

FFM 121



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 REGISTRATION APPLICATION OF AL TUNA INC. FOR REGISTRATION AS A WHOLESALE SEAFOOD BUSINESS AT THE NEW YORK CITY NEW FULTON FISH MARKET AT HUNTS POINT AND DENYING THE APPLICATION OF ALBERT DORIA FOR A PHOTO IDENTIFICATION CARD

Introduction

Local Law 50 of 1995 ("Local Law 50") and the rules promulgated thereunder require that seafood wholesale businesses within the Fulton Fish Market Distribution Area register with the Commissioner of the Department of Business Services. NYC Admin. Code §22-209; 66 RCNY §§1-31(a), 1-32. 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 the electorate in November 2001. The Organized Crime Control Commission was subsequently renamed the Business Integrity Commission, ("Commission") pursuant to Local Law 21 of 2002. The Fulton Fish Market Distribution Area was geographically relocated on November 13, 2005, and upon moving was renamed "The New Fulton Fish Market at Hunts Point." The City's full regulatory authority over the Fulton Fish Market Distribution Area was conferred upon The New Fulton Fish Market at Hunts Point, ("Fulton Fish Market" or "Market"), effective November 9, 2005. See 66 RCNY §1-58.

The Commissioner may refuse to register a seafood wholesaler or a seafood deliverer in the Fulton Fish Market when any of its principals lacks good character, honesty and integrity. Admin. Code §§22-209(b), 22-211(b), 22-216(b). Administrative Code §22-216(b) lists a number of factors that the Commissioner may consider in making a fitness determination. Among the factors that the Commissioner may consider in determining the fitness of an individual or a market business are: failure by the applicant to provide truthful information in connection with the application (*id.* at §22-216(b)(i)), and the failure to pay any tax, fine, penalty, fee related to the applicant's business for which liability has been admitted by the person liable therefor *Id.* at §22-216(b)(vi). Local Law 50 makes clear that the Commissioner is not limited to consideration of the enumerated factors; the list is meant to be illustrative and not exhaustive.

For the independently sufficient reasons set forth in detail below, the Commission denies the seafood wholesaler registration application of Al Tuna, Inc. ("Al Tuna"), and denies the photo identification card application of Albert Doria:

- (i) The sole principal of Al Tuna, Albert Doria, engaged in unregistered activity at the Fulton Fish Market on multiple occasions and was found guilty of two Environmental Control Board ("ECB") administrative violations for such conduct.
- (ii) Albert Doria failed to pay a fine resulting from Al Tuna's unregistered activity in the Market.
- (iii) Albert Doria failed to provide information and provided false information to the Commission.
- (iv) Albert Doria has repeatedly provided false and misleading information to government authorities and financial institutions.

Background

On April 19, 2005, Albert Doria submitted an application on behalf of Al Tuna for registration as a seafood wholesaler in the Fulton Fish Market. On the same date, Albert Doria submitted an application for a photo identification card to operate in the Market.

On April 6, 2006, the Commission's staff issued an eight page recommendation that Al Tuna's application for registration as a seafood wholesaler and Albert Doria's photo identification card application be denied ("Recommendation"). The Applicant was personally served with the Recommendation on April 6, 2006, and was given ten business days to submit a response.¹ On April 20, 2006, the day that the Applicant's response was due, the Applicant requested an extension of time to respond, which was granted, until April 28, 2006. On April 28, 2006, the Applicant again requested an extension of time to respond, which was granted until May 5, 2006. As of the date of this Decision, the Applicant has not submitted any response to the Recommendation. The Commission has carefully considered the Recommendation, and for the independently sufficient reasons set forth below, the Commission finds that the Applicant lacks good character, honesty, and integrity, and denies its application as well as the photo identification card application of Albert Doria.

¹ Although Sections 1-32(2) and 1-23(f)(2) of Title 66 of the Rules of the City of New York provide that an applicant has five business days to submit a response to the Commission's recommendation, the Applicant was given additional time.

Basis for Decision

1. The sole principal of Al Tuna, Albert Doria, engaged in unregistered activity at the Fulton Fish Market on multiple occasions and was found guilty of two Environmental Control Board ("ECB") administrative violations for such conduct.

