



DECISION OF THE BUSINESS INTEGRITY COMMISSION TO DENY THE REGISTRATION APPLICATION OF ABSOLUTE TRUCKING, INC. TO OPERATE AS A TRADE WASTE BUSINESS

Introduction

Absolute Trucking, Inc. (“Absolute” or the “Applicant”) has applied to the New York City Business Integrity Commission (the “Commission”) for renewal of its exemption from licensing requirements and a registration to operate a trade waste business pursuant to New York City Administrative Code (“Admin. Code”) §16-505(a). Specifically, Absolute seeks an exemption from the licensing requirements and a registration enabling it to operate a trade waste business “solely engaged in the removal of waste materials resulting from building demolition, construction, alteration or excavation” – a type of waste commonly known as construction and demolition debris, or “C & D.” Id.

On May 7, 2012, the Commission served Absolute with Notice of Grounds to Recommend Denial of the Registration Application (“Notice”). The Notice stated the grounds for denial of the application and notified Absolute of its opportunity to submit a written response to the Notice and/or to provide other information it would have the Commission consider in connection with its exemption application. The Notice further stated that any factual assertions in Absolute’s response were to be made under oath. Response was due within ten (10) business days from the date of the notice. Absolute did not submit a response.

Based upon the record, the Commission now denies Absolute’s registration renewal application because Absolute lacks good character, honesty and integrity. As set forth more fully below, Absolute failed to disclose a principal, John Castelle AKA “Big John” Castellucci (“Castellucci”). Castellucci is a made member of the Lucchese organized crime family, and a convicted racketeer. Moreover, even if Castellucci was not an undisclosed principal, the fact that Absolute employed and clearly “associated” with Castellucci is, by itself, a basis to deny the instant application. Finally, Absolute made numerous misrepresentations to the Commission concerning Castellucci, his criminal record, and his involvement with organized crime.

Background and Statutory Framework

Every commercial business establishment in New York City must contract with a private carting company to remove and dispose of the waste it generates. Historically, the private carting industry in the City was operated as a cartel controlled by organized crime. As evidenced by numerous criminal prosecutions, the industry was plagued by pervasive racketeering, anticompetitive practices and other corruption. See e.g., United States v. International Brotherhood of Teamsters (Adelstein), 998 F.2d 120 (2d Cir. 1993); People v. Ass’n of Trade Waste Removers of Greater New York Inc. et al., Indictment No. 5614/95 (Sup. Ct. N.Y. Cty.); United States v. Mario Gigante et al., No. 96 Cr. 466 (S.D.N.Y.); People v. GNYTW, 701 N.Y.S.2d 12 (1st Dep’t 1999). The construction and demolition debris removal sector of the



City's carting industry has also been the subject of significant successful racketeering prosecutions. See United States v. Paccione, 949 F.2d 1183, 1186-88 (2d Cir. 1991), cert. denied, 505 U.S. 1220 (1992); United States v. Cafra, et al., No. 94 Cr. 380 (S.D.N.Y.); United States v. Barbieri, et al., No. 94 Cr. 518 (S.D.N.Y.); United States v. Caccio, et al., Nos. 94 Cr. 357,358, 359, 367.

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

Pursuant to Local Law 42, a company "solely engaged in the removal of waste materials resulting from building demolition, construction, alteration or excavation," commonly known as construction and demolition debris, or "C & D" removal, must apply to the Commission for an exemption from the licensing requirement. Id. If, upon review and investigation of an exemption application, the Commission grants the applicant an exemption from the licensing requirement, it issues the applicant a Class 2 registration. Id. Before issuing such registration, the Commission must evaluate the "good character, honesty and integrity of the applicant." Id. at §16-508(b). The New York City Administrative Code provides an illustrative list of relevant factors for the Commission to consider in making a licensing or registration decision:

1. failure by such applicant to provide truthful information in connection with the application;
2. a pending indictment or criminal action against such applicant for a crime which under this subdivision would provide a basis for the refusal of such license, or a pending civil or administrative action to which such applicant is a party and which directly relates to the fitness to conduct the business or perform the work for which the license is sought, in which cases the commission may defer consideration of an application until a decision has been reached by the court or administrative tribunal before which such action is pending;
3. conviction of such applicant for a crime which, considering the factors set forth in section seven hundred fifty-three of the correction law, would provide a basis under such law for the refusal of such license;



