



The City of New York  
BUSINESS INTEGRITY COMMISSION  
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**DECISION OF THE BUSINESS INTEGRITY COMMISSION  
DENYING THE APPLICATION OF GAETANO NAPOLI, JR.  
FOR A CLASS B PHOTO IDENTIFICATION CARD TO  
WORK IN THE BROOKLYN WHOLESALE MEAT MARKET**

**I. Introduction**

Gaetano Napoli, Jr. (“Napoli” or the “Applicant”) has applied to the New York City Business Integrity Commission (the “Commission”) for a Class B Photo Identification Card (PID-502945) to work in the Brooklyn Wholesale Meat Market pursuant to Title 22 of the New York City Administrative Code, Chapter 1-B (the “Administrative Code” or “Admin. Code”), Section 22-252. The Commission is authorized to make determinations on such applications pursuant to Administrative Code § 22-252(d).

On or about September 12, 2019, the Commission’s staff served the Applicant with a “Notice of the Grounds to Deny the Application of Gaetano Napoli, Jr. for a Photo Identification Card” (the “Notice”). Napoli was given 10 business days to respond, until September 27, 2019. *See* 17 Rules of the City of New York (“RCNY”) § 11-17(a). The Commission did not receive a response from Napoli. The Commission has considered the staff’s Notice in rendering its determination. Based on the record in this matter, the Commission denies Napoli’s application for a Photo Identification Card because he lacks good character, honesty and integrity based on the following three independently sufficient grounds:

- 1. The Applicant was convicted of a crime that bears a relationship to the fitness of such person to work in a public wholesale market;**
- 2. The Applicant associated with and committed crimes with a member of organized crime; and**
- 3. The Applicant provided the Commission with false and misleading information in connection with his application.**

**II. Statutory Background and Framework**

Local Law 28 of 1997 (“Local Law 28”) and the rules promulgated thereunder require that wholesale businesses in a public wholesale market register with the Commissioner of the Department of Small Business Services. *See* Title 22, Chapter 1-B of the Administrative Code §

22-253; Title 17 of the Rules of the City of New York (“RCNY”) § 11-04. Pursuant to a charter revision provision approved by the voters in November 2001, the duties of the Commissioner of the Department of Business Services were transferred to the Organized Crime Control Commission. The Organized Crime Control Commission was subsequently renamed the Business Integrity Commission. *See* Local Law 21 of 2002.

All principals and employees working for a wholesale business or market business in a public wholesale market must register with the Commission for a photo identification card. Admin. Code § 22-252(a). The Brooklyn Wholesale Meat Market is a public wholesale market, located in Brooklyn, New York. As such, all wholesale businesses in the Brooklyn Wholesale Meat Market must register with the Commission and all principals and employees of those businesses must obtain a photo identification card. The Commission may refuse to issue photo identification cards to any person who lacks good character, honesty and integrity. Admin. Code §§ 22-252(d); 22-259(b); 17 RCNY § 11-17(a).

Administrative Code § 22-259(b) lists a number of factors that the Commission may consider in determining whether an applicant lacks good character, honesty and integrity. Among the factors that the Commission may consider are: (i) failure to provide truthful information in connection with the application; (ii) a pending indictment or criminal action against the applicant for a crime which under this subdivision would provide a basis for the refusal of such registration, or a pending civil or administrative action to which such person is a party and which directly relates to the fitness to perform the work for which the photo identification card is sought; and (iii) conviction of the applicant for a crime which, under article 23-A of the correction law, bears a relationship to the fitness of the applicant to work in a market. *See* Admin. Code § 22-259(b)(i)-(iii). The factors listed in this section are illustrative, not exhaustive. *See* Admin. Code § 22-259.

### **III. Statement of Facts**

On or about July 3, 2019, Napoli began working as a “Chop Meat Manager” at Hercules Food Corp. (“Hercules”), located in the Brooklyn Wholesale Meat Market. *See* Application at 2. In the Application, Napoli answered “no” when asked if he ever “knowingly associated” with a person “who has or is reputed to have ties to organized crime.” *See* Application at 10. Napoli certified to the Commission that his application was “full, complete, and truthful.” *See id.* at 12. However, as set forth more fully below, Napoli’s father, Gaetano Napoli, Sr. (“Napoli Sr.”), has been publicly identified as a member of organized crime – a fact Napoli failed to disclose to the Commission.