In 1998, Doria and Joseph Fravola opened a wholesale business named Tuna Fresh, Inc. ("Tuna Fresh"), without registering it with the Department of Business Services or with the Commission, as required by Local Law 50. See Tuna Fresh Application for Registration as a Seafood Wholesaler. They operated the business without a registration until approximately December 1998, when, with substantial unpaid debt, they ceased doing business. See Robert Weinberg, Special Investigator, Memo dated March 9, 2001 ("3/9/01 Memo"). Because Tuna Fresh was not registered with the City, the company deceptively had product delivered under another name, Pickle Barrel, in violation of market rules. See Jennifer Fields, Confidential Investigator, Memo dated January 7, 1999, interview of Joseph Fravola ("1/7/99 Memo"); Admin Code §22-209. Doria admitted to Commission Special Investigator Robert Weinberg that Tuna Fresh received product under Pickle Barrel's name because he and Fravola knew they could not receive product under the name of their unregistered business. See 3/9/01 Memo at 3; 1/7/99 Memo.

When Tuna Fresh ceased doing business, it owed its main supplier over forty thousand dollars. That supplier, Jacob Fleishman Seafood Handling Inc., obtained a judgment against Tuna Fresh on March 11, 1999. See Index No. 99/101864 Default Judgment. That judgment is currently outstanding. See Lexis/Nexis Printout, Transaction Number 31001174181.

Doria also formed Al Tuna in May 2004 and operated under that name in the Market without a required registration from the Commission. On December 21, 2004, Al Tuna was issued a Notice of Violation for unregistered activity in violation of 66 RCNY 1-31(a). See ECB Notice of Violation and Hearing, No. E139276830. On the same date, Albert Doria was also issued a Notice of Violation for failing to possess a photo identification card in violation of 66 RCNY 1-23 (a)(1).² See ECB Notice of Violation and Hearing, No. E139276840. At a March 30, 2005 hearing regarding these two violations, Doria did not refute the allegations and admitted that he operated a seafood delivery business without a registration and without an identification card issued by the Commission. See ECB Decision and Order, Violation 139276830 ("ECB Decision #139276830"); ECB Decision and Order, Violation 139276840 ("ECB Decision #139276840"). Doria also admitted that this was not an isolated incident and that he has been in the seafood delivery business "for twenty years." See ECB Decision #139276840. After the hearing, the Applicant was found guilty of both violations.

² A Notice of Violation was also issued against Albert Doria, as an individual, for operating an unregistered seafood delivery business. That violation was dismissed as duplicative of Notice of Violation No. E139276830.

Notwithstanding the above violations, in January 2005, Commission inspectors again observed Doria working in the Market and continuing to do business in the market under the name of Al Tuna. See BIC, Security & Enforcement Section Report 49 forms, dated January 3, 2005, January 6, 2005 (2), January 10, 2005, and January 11, 2005. Commission inspectors also observed Doria conducting his business in the stall of Fulton Village, a wholesaler in the Fulton Fish Market, without Commission authorization. See id.

Thus, Doria's longstanding, flagrant, and repeated flouting of known Market rules and regulations demonstrates his lack of good character, honesty and integrity necessary to operate such a business.

In fact, by operating unregistered, Doria has engaged in precisely the sort of activity that Local Law 50 seeks to eliminate. Local Law 50 unambiguously requires wholesalers to register with the City and allows wholesalers to sublease or assign their premises only to other wholesalers who are also registered with the Commission. This regulatory scheme was aimed at eliminating fraudulent business practices "such as the creation of 'phantom wholesalers' whose businesses disappear from the market before payment can be obtained from them for seafood they have received from suppliers...." See Admin. Code §22-201. Public confidence in the integrity of the Market would be undermined if those proven to have repeatedly ignored the law receive registrations from the Commission, whose governing law and regulations they have persistently violated. Therefore, this registration application and photo identification application are denied on this independently sufficient ground.