4. a finding of liability in a civil or administrative action that bears a direct relationship to the fitness of the applicant to conduct the business for which the license is sought;
5. commission of a racketeering activity or knowing association with a person who has been convicted of a racketeering activity, including but not limited to the offenses listed in subdivision one of section nineteen hundred sixty-one of the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. §1961 et seq.) or of an offense listed in subdivision one of section 460.10 of the penal law, as such statutes may be amended from time to time, or the equivalent offense under the laws of any other jurisdiction;
6. association with any member or associate of an organized crime group as identified by a federal, state or city law enforcement or investigative agency when the applicant knew or should have known of the organized crime associations of such person;
7. having been a principal in a predecessor trade waste business as such term is defined in subdivision a of section 16-508 of this chapter where the commission would be authorized to deny a license to such predecessor business pursuant to this subdivision;
8. current membership in a trade association where such membership would be prohibited to a licensee pursuant to subdivision j of section 16-520 of this chapter unless the commission has determined, pursuant to such subdivision, that such association does not operate in a manner inconsistent with the purposes of this chapter;
9. the holding of a position in a trade association where membership or the holding of such position would be prohibited to a licensee pursuant to subdivision j of section 16-520 of this chapter;
10. failure to pay any tax, fine, penalty, or fee related to the applicant's business for which liability has been admitted by the person liable therefor, or for which judgment has been entered by a court or administrative tribunal of competent jurisdiction.

Id. at §509(a)(i)-(x). Additionally, the Commission may refuse to issue a license or registration to any applicant who has “knowingly failed to provide information or documentation required by the Commission...or who has otherwise failed to demonstrate eligibility for a license. Id. at §509(b). The Commission may refuse to issue a license or registration to an applicant when such applicant was previously issued a license which was revoked or not renewed, or where the applicant “has been determined to have committed any of the acts which



would be a basis for the suspension or revocation of a license.” *Id.* at §509(c). Finally, the Commission may refuse to issue a license or registration to any applicant where the applicant or its principals have previously had their license or registration revoked. *Id.* at §509(d).

An applicant for a private carting license (including construction and demolition) has no entitlement to and no property interest in a license or registration and the Commission is vested with broad discretion to grant or deny a license or registration application. Sanitation & Recycling Industry, Inc., 107 F.3d at 995; see also Daxor Corp. v. New York Dep’t of Health, 90 N.Y.2d 89, 98-100, 681 N.E.2d 356, 659 N.Y.S.2d 189 (1997). Admin. Code § 16-116.

Statement of Facts

A. Application History

September 2005 Application

On September 19, 2005, Absolute applied to the Commission for a Class II Registration for the removal of construction and demolition debris (“C & D Registration”). See Absolute’s Application for Exemption from Licensing Requirement for Removal of Construction and Demolition Debris (“Registration Application”). Absolute’s principals swore that the answers that they provided were “full, complete and truthful.” *Id.* at 16-18.

On the Registration Application, the reported principals of Absolute were: 1) Marina Cardillo, President and 58% owner; 2) Pavel Kogan, Vice President and 21% owner; and 3) Leonid Brenman, Secretary/Treasurer and 21% owner. See id. In its Registration Application, Absolute did not disclose any vehicle operators. Rather, they stated that they would disclose vehicle operators “upon approval.” What Absolute failed to disclose was that on November 11, 2005, less than a month after submitting its Registration Application, and while that application was still pending, Absolute hired John Castelle, purportedly as a vehicle operator. See Absolute’s Second Renewal Application for License or Registration as a Trade Waste Business, (“Second Renewal Application”); see also transcript of February 7, 2011, deposition of Leonid Brenman (“Brenman Dep.”) at 42-43. The Commission later determined that “John Castelle” was an alias used by “Big John” Castellucci, a convicted racketeer and made member of the Lucchese organized crime family. Because the true identity of “John Castelle” and his actual role in Absolute was not disclosed or yet determined by the Commission, on or about December 15, 2005, the Commission granted the Applicant a trade waste registration, which was effective for two years.

