meeting with Cefalu on at least two occasions at "Café Italiano" in Brooklyn[19] and Café Euro in Queens. Detention Memo at 18.

In August 2007, in the wake of the arrest by Italian authorities of over a dozen Mafiosi, the *New York Post* published an article citing anonymous Italian law enforcement sources that Cali played a crucial role as an intermediary between the Sicilian *cosa nostra* and the Gambino crime family. See Murray Weiss, "Mafia's Mister 'Clean,'" New York Post, August 10, 2007.

In February 2008, the United States Attorney's Office for the Eastern District of New York unsealed an indictment of Cali and 61 others, including acting boss of the Gambino crime family, John D'Amico ("D'Amico"), also known as "Jackie the Nose," Gambino acting underboss Domenico Cefalu ("Cefalu"), also known as "Dom from 18th Avenue,"[20] Gambino captain Nicholas Corozzo, and other leading members of the Gambino crime family for racketeering, drug trafficking, robbery, money laundering, extortion, and murder. See Indictment at 4-11; Detention Memo at 50; Press Release.[21]

Who Wanted to Have Palermo Back," supra; See also US v. Pizzonia, (DiLeonardo testimony, February 6, 2006, at 13-14, 79-81).

[19] The Detention Memo refers to "Café Italiano" in this context, but this appears to be an error and should be "Caffé Italia." There is no "Café Italiano" listed in the telephone book business directory in Brooklyn, and other similar references in the Detention Memo cite Caffé Italia. Moreover, LoVerde testified that Cefalu and Cali frequented Caffé Italia.

[20] "Dom from 18th Avenue" is reportedly a reference to Cefalu's neighborhood (also LoVerde's) in Bensonhurst, Brooklyn. See Murray Weiss, Brad Hamilton, Stefanie Cohen and Cathy Burke, "How Mobster Nicknames Get 'Made,'" New York Post, February 10, 2008.

[21] The case was code-named "Operation Old Bridge," which refers to the rebuilding of the "Old Bridge" between the American and Sicilian mafias, re-establishing the business and drug trafficking ties between the Sicilian and American mobsters that existed in the 1970s and 1980s using pizzerias as fronts. Authorities prosecuted and convicted numerous defendants. See, e.g., Detention Hearing Transcript at 9-10; Baer and Duffy, supra; DeStefano, supra; Lubasch, supra. The operation reportedly focused on New York's Gambino family and the related Inzerillo mafia clan in Italy and broke-up a growing alliance between the Gambinos and the Sicilian Mafia. See, e.g., Stephanie Cohen, "Gambino Family Takedown," New York Post, February 7, 2008; William K. Rashbaum, "U.S. Makes Strong Move Against Reputed Mobsters 87 People are Charged in Decades of Crime," International Herald Tribune, February 9, 2008; Richard Owen and James Bone, "Police Swoop on Mafia Suspects in Biggest Raids for Two Decades," The Times (London), February 8, 2008; Christian Fraser, "Sicily Mafia 'Restoring US Links,'" BBC News, February 27, 2008; Attilio Bolzoni, "Biggest Mafia Bust Since 'Pizza Connection,'" ABC News, February 7, 2008.

Cali was charged with conspiring with others from January 2006 through January 2008, to extort money from John Doe #4 related to that person's work at the Staten Island NASCAR construction site. Indictment at 133-35. Specifically, Cali, together with Ernest Grillo, a Gambino soldier, Cefalu, Leonard DiMaria, a Gambino captain, Vincent Dragonetti, a Gambino soldier, and Nicholas Corozzo, a Gambino captain, negotiated the amount of money that John Doe #4, a carter, would be forced to pay for exclusive dumping rights at the NASCAR construction site on Staten Island, and then, when that deal fell through, imposed an alternate payment scheme. See Indictment at 133-35; Detention Memo at 19-20; United States v. Agate, *et al.*, Cr. 08-76, Sentencing Memo ("Sentencing Memo") at 12-13.

Prosecutors noted that in addition to Cali's organized crime ties in the United States, he has significant ties to criminal activity in Italy, specifically, "the Sicilian mob or La Cosa Nostra." Cali is considered a respected mafia leader by members of the Italian *cosa nostra*. See Detention Hearing Transcript at 9-10.[22]

On June 3, 2008, Cali pled guilty to count 38 of the Superseding Indictment, Extortion Conspiracy, in violation of 18 USC §1951. See Cali Judgment in a Criminal Case ("Cali Judgment"); Superseding Indictment at 133-34. Cali was sentenced to sixteen months imprisonment, three years supervised release, and ordered to pay a fine of $30,000. Cali was also ordered "not to have any relationship with members of organized crime or criminals, unless they are related by natural relationship[,] marriage or otherwise." See Cali Judgment at 3-4.

Cali was released from prison on supervised release on April 6, 2009. See Federal Bureau of Prisons, inmate information of Frank Cali. See also John Marzulli, "Feds Trying to Stop Reputed Capo Frank Cali's Rise," Daily News, May 29, 2009.

On June 10, 2009, the Commission took sworn testimony from Cali. After giving his name, date of birth, and social security number, Cali asserted his Fifth Amendment privilege against self incrimination with respect to all other questions posed by the Commission, including those related to his connection to the Gambino crime family and the Applicant. See Cali Deposition Transcript ("Cali Tr.").

In addition to being an acting captain in the Gambino crime family, Cali has a wide array of business interests, at least one of which, Bontel, involves LoVerde directly.

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[22] There has been speculation in the press that Cali is the connection between the Inzerillo crime family in the United States and the Sicilian mafia and that he may be operating a number of front companies, including companies dealing in food distribution. See Weiss, supra; "Cosa Nostra - LCN Connections The Documents from Palermo Antimafia," supra; John Marzulli, "Gambino Bust Shines Light on Old Feud," Daily News, February 10, 2008; Jonathan Lemire, "Sicilian Mobsters May Become New York's Latest Big Italian Import," February 28, 2008; "Biggest Mafia Bust Since 'Pizza Connection,'" supra; Lorenzo Tondo and Eric Reguly, "Recent Homicides in Sicily Point to Mafia Turf War," Globe and Mail, July 31, 2007; "Franky Boy, the Invisible Boss Who Wanted to Have Palermo Back," supra; Harrell, supra; "Major US-Italian Anti-Mafia Sweep," Italymag.com, February 8, 2008; Jeff Israely, "The Case of the Exiled Mobsters," TIME, February 7, 2008.

2. Associations with Frank Cali

LoVerde has maintained a close personal relationship with Cali since LoVerde's arrival in the United States in 1987. In addition to their personal relationship, since at least 2003, LoVerde has had and may still have a direct business relationship with Cali as an investor in Bontel. See LoVerde Tr. at 81-83, 102, 108; LoVerde Notarized Statement dated 1/25/08. In the Response, LoVerde reiterated that he is not "close" with Cali, but failed to refute the numerous details about their relationship that establish otherwise.