On March 10, 2010, Napoli and Napoli Sr., along with Napoli’s brother, Thomas Napoli, were arrested in an FBI operation and charged with obstruction of justice, extortion, and concealment of assets in bankruptcy. *See U.S. v. Gaetano Napoli, et al.*, 10-CR-00150-JG (E.D.N.Y.), Indictment. The nine-count indictment charged Napoli Sr. with committing fraud by concealing assets in a federal bankruptcy proceeding relating to his business, Napoli & Sons, Inc., also known as Napoli & Sons Meats & Provisions, Inc. (“Napoli & Sons”). Napoli was charged with concealment of assets in bankruptcy, conspiracy to conceal assets in bankruptcy, obstruction of justice, and conspiracy to obstruct justice. *See id.*

The government alleged that the defendants moved assets from Napoli & Sons to other family-owned meat companies and, thereafter, filed for bankruptcy for Napoli & Sons. *See id.*, Detention Memo at 7. As part of the bankruptcy proceeding, witnesses who possessed relevant information regarding the meat company were subpoenaed. *See Napoli*, Indictment. The government alleged that the defendants, in order to prevail in the bankruptcy proceeding, did “intentionally and corruptly persuade and attempt to persuade [a] witness ... with intent to hinder, delay and prevent the communication to a law enforcement officer of the United States of information relating to the commission ... of one or more federal offenses” relating to the bankruptcy proceeding. *See id.* at 8.

The press release issued in connection with the indictment stated that Napoli Sr. was a soldier in the Gambino crime family of La Cosa Nostra. *See* Federal Bureau of Investigation Press Release, “Gambino Soldier Who Protected Sicilian Mafia Activities in U.S. Arrested in Coordinated U.S.-Italian Law Enforcement Operation,” available at <https://archives.fbi.gov/archives/newyork/press-releases/2010/nyfo031010a.htm>. And in the Detention Memo filed in the matter, the government discussed information learned through “multiple confidential sources, who have been corroborated in the past through consensual recordings, cooperating witnesses, surveillance and other sources of information” that demonstrated that Napoli Sr. was an “inducted member of the Gambino crime family.” *See Napoli*, Detention Memo at 3. The government also stated that Napoli Sr. discussed with the Applicant the outcome of a meeting he attended with members of the Colombo organized crime family. *See id.* at 5.

On August 19, 2010, the Applicant pled guilty to concealment of assets in bankruptcy, a violation of 18 U.S.C. § 152(1). *See Napoli*, Judgment in a Criminal Case at 1. He was sentenced to five years of probation, six months of home detention, and ordered to pay \$30,000 in restitution. *See id.* at 2-4.

#### **IV. Basis for Denial**

##### **1. The Applicant was convicted of a crime that bears a relationship to the fitness of such person to work in a public wholesale market.**

Administrative Code § 22-259(b)(iii) sets forth a list of factors that the Commission may consider in making a determination as to whether to refuse to issue a photo identification card to an applicant based on a lack of good character, honesty and integrity. Among those factors is the conviction of the applicant of a crime which, in light of the factors set forth in Article 23-A of the Correction Law, bears a relationship to the fitness of such applicant to conduct a business or work in a market. *See* Administrative Code § 22-259(b) (iii). The factors in Article 23-A of the Correction Law that the Commission must consider specifically are set forth in Section 753 and are as follows:

- (a) The public policy of this state, as expressed in this act, to encourage the licensure and employment of persons previously convicted of one or more criminal offenses;

- (b) The specific duties and responsibilities necessarily related to the license or employment sought;
- (c) The bearing, if any, the criminal offense or offenses for which the person was previously convicted will have on his fitness or ability to perform one or more such duties or responsibilities;
- (d) The time which has elapsed since the occurrence of the criminal offense or offenses;
- (e) The age of the person at the time of occurrence of the criminal offense or offenses;
- (f) The seriousness of the offense or offenses;
- (g) Any information produced by the person, or produced on his behalf, in regard to his rehabilitation and good conduct; and
- (h) The legitimate interest of the public agency or private employer in protecting property, and the safety and welfare of specific individuals or the general public.

*See* Correction Law § 753.