2. Albert Doria failed to pay a fine resulting from Al Tuna's unregistered activity in the Market.

The Commission may deny a registration application when the applicant has failed "to pay any tax, fine, penalty, fee related to the applicant's business for which liability has been admitted by the person liable therefor or for which judgment has been entered" Id. at §§22-216(b)(vi), (c). The Applicant has failed to pay an outstanding fine resulting from a violation issued against Al Tuna for unregistered activity.

After a hearing on March 30, 2005, Al Tuna was found guilty of unregistered activity in the market. During that hearing, Doria acknowledged that he operated a seafood delivery business without a registration and admitted that he had done so in the past. See ECB Decision #139276830; ECB Decision #139276840. As a result, a fine of \$1,000 was imposed. That fine is currently outstanding. See DEP Violation Inquiry, Violation #0139276840.³ As of the date of this Decision, Doria has not filed an appeal and has done nothing to address the fine.

³ As a result of Doria's operation without a photo identification card, Doria was also issued a fine of \$300.00. On September 20, 2005, the Applicant paid the outstanding fine of \$300.00.

The Applicant's failure to pay the fine related to operating without a registration is another independently sufficient ground to deny the Applicant's registration application and Doria's application for a photo identification card.

3. Albert Doria failed to provide information and provided false 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 §22-216(b), (c). Doria submitted false information in his photo identification card application submitted on April 19, 2005. See Doria Photo ID Application, filed April 19, 2005 ("4/19/05 Photo ID App."). Additionally, on December 1, 2005, Doria submitted another photo identification card application for employment as a salesman for Tony Crab King, Inc. See Doria Photo ID Application, BIC #417 ("Photo ID App. BIC #417"). In that application, again, Doria submitted false information to the Commission.

Doria certified in the applications submitted on behalf of Al Tuna and for both of his photo identification cards that the information contained in each application was complete and truthful. See 4/19/05 Photo ID App. at 6; Photo ID App. BIC #417; Al Tuna Inc. Wholesaler Registration Application at 28.

Question 13 of Doria's photo identification card application filed with the Commission on April 19, 2005 asks if "you or your spouse currently have any motor vehicles registered in your name?" See Photo ID App. at 3. Doria responded to the question by answering "yes," and in the space provided, he listed three vehicles: a 2003 Chevrolet, a 1998 Ford, and a 1998 Chevrolet. Id. This information is inaccurate. At the time of the completion of the application, Doria or his wife also had four other vehicles registered in their names. Those vehicles were:

- 2002 Lexus, VIN JTHBD192420062199, plate BYH4066. See DMV Registration BYH4066 printout.
- 2002 BMW, VIN 5UXFA53532LP45658, plate BPT1670. See DMV Registration BPT1670 printout.
- 1994 Ford Van, VIN 1FTFE24HXRHA66321, plate CVW6751. See DMV Registration CVW6751 printout.
- 2002 Doolittle trailer, plate AM58634. See DMV Registration AM58634 printout.

Question 14 of the photo identification card application asks, "Have you had a driver's license revoked or suspended in the last ten (10) years?" See Photo ID App. at 4. Doria falsely answered "No." Id. The question also provides a space for the Applicant to provide the date of the suspension or revocation, the jurisdiction of where it occurred, and the reason for the suspension. Id. The Applicant did not write anything in those spaces provided. See id. In fact, Doria had his license suspended nine times over the preceding

ten years. See Albert Doria DMV License Record. Each suspension was for the failure to answer a summons. See id.

More recently, in the photo identification card application submitted to the Commission on December 1, 2005, Doria again answered "No" to the question of whether his license was revoked or suspended within the last ten years when in fact it had been suspended nine times in the preceding ten years. See Photo ID App. BIC #417. Further, in this application, certified as true on November 23, 2005, Doria failed to disclose the following vehicles that were registered to himself or his wife at the time he completed the application:

- 2002 Lexus, VIN JTHBD192420062199, plate BYH4066. See DMV Registration BYH4066 printout.
- 2005 Nissan Suburban, plate BPT1670. See DMV Registration Nissan BPT1670 printout.
- 2002 Doolittle trailer, plate AM58634. See DMV Registration AM58634 printout.