Since 1987, LoVerde has lived in the same Brooklyn neighborhood as Cali and been friends with him – over the years, playing ball together, having dinner together, and drinking espresso together. LoVerde Tr. at 81-83, 88 102, 108. LoVerde testified that he worked with Cali's father, Cesare Cali, who owned a music/video store on 18th Avenue in Brooklyn, and knows Cali's parents. LoVerde Tr. at 82-83, 88, 112, 175.[23] LoVerde also grew up in the same neighborhood as Cali's wife and knows her family. LoVerde Tr. at 131-32. LoVerde was sufficiently close to Cali that he knew that Cali's wife bought their marital residence seven years earlier and that Cali's parents lived above their store on 18th Avenue in Brooklyn. LoVerde Tr. at 111-112, 175. LoVerde has also been to Cali's home and attended his wedding. LoVerde Tr. at 111-113.

Further, LoVerde met Cali regularly after work at Caffé Italia, a diner in Bensonhurst, Brooklyn on 18th Avenue, for espresso until approximately 2005 when LoVerde moved from Bensonhurst to Bayridge, Brooklyn.[24] Additionally, since Circus Fruits Wholesale and Bontel are merely two blocks away from each other, LoVerde and Cali speak during the work day, meet up for coffee, and occasionally have dinner together. See LoVerde Tr. at 82-83, 88, 102, 108; LoVerde Questionnaire at 3.

LoVerde has also vacationed with Cali on at least three occasions. LoVerde traveled with Cali and other men from their Brooklyn neighborhood, vacationing in the Dominican Republic and Costa Rica. According to LoVerde, it was "always the same guys from the neighborhood," which included Frank Inzerillo, Cali, and some of LoVerde's uncles and cousins. See LoVerde Tr. at 123-27, 142.[25]

The circumstances surrounding LoVerde's investment in Bontel also demonstrate the close relationship between Cali and LoVerde. Bontel is a food distribution company located at 75 Hamilton Avenue, Brooklyn, that imports items from Italy such as pasta,

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[23] Frank Cali's father, Cesare Cali, was a partner of the Sicilian Gambino associate, Domenico Adamita, and was questioned by police investigating the Pizza Connection case. Cesare Cali was not arrested. See "Franky Boy, the Invisible Boss Who Wanted to Have Palermo Back," supra.

[24] Cali operated four or five illegal joker poker gambling machines at Caffé Italia in the 1990s and gave a portion of the profits to the owner and to the administration of the Gambino crime family. Detention Memo at 21. Additionally, D'Amico and Cefalu, acting boss and underboss of the Gambino family, respectively, frequented Caffé Italia, and LoVerde has socialized with both of them there. LoVerde Tr. at 18, 127-131. While under surveillance, Cali was observed meeting with Cefalu at Caffé Italia. Detention Memo at 18.

[25] In the Response, LoVerde stated that he never shared a room with Cali, and they vacationed together as part of a group of 8 or 9 people. He said, "We were simply a group of neighborhood young men enjoying the Dominican Republic and Costa Rica." Response at 9.

olive oil and other goods. Bontel was incorporated on June 6, 2003, and Cali is the president and CEO. The other owners, which LoVerde also knows from his Brooklyn neighborhood, are Nicola Stellato and Santo Zito. LoVerde Tr. at 81-82, 93; LoVerde Notarized Statement dated 1/25/08; Accurint Report, Bontel.

LoVerde testified that in 2003 when he was having one of his regular evening espressos with Cali at Caffé Italia, Cali brought up Bontel as an investment opportunity. LoVerde said he thought it sounded like a good investment and gave Cali approximately $170,000.[26] According to LoVerde, in December 2007 or January 2008, a few months after the *New York Post* article naming Cali as an organized crime figure, shortly after LoVerde filed the instant Application with the Commission, and barely one month before Cali was indicted, he decided to divest his interest in Bontel. While the sequence of events just outlined suggests that LoVerde was attempting to disguise his connection to Cali, LoVerde testified that he "just voluntarily [gave] back [his] share" because they were losing money and he just "want[ed] to be out."[27] In addition, as discussed below (at 16-19), there is significant evidence to suggest that LoVerde never actually severed his ties with Bontel.[28] See LoVerde Tr. at 81-84.

In addition to investing in Bontel, LoVerde also did business with Cali through Circus Fruits Wholesale, which purchased products from Bontel. LoVerde Tr. at 101-103.[29] Notably, LoVerde testified that Circus Fruits Wholesale stopped purchasing olive oil from Bontel recently not because of Cali's organized crime status, but because Bontel no longer carried the desired item. LoVerde Tr. at 106-07. During the deposition, at no time did LoVerde mention that he attempted to or did sever ties with Cali because of the Indictment or concerns that Cali had organized crime ties. On the contrary, LoVerde claimed there was no reason to distance himself from Cali because they were not close friends, and he believed that the allegations were not true (despite Cali's guilty plea). LoVerde Tr. at 115, 117-120.[30]

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[26] In the Response, LoVerde changed his deposition testimony. He stated that in 2003, he gave Cali an initial investment of $100,000, and in 2005, when the company needed an infusion of capital, LoVerde invested an additional $89,000. Further, in the Response, LoVerde stated that he performed his due diligence, but failed to provide any details about what this "due diligence" allegedly consisted of.

[27] Bontel reported $1,100,000 in sales in 2008. Accurint Report, Bontel. In the Response, LoVerde reiterated that he surrendered his stock interests because his interest was worthless, and he did not want to incur any further debt.

[28] In addition to LoVerde's notarized statements to the Commission indicating that as of May 2008, he was still an investor in Bontel, LoVerde was also unable to provide documentation evidencing such severance when the Commission requested it after the deposition. See infra at 15-16.

[29] In the Response, LoVerde stated that in order to help sales and promote Bontel's products, Circus Fruits Wholesale purchased Bontel products at wholesale cost and sold those products to Circus Fruits Wholesale customers. Response at 6.

[30] When asked about Cali's business interests other than Bontel, LoVerde claimed to have "no idea" what they were. LoVerde Tr. at 102. According to LoVerde, Cali was "always" at Bontel buying and making sales. LoVerde Tr. at 102. LoVerde was aware of this because Cali worked two blocks away from him; LoVerde would always see Cali's car. LoVerde also testified "[Cali] used to come and have coffee. If I would call him, just whatever, for any reason..." LoVerde Tr. at 102. Additionally, LoVerde placed orders at Bontel, purchasing products that he would sell at Circus Fruits Wholesale. LoVerde Tr. at 102-03. When asked directly if he was familiar with Ital Products Express, a company reportedly owned by Cali, LoVerde testified that Cali owned it with Tommy Gambino in the early 1990s. LoVerde Tr. at 103-

3. LoVerde knew or should have known that Cali was a member or associate of the Gambino crime family

LoVerde has knowingly associated with Cali – he has known him for over twenty years and met with him on a regular basis from 1987 until his arrest in February 2008, a span which parallels Cali's affiliation with and rise in the Gambino crime family. In addition to the business venture with Cali, LoVerde has maintained a close personal relationship with Cali, thus making it clear that LoVerde knew or should have known about Cali's organized crime associations.