Notwithstanding the public policy of the State of New York to encourage licensure and employment of persons previously convicted of criminal offenses, the Commission finds that the above factors weigh heavily in favor of denying Napoli's Photo ID Application. Importantly, the crimes committed by Napoli bear a direct relationship to the fitness of Napoli to work in the Brooklyn Wholesale Meat Market. *See* Correction Law § 753(a), (c). Napoli is seeking to be permitted to work as a "Chop Meat Manager" in a wholesale meat business. Yet, in his guilty plea, Napoli admitted to "knowingly and fraudulently" concealing assets in a bankruptcy proceeding for his family's meat business, Napoli & Sons. *See Napoli*, Judgment; *see also* 18 U.S.C. § 152(1). Napoli's criminal history of engaging in fraud in connection with a meat business calls into question his ability to work in, let alone manage, any aspect of a meat business in a public wholesale food market in New York City. Thus, his conviction is directly related to the industry in which he seeks to work and the specific duties and responsibilities in the position he seeks. *See* Correction Law § 753(b), (c).

Napoli's criminal conduct is relatively recent, occurring within the last 10 years – between March 2009 and February 2010. *See id.* at § 753(d). Concealment of assets in bankruptcy—a felony—is a serious offense, carrying a statutory maximum term of imprisonment of five years. *See id.* at § 753(f). And, Napoli engaged in the criminal activity when he was approximately 44 years old. *See id.* at § 753(e). As such, his criminal acts cannot be attributed to youthful indiscretion. Furthermore, Napoli did not produce any information, and no

information was produced on his behalf, with regard to his good conduct or to support that he has been rehabilitated. *See id.* at § 753(g).

Finally, the legitimate interest of the Commission in eliminating this type of illegal conduct is clear: a chief component of the Commission's mission is to prevent corruption in the public wholesale markets in New York City. *See id.* at § 753(h). Moreover, companies operating in the Market, including Hercules Food Corp., have a legitimate interest in protecting their property and their customers. Thus, Napoli should not be permitted to work in the Brooklyn Wholesale Meat Market.

After applying the factors required by the Correction Law, the Commission finds that the Applicant's criminal conviction demonstrates that he lacks good character, honesty, and integrity. The Applicant did not dispute this point. Accordingly, the Commission denies the Photo Identification Card Application on this basis.

**2. The Applicant associated with and committed crimes with a member of organized crime.**

The Applicant's father (Napoli Sr.) has been publicly identified by the FBI as a soldier in the Gambino organized crime family. Napoli's association with Napoli Sr. is not solely a familial relationship. Both the Applicant and Napoli Sr. were co-defendants in a criminal case, charged with obstruction of justice, extortion, and concealment of assets in bankruptcy. *See supra* at 2. Moreover, the Applicant knows that his father (now deceased) was a member of organized crime – that fact was made clear in the press release announcing their arrests. And, the government stated that Napoli Sr. had discussed with the Applicant a meeting Napoli Sr. attended with Columbo organized crime family members. *See Napoli*, Detention Memo at 5.

The Applicant's association with a member of organized crime must result in a finding that the Applicant lacks good character, honesty, and integrity. The Applicant did not dispute this point. Accordingly, the Commission denies the Photo Identification Card Application based on this ground.

**3. The Applicant provided the Commission with false and misleading information in connection with his application.**

The Applicant made a false statement to the Commission when he answered "no" to Question 21 of the Application, which asked whether Napoli ever knowingly associated with a person who has or is reputed to have ties to organized crime. *See Application* at 10. Napoli Sr. was the Applicant's father and a soldier in the Gambino crime family. Therefore, the Applicant clearly and knowingly has associated with a person who has ties to organized crime. Despite knowing of his father's organized crime status, and despite committing crimes with his father, the Applicant failed to disclose this association on the Application. Thus, the Applicant provided false and misleading information to the Commission on this issue. The Applicant's failure to provide truthful information on the application demonstrates that he lacks good character, honesty, and integrity. The Applicant did not dispute this point. Accordingly, the Commission denies the Photo Identification Card Application on this basis.

**V. Conclusion**

The Commission is vested with broad discretion to refuse to issue a photo identification card to any Applicant who it determines to be lacking in good character, honesty and integrity. The record, as detailed above, demonstrates convincingly that Napoli lacks those qualities. Accordingly, based on the independently-sufficient grounds set forth above, the Commission denies Gaetano Napoli, Jr.'s Photo Identification Card Application.

This denial decision is effective immediately. Gaetano Napoli, Jr. may not work for Hercules Food Corp. in the Brooklyn Wholesale Meat Market.

Dated: October 21, 2019

THE NEW YORK CITY  
BUSINESS INTEGRITY COMMISSION



Noah D. Genel  
Commissioner and Chair



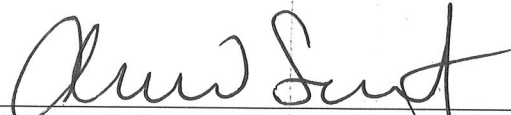
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