Thus, Doria has repeatedly provided false information to the Commission. This consistent failure to be forthcoming and provide truthful information demonstrates Doria's attempts to hide his assets and to mislead the Commission. Doria's inability or unwillingness to deal honestly with the Commission, the agency responsible for regulating his business, demonstrates that Doria lacks the requisite good character, honesty and integrity to operate such a business. For this independently sufficient reason, Doria's registration application and photo identification card application are denied.

4. Albert Doria has repeatedly provided false and misleading information to government authorities and financial institutions.

The Commission may refuse to issue a registration to an applicant "who lacks good character, honesty and integrity." See Admin. Code §§22-216(b), (c). Doria has repeatedly provided false and misleading information to government authorities and financial institutions. Doria's propensity to tailor what he says in order to maximize the benefit to himself regardless of the truth, or the legal or criminal consequences, demonstrate his lack of good character, honesty, and integrity. Therefore, Al Tuna's registration application and Doria's photo identification card application are denied on this independently sufficient ground.

The Commission has obtained documentary evidence that Doria repeatedly provided false and misleading information to government authorities and financial institutions. This documentary evidence was corroborated by Doria's own contradictory and misleading statements made to City investigators.

For instance, in 1999, Albert Doria ("Doria") filed a joint income tax return with his wife, Rose Doria. In that return, Doria declared \$6,057 in income. See Form 1040

U.S. Individual Income Tax Return 1999 of Albert Doria and Rose Doria ("Doria 1999 1040"). Doria reported that all of his income was received from his employment with Best Buy Shellfish, Inc., ("Best Buy"), a company registered to operate as a wholesaler in the Market. See id.; Form W-2 Wage and Tax Statement 1999 of Albert Doria ("Doria 1999 W-2"). Not only was this a gross underestimate of Doria's actual income, it was but one of several false statements that Doria made about his income during 1999.⁴

Doria made significantly different representations about his income when leasing two vehicles in 1999. Not surprisingly, when leasing two BMWs, Doria reported substantially more income to the auto leasing companies than the \$6,057 he reported to tax authorities. In order to be approved for each lease, Doria and his wife completed various forms, including lease agreements and consumer credit applications. Those documents were signed by both Doria and his wife. See Lease Agreement for 2000 BMW, VIN WBABM3343YJN80960 ("2000 BMW Lease"); Lease Agreement for 1999 BMW, VIN WBADM6349XGU03027 ("1999 BMW Lease"); Consumer Credit Application for 1999 BMW ("1999 BMW Credit Application"); Consumer Credit Application for 2000 BMW ("2000 BMW Credit Application"); Form 4001 for 1999 BMW; Form 4001 for 2000 BMW.

On June 8, 1999, when Doria leased the 1999 BMW, model 528i, he reported to BMW Financial Services that his gross annual income was \$75,000. See Form 4001 for 1999 BMW. Next, only two months later, when Doria leased a 2000 BMW, Doria represented to the same leasing company that his income was \$85,000, \$10,000 more than that which he represented on the previous lease application and nearly \$79,000 more than he certified on his income tax return. See Form 4001 for 2000 BMW

Doria's stated income changed yet again when he was interviewed by City investigators as part of the investigations conducted by the Department of Investigation ("DOI") into Market businesses Best Buy, Tuna Fresh, and R&M Fish Inc. ("R&M"). Each time Doria was confronted with evidence that he had been less than truthful, Doria changed his story. For instance, when Doria was confronted about his alleged income as reported to tax authorities, Doria admitted that he had in fact earned thousands of dollars more than he reported. See Robert Weinberg, Special Investigator, Memo dated May 30, 2000 ("5/30/00 Memo"); Robert Weinberg, Special Investigator, Memo dated January 11, 2001 ("1/11/01 Memo"); 3/9/01 Memo at 3-4. Even Doria's statements, conceding that he earned at best \$20,000 in income, were incredible.⁵ In fact, it would have been

⁴ As a result of Doria's false filings, his daughter obtained thousands of dollars in financial aid to attend college. In 1999, Albert Doria's daughter attended Dowling College. Documentation submitted to Director of Enrollment Services and Financial Aid at Dowling College indicated that Doria's income in 1999, which was based on his fraudulent tax returns, was \$6,057. See 2000-2001 Institutional Student Information Record. In part as a result of these misrepresentations, Daniella Doria, Albert Doria's daughter, received approximately \$23,000 in financial aid from federal institutions, state institutions, and Dowling College. See id. As discussed, Doria's income was in fact significantly more than that disclosed to the school and financial aid institutions.