Prior to the 2008 Indictment, which names Cali as a Gambino captain, he was identified in the press and during public trial testimony since 2004 as an associate and then member of the Gambino crime family, dating back to the mid 1990s. In addition to the public reports and testimony about Cali's organized crime status with the Gambino crime family, press accounts have also reported on Cali's status as the Gambino point man between the Gambino crime family in the United States and its counterparts in Sicily. See, e.g., US v. Peter Gotti, (DiLeonardo testimony, December 7, 2004, at 2414); US v. Pizzonia, (DiLeonardo testimony, February 6, 2006, at 13-14, 79-81; US v. John A. Gotti, Jr., (DiLeonardo testimony, February 22, 2006, at 387-390; DiLeonardo testimony, February 23, 2006, at 501-07; DiLeonardo testimony, February 24, 2006, at 848-49); Tondo and Reguly, supra; Weiss, supra; "Cosa Nostra - LCN Connections The Documents from Palermo Antimafia," supra; "Gambino Bust Shines Light on Old Feud," supra; Lemire, supra; "Biggest Mafia Bust Since 'Pizza Connection,'" supra; "Franky Boy, the Invisible Boss Who Wanted to Have Palermo Back," supra; Harrell, supra; "Major US-Italian Anti-Mafia Sweep," supra; Israely, supra; John Marzulli, "Feds Bust Gambino Bigs," Daily News, February 8, 2008.

In addition to the press accounts publicizing Cali's organized crime status and associations, LoVerde has known Cali for over twenty years, was in business with him at Bontel since 2003, and socialized with him on a regular basis. The nature of their relationship demonstrates that LoVerde knew or should have known about Cali's organized crime status. First, LoVerde frequented Caffé Italia, where Cali and other mob figures went on a regular basis. LoVerde shared espresso with Cali on a regular basis and socialized with D'Amico and Cefalu – also members of the same crime family as Cali – there. Further, LoVerde and Cali reached a business agreement regarding Bontel in Caffé Italia, the same cafe where Cali had operated illegal Joker Poker machines.[31] Finally, LoVerde also routinely vacationed with Cali.

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04. Tommy Gambino is related to LoVerde through marriage. LoVerde Tr. at 104-05; Response at 6. Gambino currently works at National Distribution, a company that supplies food and other supplies to pizzerias and restaurants. LoVerde Tr. at 105-07. LoVerde testified that since Bontel stopped selling olive oil, he purchases it from National Distribution and orders it directly from Tommy Gambino. LoVerde Tr. at 106-07.

[31] In the Response, LoVerde stated that after Cali brought up Bontel as an investment opportunity at Caffé Italia, LoVerde conducted his due diligence and that the deal was not "consummated" at Caffé Italia. Response at 9.

Second, LoVerde was an equity investor in Cali's food import business, Bontel, until at least December 2007, but more likely (as discussed below) until after the 2008 Indictment and perhaps presently. Hence, LoVerde was in business with a member of the Gambino crime family for, at a minimum, four years.

The circumstances under which LoVerde claims he disassociated from Bontel further suggest that LoVerde was likely aware of Cali's organized crime associations. As discussed above, LoVerde's reported severance from Bontel occurred merely one-to-two months before the indictment and shortly after local press accounts reported on Cali's organized crime ties. This sequence demonstrates that LoVerde likely disassociated from Cali, a reputed organized crime figure, in order to improve his chances for approval of the instant Application. Alternatively, as the evidence suggests, LoVerde has not severed ties with Cali, and LoVerde's testimony in that respect is false.

LoVerde's relationship with Frank Inzerillo – someone who law enforcement officials identify as an associate of the same crime family to which Cali belongs and a conduit for Cali – further underscores that LoVerde knew about Cali's organized crime status. Since 1998, Frank Inzerillo has been LoVerde's close friend, business partner, and business associate. Further, the property on which Bontel is located was owned by Frank Inzerillo.[32] He is also related to Gambino soldier, Peter Inzerillo, Frank Cali's brother-in-law, who LoVerde also knows. See Detention Memo at 16; Detention Hearing Transcript at 7, 13-18, 25. See also "Gambino Bust Shines Light on Old Feud," supra; Lemire; supra. LoVerde was aware of the familial connection between Frank and Peter Inzerillo, Peter Inzerillo's connection to Cali, and details of Peter Inzerillo's life. See LoVerde Tr. at 94-95, 141-44.[33]

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[32] When asked who owned the property on which Bontel is located, LoVerde testified that Cali's wife owned it. See LoVerde Tr. at 96. LoVerde also testified that Frank Inzerillo never had an interest in Bontel. See LoVerde Notarized Statement dated 1/25/08; LoVerde Notarized Statement dated 5/14/08. In fact, Frank Inzerillo – Gambino associate and former partner of LoVerde's at Circus Fruits – owns the property at 75 Hamilton Avenue through a company, 75 Realty LLC. Inzerillo purchased the property in February 2006. See Department of Finance Office of the City Register, records for 75 Hamilton Avenue, Brooklyn. Further, as of December 2003, 75 Realty LLC, owned by Frank Inzerillo, was the entity that reportedly owned Cali's residence at 948 Todt Hill, Staten Island, New York. See NYC Department of Buildings job work record, 12/1/03 to 12/5/03; LexisNexis printout for 948 Todt Hill Rd, Staten Island, New York. When Cali was incarcerated in 2008, he attempted to secure his bail with his home in Staten Island, which was then in his wife's name, and Bontel, which authorities believed was financed with proceeds from criminal activity. In order for the judge to accept such a bail package, Cali was required to provide his tax returns for Bontel in order for the federal investigators to determine if illicit money was involved in the running of the business. See John Marzulli, "Reputed Gambino Crime Capo's House Bought with Mob Cash?" Daily News, February 20, 2008; "Was Mob Cash Used to Buy Staten Island Home? Judge Wants to Know," Staten Island Advance, February 20, 2008. Subsequently, Cali withdrew his bail request and remained in jail during the pendency of his case.

[33] LoVerde also testified that he does business with Top Tomato, a company owned by Carmine Sciandra, a Gambino soldier. LoVerde Tr. at 158-160. LoVerde sells produce to the company on a daily basis. Loverde testified that he was unaware of Sciandra's organized crime connections. Id. at 158-60. Sciandra's organized crime ties have, again, been well-publicized. Not only has Sciandra been publicly identified as a Gambino member, but he was shot inside his Top Tomato store in Staten Island in 2005. See, e.g., US v. Peter Gotti, (DiLeonardo testimony, December 7, 2004); US v. John A. Gotti, Jr., (DiLeonardo testimony, February 22, 2006, at 324); Jerry Capeci, "The Gambino Family Turns to Jackie

As discussed below at 14-19, LoVerde's repeated attempts to minimize and downplay his relationship with Cali further demonstrate that he was aware of Cali's organized crime associations and the potential negative ramifications that his association with Cali could have for his registration application. These attempts to mislead the Commission show that LoVerde was conscious of Cali's organized crime ties and tried to distance himself from Cali in order to benefit himself before the Commission.

Given the closeness of their relationship, the venue in which they routinely met, the notoriety of other members of the Gambino crime family – D'Amico and Cefalu – at the same place, and the timing of LoVerde's purported disassociation from Cali, LoVerde knew or should have known that Cali was a member of the Gambino crime family.

In sum, the evidence recounted above demonstrates that the Applicant's President engaged in business and personal dealings for years with a high-ranking organized crime figure. Further, the proof also establishes that the Applicant's President knew or should have known of Cali's organized crime ties. In the Response, LoVerde did not contest this point – either by refuting knowledge of the information in the public domain or of Cali's organized crime status in the Gambino crime family. LoVerde merely asserted that he was unaware of Cali's arrest until February 2008 and that he "never observed anyone defer to [Cali], take orders from [Cali] or in any way indicate that [Cali] had authority or leadership over other people." Response at 10. Therefore, LoVerde seemed to argue that so long as he had no personal knowledge of Cali's organized crime ties, he was free to ignore the evidence of such before him – sworn trial testimony, criminal proceedings and convictions, and press accounts. As demonstrated above, in light of their relationship and all the information in the public since 2004 about Cali's organized crime ties, it is inconceivable that LoVerde didn't know about Cali's organized crime status. In any event, the proof demonstrates that at a minimum LoVerde should have known. These types of associations are plainly repugnant to Local Law 28's goal of eliminating the influence of organized crime from the public wholesale markets. LoVerde's associations with Cali, an acting captain in the Gambino crime family, demonstrates that the Applicant lacks the good character, honesty, and integrity required to obtain a registration. Accordingly, R and S's application is denied on this independently sufficient ground.

4. Willful ignorance demonstrates lack of good character, honesty and integrity

Even if one ignores the obvious and accepts LoVerde's protestations of ignorance about the organized crime affiliations of Cali and with whom he associated, the Commission denies the Application because the Applicant has failed to satisfy its burden of demonstrating its good character, honesty and integrity, and therefore its eligibility for obtaining a registration to operate in the Hunts Point Market. See Admin. Code §22-259. Here, if LoVerde was truly unaware of Cali's organized crime associations then he had to

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Nose to Lead a Turnaround," The New York Sun, December 15, 2005. Therefore, LoVerde knew or should have known his organized crime status.

intentionally disregard blatant signs of organized crime. This type of attitude cannot be tolerated in a market historically influenced by organized crime.

In fact, LoVerde testified that he chooses to ignore signs of organized crime involvement and routinely engages in such willful ignorance. As discussed more fully below, LoVerde stated that he was not interested in such issues of organized crime. He testified: "I never look who's who, who's what, because the bottom line to me I don't care."[34] LoVerde Tr. at 120. Therefore, by his own sworn testimony, he has no interest in finding out whether his business partners or those with whom he associates are associated with organized crime. Indeed, in the Response, the Applicant does not contest this point and gives no indication that his attitude toward the organized crime connections of those with whom he does business would be anything other than studied indifference. That approach is unacceptable for a person seeking registration to do business in a market with a history of organized crime corruption. For this independently sufficient ground, the Commission denies the Application.

B. The Applicant knowingly provided false and misleading information to the Commission.

The Commission may refuse to issue a registration to an applicant who has failed "to provide truthful information in connection with the application." See Admin. Code §22-259(b)(i). On October 19, 2007, the Applicant filed its Application, which included a Principal Information Form for each principal of the Applicant. On July 23, 2008, Commission staff deposed LoVerde. In the Application, in submissions to the Commission, and throughout his deposition, LoVerde provided false and/or misleading information to the Commission by trying to minimize his relationship with Cali and his knowledge of Cali's organized crime status as well as that of other organized crime figures, such as D'Amico and Cefalu.

The failure of the Applicant to provide truthful and non-misleading information to the Commission is evidence that the Applicant lacks good character, honesty and integrity. Therefore, the Commission denies the Application on this independently sufficient ground. See Admin. Code §22-259(b)(i).

1. Frank Cali

In the Application and throughout the deposition, LoVerde provided false and misleading information by intentionally minimizing his relationship with Cali and testifying falsely that he was unaware of Cali's organized crime associations. As

[34] Although he immediately followed this with the contradictory statement "Meaning, I don't want to have any business with you," in the very next sentence, he made clear his determination not to let allegations of organized crime affiliation prevent him from sitting down with whoever he liked: "I will meet you and say hello, have a coffee, if I have a coffee and that's my lifestyle, having a coffee, socialize, that's what I do." See LoVerde Tr. at 120. As we have seen, however, for LoVerde, the division between socializing over coffee and doing business is far from clear: Cali's offer of an equity stake in Bontel and LoVerde's acceptance was made over coffee at Caffé Italia. See LoVerde at 81-83.

discussed above, in fact, LoVerde has maintained a close personal and business relationship with Cali for years and there is no reasonable way to conclude that LoVerde was unaware of Cali's organized crime associations. LoVerde was less than forthright with the Commission likely because he knew that his relationship with Cali, an acting captain in the Gambino crime family, would jeopardize approval of the Application.

In the Response, LoVerde stated that all of the information about LoVerde's relationship with Cali was provided by him. While the Commission has utilized its own investigative resources to obtain information relevant to the instant Application, even if LoVerde's assertions were true, that would not negate the fact that LoVerde attempted to downplay and minimize the relationship before the Commission. Indeed, in the Response, LoVerde reiterated that he was not close with Cali, but failed to substantively address or refute any of the underlying facts supporting this ground for denial in the Recommendation.

First, throughout LoVerde's sworn testimony before the Commission, when asked general questions, he repeatedly attempted to downplay and minimize his relationship with Cali. Only as the questioning became more pointed did LoVerde provide details which contradicted his characterization of his relationship with Cali. For instance, when asked about how his relationship with Cali has evolved over the years, LoVerde testified that he and Cali were not close: "never really be a close, close friend in that sense that I will go out dancing or whatever;" "No, again, I'm not – I'm friends with everybody, but I'm not close to anybody. I just keep it nice and simple. I go to work. I don't have time to go to all these affairs." LoVerde Tr. at 88, 111.

He also stated that he and Cali had no social relationship, and that Bontel was merely a one-time business relationship. LoVerde Tr. at 115. When asked if he spoke with Cali since his arrest, LoVerde stated, "No, because I don't talk to him, you know we had just a business relationship. Then when my business relationship ended in January, so I don't have any contact." LoVerde Tr. at 115. He also testified: "I grew up with, but [it] was never like we were close friends.... That doesn't mean I socialize with you."