⁵ In addition to working at Best Buy during 1999, Doria worked at R&M. See Albert Doria Photo Identification Application, dated August 16, 1999 ("8/16/99 Photo ID App."); 3/9/01 Memo. R&M paid Doria approximately \$500 in cash per week on a commission basis. 3/9/01 Memo at 2, 4. In addition,

difficult for Doria to deny that his income was significantly higher than previously reported because in that year his bank deposits into one checking account alone totaled over forty-nine thousand (\$49,000) dollars. See Bank of Smithtown, 1999 Statements for Budget Checking Account, Rose Doria and Albert Doria.

Upon being confronted with the fact that he leased three luxury vehicles in 1999,⁶ Doria again changed his story. At this time, he told investigators that his actual income during 1999 was approximately \$50,000. See 3/9/01 Memo. Indeed, in 1999, Doria paid over \$26,000 – over half his stated “approximate” income – on car leasing and down payments alone. Specifically, Doria paid \$426.64 in monthly payments for the 1999 BMW and \$6,424.80 in cash at the time of the lease signing or vehicle delivery, or, if his tax returns are to be believed, more than his entire income for the year. See 1999 BMW Lease. The 2000 BMW, leased approximately two months later, required a down payment of \$5,223.40 and monthly payments of \$425.29. See 2000 BMW Lease. Common sense suggests that this approximation of his income at \$50,000 was at best a significant understatement and in any event a conscious falsehood.

In light of these facts and admissions, Doria cannot plausibly deny that he habitually tailors his representations according to the circumstances in order to maximize the benefit to himself regardless of the truth, or the legal or criminal consequences. Doria’s repeated misrepresentations to financial institutions and government authorities about his income demonstrate a pervasive untrustworthiness and a pattern of dishonesty in personal and professional dealings in order to suit his interests at any given moment. This behavior demonstrates that Doria lacks good character honesty and integrity. Therefore, Doria’s registration application and photo identification card application are denied on this independently sufficient ground.

Conclusion

Based on each of the independently sufficient reasons stated above, none of which are disputed by the Applicant, the Commission finds that Al Tuna, Inc. and Albert Doria each lack good character, honesty and integrity. Accordingly, the Commission denies Al Tuna’s application for registration a seafood wholesale business in the Fulton Fish Market and Albert Doria’s photo identification card application.

Doria also received fish as part of his compensation package. See id. at 4. Further, during the same time, Doria maintained his own fish delivery business from which he earned approximately \$12,000 to \$14,000 in additional untaxed income. See 5/30/00 Memo; 1/11/01 Memo. Finally, Doria also sold fish that he caught himself to wholesalers in the market, earning him approximately \$2,000 in additional untaxed income per year. See 5/30/00 Memo; Robert Weinberg, Special Investigator, Memo dated February 24, 2000.

⁶ In addition to the two BMWs, during this time period, Doria also leased a 1998 Ford Expedition for which he paid over \$400 per month. See 8/16/99 Photo ID App.; Registration Printout of 1998 Ford Suburban; 3/9/01 Memo.

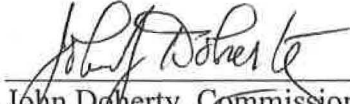
This decision is effective immediately.

Dated: June 20, 2006

THE BUSINESS INTEGRITY COMMISSION



Thomas McCormack
Chair



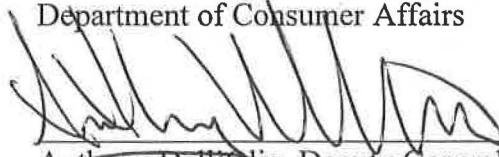
John Doherty, Commissioner
Department of Sanitation



Rose Gill Hearn, Commissioner by Daniel O. Brownell, designee
Department of Investigation Deputy Commissioner



Jonathan Mintz, Commissioner
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