Notwithstanding LoVerde's attempts to distance himself from Cali, close questioning of LoVerde revealed that he was much more than a casual acquaintance of Cali's. LoVerde knew intimate details about Cali's affairs. For instance, LoVerde testified that Cali's wife bought their marital residence and that Cali's parents currently live above their store on 18th Avenue in Brooklyn. LoVerde Tr. at 111-112, 175. LoVerde has also been to Cali's home and attended his wedding. LoVerde Tr. at 111-113. Further, for years, LoVerde had espresso with Cali regularly and vacationed with him numerous times. See LoVerde Tr. at 82-82, 102, 108, 123-127.

LoVerde also attempted to mislead the Commission when asked about traveling with Cali. At first, he stated "I think we did. We traveled – went to the Dominican Republic." Id. at 123. As he was questioned further, LoVerde admitted that he went on vacation with Cali and other individuals from their Brooklyn neighborhood on at least three occasions during the past approximately seven years to the Dominican Republic and

Costa Rica. According to LoVerde, it was "always the same guys from the neighborhood," which included Frank Inzerillo, Cali, and some of LoVerde's uncles and cousins. See LoVerde Tr. at 123-27, 142. Clearly, LoVerde's initial claims that he and Cali had no social relationship save an occasional espresso together were hardly forthright, and his subsequent testimony conceded a closer relationship with Cali than first willing to admit.

Moreover, LoVerde had such a close relationship with Cali that he invested over $170,000 in Cali's company, Bontel, without conducting any due diligence or obtaining any type of security. LoVerde testified simply that Cali brought up the idea of Bontel over espresso, and LoVerde handed over the money. LoVerde did not conduct any further investigation or express any reservations about giving Cali such a large sum of money. See LoVerde Tr. at 81-84.[35]

When questioned about why he would invest approximately $170,000 in a business with someone with whom he had claimed to have essentially no relationship, LoVerde continued to downplay the relationship:

> Q. So is this someone that you speak to regularly and he just called you up and said: Hey, I have this business interest or how exactly did it come about?
>
> A. No, we met because I used to go have a coffee on 18th Avenue, an espresso, that was part of my routine up until a few years ago, and whoever was there, you know, you just sit down and talk and have a conversation.
>
> So he said: I have an idea, I think I'm getting an exclusive of this brand, this pasta, and we can offer into the chain. Everything sounds so nice that I say: Okay, what does it require? Well, you don't have to chip in, you can be an investor, ten percent. So that's what I did. I bought ten or 11 percent of the company, but it never worked out and I decided --

LoVerde Tr. at 83

[35] Notwithstanding LoVerde's sworn testimony at the deposition, in the Response, LoVerde stated that after Cali initially brought up brought at Caffé Italia, LoVerde conducted his due diligence concerning the business plan and the other investors. Response at 9. LoVerde also modified his deposition testimony in that he stated he gave Cali a total of $189,000 -- an initial investment of $100,000 in 2003, and an additional $89,000 in 2005 when the company needed more capital. Response at 6-7.

The nature of this investment and how it came about demonstrate that LoVerde was misleading the Commission by attempting to minimize his relationship with Cali. The circumstances show that LoVerde and Cali are closely associated and have a significant level of trust. In the Response, for the first time, LoVerde asserted that he conducted his due diligence regarding the Bontel investment prior to giving Cali any financing. However, even in light of the Commission's explicit concerns about the nature of this transaction, LoVerde failed to provide any specificity as to what that due diligence entailed.

Additionally, LoVerde's testimony about how and when he supposedly severed ties with Bontel is another instance where LoVerde provided misleading testimony to the Commission. LoVerde testified at the deposition that in late 2007 or January 2008, he divested his interest, a claim reiterated throughout the deposition. LoVerde Tr. at 81, 83-84, 88-89, 115-116. The evidence discussed below, however, does not support this assertion and indicates that LoVerde may have never severed ties at all.

In the Application and subsequent submissions to the Commission, LoVerde reported that he had an 11.5% interest in Bontel and never notified the Commission about this later reported severance. See LoVerde Principal Information Form at 5. First, prior to the deposition, by letter dated January 7, 2008, an attorney for the Commission requested various items from the Applicant. Among the items requested was a notarized writing from LoVerde indicating "the names and individuals and their ownership interests for all companies of which Mr. LoVerde is/was not the sole owner." See 1/7/08 letter from Leigh Neren.

By letter, signed before a notary public on January 25, 2008, LoVerde provided the following information related to Bontel:

> "Bontel USA Corp. – Francesco Cali – 43.13% l/k/a 948 Todt Hill Road, Staten Island, NY 10304; Nicola Stellato – 16.56% - l/k/a 263 Woods of Arden Road, Staten Island, NY 10312; Santo Zito – 28.94% - l/k/a 1344 83rd Street, Brooklyn, NY 11228."

Nowhere in that correspondence did LoVerde or his attorney, who forwarded the notarized statement, state anything about LoVerde severing his ties from Bontel or giving back his interest. See LoVerde Notarized Statement dated 1/25/08.

Again, by letter dated April 22, 2008, an attorney for the Commission requested further information regarding LoVerde's business interests including all corporate documentation substantiating LoVerde's claims of ownership. See 4/22/08 letter from Leigh Neren. As to Bontel, LoVerde stated that he "never had any active involvement" in Bontel and was solely an investor. LoVerde's statement, again notarized, did not contain any statement about him no longer being an investor or about giving back his shares. See LoVerde Notarized Statement dated 5/14/08. Notably, when characterizing his interest in other companies with which he claimed to be no longer involved, LoVerde stated "I left this company in 2006" and "I left the company in 1994-1995." See id.

At the deposition, when questioned if he had documentation showing that he was no longer an owner of Bontel, LoVerde replied "Yes." LoVerde Tr. at 84. The Commission later requested such proof. See 1/12/09 letter from Leigh Neren. However, by letter dated January 26, 2009, from his attorney, LoVerde informed the Commission that he has never received any bank statements or stock returns related to Bontel. Instead, LoVerde provided the Commission with a 2007 Schedule K-1 tax form, which indicated that LoVerde did not receive any income from the corporation in 2007, and a notarized letter from Nick Stellato, the reported Vice President of Bontel and friend of LoVerde's from the neighborhood. Stellato stated that on December 31, 2007, LoVerde returned his 11% stock ownership to Bontel. Neither the corporation nor LoVerde submitted any documentation evidencing a transfer or sale of stock. In fact, the Schedule K-1 that was presented was not a "Final K-1," which would have evidenced that the shareholder's interest was severed. See 1/26/09 correspondence from Paul Gentile.

The Applicant does not refute this point. In the Response, LoVerde merely stated in an affidavit that after his initial investment of $100,000 and subsequent infusion of capital of $89,000, he determined that Bontel was not a profitable investment and surrendered his shares, which were worthless. Response at 6-7. He did not submit any additional documentation or information substantiating the size or nature of Bontel's debts.

Further, even if LoVerde severed ties from Bontel, LoVerde's testimony as to the reason for that severance was false. The circumstances, as discussed supra at 11, reveal that if LoVerde divested his interest in Bontel, it is reasonable to conclude that he did so because of Cali's organized crime status and LoVerde's concern for how such an association would impact the approval of the Application. Again, any discussion in the Response about LoVerde's lack of knowledge of Cali's organized crime associations fails to address the press coverage of Cali; specifically, LoVerde fails to assert that he did not read or hear about the press coverage.

LoVerde also attempted to deceive and mislead the Commission about his knowledge of Cali's organized crime ties. Question 28 of the Principal Information Form asks "Do you know or have you ever knowingly been associated with, socially or professionally, any person known by you to be convicted of a felony or having ties with organized crime?" LoVerde responded "No." LoVerde Principal Information Form at 12. On July 23, 2007, LoVerde certified that the information contained in the Principal Information Form was complete and truthful. See id. at 17. Additionally, LoVerde testified that prior to the Indictment he had no knowledge that Cali may have been associated with organized crime or the Gambino crime family and was "in shock" when he read about it. LoVerde Tr. at 119-21. As to the issue of organized crime, LoVerde testified, "See, I grew up in Sicily, which is the land of these things. I never wanted anything to do with this, so I really never want to know ... I never look who's who ... bottom line to me I don't care. Meaning, I don't want to have any business with you. I will meet you and say hello, have a coffee, if I have a coffee, and that's my lifestyle, having a coffee, socialize, that's what I do, that's what I like. LoVerde Tr. at 120.

As discussed above, in light of the length of LoVerde's relationship with Cali, the extent of that relationship – both personal and professional – the multitude of press reports on Cali's organized crime status, and the fact that LoVerde met with Cali for espresso regularly at a coffee shop where various high-ranking members of the same organized crime family frequented, one would be hard pressed to conclude that LoVerde was unaware that Cali "ha[d] ties with organized crime." LoVerde did not refute this point; in the Response, he did not explicitly state that he did not know Cali was associated with organized crime. He argued that he was unaware of Cali's arrest until it was reported in the press in February 2008 and that he never observed Cali commanding others in a manner consistent with being a high-ranking member of a crime family. The fact that Cali may not have directed subordinates in LoVerde's presence in no way diminishes the other evidence before LoVerde in the years prior to Cali's 2008 arrest. Further, in light of LoVerde's testimony, he would presumably ignore such evidence if Cali had done so. Moreover, LoVerde's attempts to minimize his relationship with Cali, demonstrates that he was well aware of Cali's associations and his organized crime status. LoVerde consciously sought to distance himself from Cali because of those organized crime ties and the realization that such a relationship would affect the likelihood of obtaining a wholesaler registration in the Market.

Additionally, on the date of the deposition, LoVerde provided false information on a document, which he certified he answered truthfully, that was completed immediately prior to the deposition. LoVerde was given a list ("List of Names"), which contained numerous names of individuals and business entities, and was told to follow the instructions on the cover sheet. The instructions were also explained to LoVerde and his attorney. The instructions, as indicated on the cover sheet, directed LoVerde to place an "OC" next to the name if he "heard or read an allegation or rumor that the person or entity is or was connected to organized crime (including through media reports, gossip, or direct contact)." See Lists of Names at 1. LoVerde failed to put an "OC" next to Cali's name. See LoVerde Tr. at 160; List of Names.

When confronted with this failure, based upon his subsequent testimony, LoVerde was again inconsistent and misleading:

> Q. You put a K and a C next to Frank
> Cali. We discussed Mr. Cali's organized crime
> associations. Why didn't you put an OC next to
> his name?
> A. Because I told you, I don't know.
> Q. Well, you did read and hear about
> organized crime connections of his?
> A. Right, but I didn't know if he was
> particular charged for this. Now, you told me
> 0161
> S. LoVerde
> that he was charged. I didn't know he was

3 charged. How can I say if somebody is organized
4 crime if he's not charged?
5 Q. The instructions say to note if
6 you've ever heard or read an allegation or rumor
7 that the person or entity was connected to
8 organized crime.
9 A. Okay, my understanding was that if
10 you don't know if somebody is charged, you can't
11 really say that it's organized crime.

LoVerde's explanation and testimony was again evasive and contradictory. First, upon completing paperwork prior to the deposition, LoVerde failed to make the appropriate notation on the List of Names. Then, during the deposition when pointedly asked questions about Cali's arrest, LoVerde acknowledged that he heard and read that Cali was charged with crimes related to organized crime. In fact, LoVerde affirmatively stated that "I know they charged [Cali] for organized crime." LoVerde Tr. at 113. Then, as noted above, LoVerde later claimed that he "didn't know if he was particular[ly] charged for this." Next, LoVerde claimed that he didn't understand the instructions. This claim is similarly unpersuasive because LoVerde put an "OC" next to the two other individuals who were indicted with Cali who LoVerde acknowledged also reading about -- Cefalu and D'Amico.

As demonstrated above, LoVerde was not only inconsistent and evasive about his relationship with Cali, which he sought –unsuccessfully – to minimize, but he provided false testimony and submissions to the Commission. He demonstrated a pattern of deception and evasiveness throughout his answers relating to Cali. Notwithstanding LoVerde's attempts to conceal and downplay his relationship with Cali throughout his deposition, the proof establishes that LoVerde has maintained a business as well as social relationship with Cali. Moreover, LoVerde's failure to be forthright with the agency with which he is seeking licensure is an independent basis to deny the Application.[36]

2. Frank Inzerillo and Peter Inzerillo

LoVerde testified that he never heard that Frank Inzerillo, his former partner and close friend with whom he regularly does business, was associated with organized crime. LoVerde Tr. at 144-45. LoVerde also testified that he never heard that Peter Inzerillo, Cali's brother-in-law, was associated with organized crime or that he was a Gambino soldier. LoVerde Tr. at 144-45.[37]

[36] In the Response, LoVerde offered to take a lie detector test, proposing that if he passed such a test – asserting all the statements made in his affidavit – the Commission should be required to approve the Application. The Commission, which is in the best position to evaluate the totality of the record before it and determine what, if any, grounds exist to deny an application, declines such an offer.

[37] LoVerde testified that he heard of Inzerillos in Sicily being associated with organized crime, but not anyone in the United States. LoVerde Tr. at 145-146.

LoVerde has known Frank Inzerillo for years from the neighborhood and was partners with him from 1998 until 2006. Since then, LoVerde and Inzerillo have done business on a daily basis. Additionally, LoVerde has vacationed with Frank Inzerillo, along with Cali and others. LoVerde Tr. at 63-71, 123-27, 142.

LoVerde knows Peter Inzerillo and his sister, Rosaria, from growing up in the same neighborhood in Brooklyn. LoVerde was knowledgeable about Peter Inzerillo's age, occupation, and physical description. LoVerde also attended Roseanne Cali's wedding and knew that she owned the home where she and Cali formerly resided. LoVerde Tr. at 131-33, 111, 143-44.

Since the 2008 Indictment, numerous press articles have reported about Frank and Peter Inzerillo's organized crime ties – that is, that Frank Inzerillo is a Gambino associate and Peter Inzerillo is a Gambino soldier. See, e.g., Harrell, supra; "Gambino Bust Shines Light on old World Feud," supra; Lemire, supra. Moreover, in the memorandum submitted in support of the government's motion for permanent orders of detention related to the 2008 Indictment, the United States Attorney for the Eastern District of New York publicly identified both as such. See Detention Memo at 16.

LoVerde did not testify that he questioned the veracity of those press reports; he testified flatly that he never heard that either Frank Inzerillo or Peter Inzerillo was associated with organized crime. In the Response, LoVerde did not address the issue with respect to either individual. In light of the numerous press accounts, accompanied by references to Cali's Sicilian mafia connections, and the nature of LoVerde's relationship with Frank Inzerillo, LoVerde's testimony is simply unbelievable, a point uncontested by the Applicant.[38]

3. John "Jackie the Nose" D'Amico

LoVerde claimed to have never heard or read about D'Amico's organized crime ties until the 2008 Indictment. See LoVerde Tr. at 129-31. This claim is implausible.

D'Amico has been notorious since the early 1990s and the trial of Gambino crime boss John Gotti. See, e.g., Pete Bowles, "Mobster Mouth Tags 'Boss' Feds Say Gotti Now a Target," Newsday, August 4, 1991; Jerr Seper, "Jailing Gotti Likely Saved his Life," Washington Times, November 26, 1991; Beth Holland, "Tale of Walk-Talk Tape Surveillance Video Shows Reputed Mob Chief in Action," Newsday, February 15, 1992; Selwyn Raab, "A Who's Who, and Who's Where, of Mafia Families," New York Times, April 27, 1998.

Additionally, since that time, D'Amico's organized crime associations have been widely reported in the press. See, e.g. William K. Rashbaum, "In Big Mob Sweep, Gambino Leaders are Indicted," The New York Times, February 7, 2008; Marzulli, "Feds

[38] As noted supra at 13, according to LoVerde's testimony, he routinely chooses to ignore and disregard the organized crime ties of those with whom he surrounds himself. The likely truth, therefore, is that he doesn't care, or as he testified, he doesn't want to know. Either attitude is unacceptable.

Bust Gambino Bigs," supra; "Death of a Don," Newsday, June 11, 2002; Capeci, supra; Frank Owen, "Miami Beach, Murder, Mayhem, the Mafia, Models, and the Madonna Connection," Village Voice, January 11, 2000; Michael Clarke, "Gotti's Guilty Plea a Massive Blow for the Mob," The Examiner, April 7, 1999. "Son of American Mafia Boss Seized," BBC News, January 22, 1998.

Currently, D'Amico is the acting boss of the Gambino crime family and has been since at least 2005. See Detention Memo at 16, 96; see also Peter Sampson and Giovanna Fabiano, "Alleged Mob Boss Called Family Man," New Jersey Record, February 9, 2008; "Death of a Don," supra; Murray Weiss, "Gotti Capo will Get Power Post; Jailed Mobster to be Freed," New York Post, August 15, 2001. As such, he is the leader of the Gambino family "on the street" and leads a criminal enterprise of men sworn to follow orders and commit murder upon request. Detention Memo at 99. Prior to that, for decades, D'Amico has been a member of the Gambino crime family. See Detention Memo at 92-93.

D'Amico was charged in the 2008 Indictment with racketeering, racketeering conspiracy, extortion and extortion conspiracy. Detention Memo at 98. In May 2008, he pled guilty to extorting a cement company out of $100,000 with Cali and Gambino captain Leonard DiMaria. He was sentenced to two years in prison. See John Marzulli, "Broke Gambino Crime Boss Gets 2 Years," Daily News, August 18, 2008.

Prior to the 2008 Indictment, D'Amico was arrested and convicted several times in the 1960s for gambling. In 1986, when John Gotti took control of the Gambino crime family, D'Amico was promoted to captain. On June 2, 1998, D'Amico was arrested in New York on racketeering charges, pled guilty to operating an illegal gambling business and was sentenced to 20 months in prison and three years supervised release. In September 2001, D'Amico was released and returned to his crew in Brooklyn. Detention Memo at 16, 92-93, 98-99. Further, from approximately 1994 through 2005, the time LoVerde frequented Caffé Italia on a nightly basis, D'Amico operated an illegal gambling business in the vicinity of 18th Avenue in Brooklyn. See United States v. John D'Amico, *et al.*, Cr. 09-62 (SDNY) Superceding Indictment at 8.

LoVerde regularly associated with D'Amico, who frequented Caffé Italia, LoVerde's nightly hangout. Caffé Italia was "part of [LoVerde's] routine up until a few years ago. "Whoever was there, you know, you just sit down and talk and have a conversation." LoVerde Tr. at 83. He went there each night after work and occasionally saw Cefalu and D'Amico there. When questioned about his interaction with D'Amico, LoVerde testified that they would see each other at the café and occasionally have coffee together. LoVerde Tr. at 128, 130. [39]

[39] Although LoVerde testified to this at his deposition, in the Response, he claimed that he never had a conversation with D'Amico or Cefalu beyond greeting them. LoVerde also said that discussions at Caffé Italia were limited to topics such as "sports or other topics of general interest," an assertion which is contradicted by LoVerde's testimony as to how the Bontel deal came about. See Response at 10-11.

Additionally, as discussed above, Cali was involved in operating several illegal joker poker gambling machines out of Caffé Italia in Brooklyn in the late 1990s. Cali was in D'Amico's crew at the time, sharing in the gambling proceeds. See Detention Memo at 21.

LoVerde did in fact frequent – on a nightly basis – an organized crime hangout. He socialized with high ranking members of the Gambino crime family, but claimed to have no knowledge of their status including D'Amico. Again, LoVerde did not testify during his deposition that he heard about such ties, but did not believe them; he testified that he heard nothing and that he didn't want to hear anything. See LoVerde Tr. at 120. In the Response, LoVerde claimed that he knew D'Amico as "Jack" and did not know his last name until the 2008 Indictment when people began discussing his arrest. According to LoVerde, people were "surprised" when D'Amico and Cefalu were arrested in 2008, so at that time there were discussions in the neighborhood about them. That is when LoVerde claims that he learned their last names. In light of D'Amico's position within the Gambino crime family, the numerous press accounts documenting his rise through the ranks of the Gambino crime family prior to February 2008, his connection to Cali and his frequency at Caffé Italia, -- and his interactions with LoVerde there -- it strains credulity to believe that LoVerde was unaware of D'Amico's organized crime ties. LoVerde's claim that he had no knowledge that was enjoying espresso with the boss of the Gambino crime family is not credible.

4. Domenico Cefalu

LoVerde claimed that he did not hear or read about Cefalu's organized crime ties until the 2008 Indictment. See LoVerde Tr. at 129-31.

As with D'Amico, Cefalu is a high-ranking and long standing member of the Gambino crime family who frequents Caffé Italia, thereby making LoVerde's claims similarly unbelievable. Cefalu is also known as "Dom from 18th Avenue," which reportedly refers to Cefalu's neighborhood (also LoVerde's) in Bensonhurst, Brooklyn. See "How Mobster Nicknames Get 'Made,'" supra. Cefalu was a captain of the Gambino crime family and currently serves as the acting underboss. Cefalu is also a convicted felon. Detention Memo at 50-62.

Cefalu's criminal history dates back decades. On June 24, 1981, Cefalu was arrested in New York and charged with conspiracy to import heroin and violating bank secrecy laws. He was convicted of the heroin conspiracy charges and sentenced to eight years in prison. On June 13, 1995, Cefalu was charged with contempt of court and sentenced to 33 months in prison. Detention Memo 58-59.

Moreover, in 1994, the *Daily News* published a partial list of those identified by cooperating witness Salvatore Gravano as members and associates of organized crime, which included Cefalu. See Greg Smith, "No Bull, Sammy Gets Major Prison Break," Daily News, September 27, 1994. Given Gravano's notoriety, it is unlikely LoVerde was ignorant about it until 2008. In the Response, LoVerde does not deny reading this report.

In the February 2008 Indictment, Cefalu was charged with racketeering conspiracy, extortion and extortion conspiracy. Indictment at 14-15, 40-42, 68-70, 93-95, 108-110, 133-35, 164-65. Cefalu pled guilty to extortion and was sentenced to two years incarceration. See John Marzulli, "Reputed Mafia Underboss Sentenced to 2 years in Jail," August 12, 2008.

Similar to D'Amico, LoVerde saw Cefalu at Caffé Italia and they occasionally had coffee together: "maybe four, five, six, seven times." LoVerde Tr. at 128-130. In the Response, as with D'Amico, LoVerde claimed he knew Cefalu as "Dominic," didn't know his last name until the 2008 Indictment, and only learned about his organized crime status when he was arrested in 2008 from press accounts and discussions with people in the neighborhood. Again, in light of Cefalu's position and well-publicized organized crime ties, LoVerde's claims that he had no knowledge of Cefalu's organized crime associations, similar to LoVerde's claims with D'Amico, is not credible.

5. Rosario, John and Joseph Gambino

LoVerde testified that he had never heard or read that his uncle, Rosario Gambino, and his brothers, John, and Giuseppe "Joseph," were associated with organized crime. LoVerde Tr. at 155 - 56. Rosario Gambino is married to LoVerde's mother's sister. Rosario's brothers, John and Joseph, reside near LoVerde and maintain contact with him. LoVerde Tr. at 38-40, 147-48, 155-57, 175.

LoVerde acknowledged his familial relationship with Rosario Gambino and testified that he has been incarcerated since before 1987, when LoVerde came to the United States, and has been in jail since. LoVerde also testified that shortly after he arrived in the United States, Rosario's brother, John, went to jail and was recently released. LoVerde testified that John lives in Staten Island, and approximately one week before the deposition, he stopped by LoVerde's office to say hello. LoVerde testified that he occasionally sees both John and Joseph in the neighborhood. See LoVerde Tr. at 147-48, 154-57, 175-77. Yet, LoVerde testified that he had "no idea" why they were in jail and never heard or read that they were associated with organized crime. LoVerde Tr. at 154 – 157.

John, Joseph, and Rosario Gambino were incarcerated on charges related to heroin trafficking in the Pizza Connection case in the 1980s. In 1984, Rosario was sentenced to 45 years for his arrest on charges of arson and narcotics trafficking. John and Joseph were sentenced to 15 years imprisonment in 1993 for heroin trafficking. See United States v. Rosario Gambino, *et al.*, 788 F.2d 938 (3d Cir.) 1986; LoVerde Tr. at 38-39, 147-48, 155-57, 175.[40] On May 23, 2009, Italian authorities took custody of

[40] The Sicilian Inzerillos reportedly supplied the three brothers, known as the "Cherry Hill Gambinos," with heroin for distribution. See US v. Gambino 788 F.2d 938; Fortunecity.com, Dieland: Mob: The Cherry Hill Gambinos; George Anastasia, "FBI Targets Giuseppe Gambino in Drug Investigation," Philadelphia Inquirer, December 3, 1988; Murray Weiss, "Gangster Gets Stay from Court," New York Post, November 19, 2007; "Pizza Connection Mobsters Cooking New Dish?" The Chicago Syndicate, May 16, 2007.

Rosario Gambino, who was released from a United States immigrant detention center, in order to face narcotics and other organized-crime related charges in Italy. See "US Deports Gambino Mafia Boss to Italy," New York Post, May 23, 2009.

Rosario, John, and Joseph Gambino are cousins of the late crime boss Carlo Gambino. Yet, LoVerde testified that he only learned about Carlo Gambino and his organized crime status when LoVerde came to the United States. LoVerde Tr. at 163. Notably, LoVerde omitted any indications next to Carlo Gambino's name on the List of Names, although he readily acknowledged his familiarity with Carlo Gambino's organized crime status when asked directly.

Additionally, in 1993, Salvatore "Sammy the Bull" Gravano testified against brothers Joseph and John Gambino. In addition to running a major heroin ring for the Gambino crime family, John Gambino was implicated in a murder plot, about which Gravano testified. See Arnold H. Lubasch, "An Informer Returns to Testify Against Two Gambino Brothers," New York Times, April 13, 1993. Further, in 1994, both John and Joseph were listed in the *Daily News* as among those identified as Gambino crime family members by Salvatore Gravano. See Smith, supra. Again, given Gravano's notoriety, as well as the fact that these individuals were personally known to LoVerde at the time, it is unlikely that LoVerde had no knowledge about it, even on the date of LoVerde's deposition. Again, LoVerde's claim of ignorance on this subject is simply not credible. Notably, in the Response, LoVerde does not refute this point or deny knowledge of the three brothers' organized crime ties.

6. Conclusion

The proof establishes that LoVerde has a lifetime of associations not only with individuals who have their own associations with organized crime members and associates, but that LoVerde himself is surrounded by members and associates of the Gambino crime family, including the acting boss and underboss. LoVerde frequented a mob hangout for years, claiming to be unaware of the status of the highest ranking members of the Gambino family. The facts strongly suggest that instead of distancing himself from the mafia, he has been immersed in such associations and consciously associates with such people. This sort of disregard with whom he surrounds himself and does business is just the type of behavior that must be eradicated from the market and warrants denial. Moreover, LoVerde's claims of ignorance are simply unbelievable and demonstrate a lack of forthrightness with the Commission.

LoVerde's attempts to conceal and minimize his associations with his friends and business associates who have such organized crime ties and then claim that he was unaware of such ties demonstrates LoVerde's lack of good character, honesty and integrity, and is a separate and sufficient ground for denial of the Application. See Admin Code §22-259(b)(i). Therefore, the Commission denies the Application on this ground.

II. CONCLUSION

Based on each of the independently sufficient reasons stated above, the Commission finds that R and S lacks good character, honesty and integrity and denies the application of R and S for a registration as a wholesale business at the New York City Terminal Produce Cooperative Market.

Dated: July 31, 2009

THE BUSINESS INTEGRITY COMMISSION

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Department of Investigation

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