October 2007 Renewal Application

On October 17, 2007, Absolute filed an application to renew its registration with the Commission. See Absolute’s first Renewal Application for License or Registration as a Trade



Waste Business, ("First Renewal Application"). Again, the principals swore that the answers that they provided were "complete and truthful." Id. at 9 and 11.

The First Renewal Application indicated that Absolute's principals were Brenman, President and 50% owner, and Kogan, Vice President and 50% owner.¹ Id. at 5. In the schedule titled "Employees of Licensee or Registrant," Absolute disclosed five drivers, including John Castelle. The First Renewal Application asked whether "the applicant or any of the applicant's principals, employees, or affiliates had been arrested, convicted of, or subject to any criminal charge in any jurisdiction." Despite the fact that John Castelle (a.k.a. John Castellucci) had, at the time, been convicted of myriad crimes, including racketeering activities, the applicant responded in the negative. Id. at 2. The First Renewal Application also asked whether the "applicant or any of the applicant's principals, employees, affiliates or representatives knowingly associated in any manner with any member or associate of organized crime." Again, despite the fact that one of its employees, John Castelle (a.k.a. John Castellucci), would later be identified by the Federal Bureau of Investigation ("FBI") as a member of the Lucchese organized crime family, the Applicant responded in the negative. See id. at 4.

Because the true identity of John Castelle (a.k.a. John Castellucci) and his actual role in Absolute was not disclosed to or as yet determined by BIC, the Commission renewed Absolute's Registration for two years.

October 2009 Renewal Application

On October 16, 2009, Absolute again applied to the Commission for a renewal of its registration. See second Renewal Application for License or Registration as a Trade Waste Business ("Second Renewal Application"). Again, the principals swore that the answers that they provided were "full, complete and truthful." Id. at 12 and 14.

The reported principals remained Brenman and Kogan. Similar to the First Renewal Application, Absolute answered negatively to the questions relating to criminal convictions and associations with organized crime. See Second Renewal Application Questions 7 and 11. In the Second Renewal Application, the Commission included an additional schedule specifically for "Operators of Vehicles." Inexplicably, John Castelle was not included with the other drivers on the "Operators of Vehicles" schedule, rather, Castelle was listed on the schedule for "Employees of Licensee or Registrant," and it was specified that he was a "driver."²

The Second Renewal Application is currently pending and is the subject of this memorandum.

¹ Shortly after the Commission granted Absolute's application, Marina Cardillo was divested and her shares were purchased by Brenman and Kogan. This sale was disclosed to the Commission.

² Schedule D of the application instructs the application to: "list ALL current employees, excluding drivers (drivers will be listed on Schedule D). Place an asterisk (*) next to any employees who have been hired within the last two years."



B. “Big John” Castellucci’s Criminal Record and Ties to Organized Crime

At the time Absolute’s Second Renewal Application had been submitted, the Commission had obtained information indicating that John Castelle was, in fact, John “Big John” Castellucci (“Castellucci”). Castellucci is the brother of Eugene “Boobsie” Castelle, himself a reputed soldier in the Lucchese crime family. John Castellucci and his brother were co-defendants in a federal racketeering case against the Bensonhurst Crew of the Lucchese organized crime family. In 2001, Castellucci and his brother were convicted of committing various crimes under the Racketeer Influenced and Corrupt Organizations Act (“RICO”) in violation of 18 USC §1962(c) and §1963, and were sentenced to serve 88 months and 41 months in prison, respectively. See infra at 8. An outline of Castellucci’s full criminal history is as follows:

- On or about September 17, 1976, Castellucci was arrested in Kings County and charged with Resisting Arrest in violation of Penal Law (“PL”) §205.30 and Harassment in violation of PL §240.25. On October 17, 1976, Castellucci was convicted upon plea of guilty to Loitering, in violation of PL §240.35, a violation.
- On or about May 2, 1985, Castellucci was arrested in Kings County and charged with Possession of Stolen Property in the First Degree in violation of PL §165.50, a Class “D” felony, Possession of Illegal Vehicle Identification Number Plate, in violation of PL §170.30, a class “E” felony, and Unauthorized Use of a Motor Vehicle in violation of PL §165.05(1), a class “A” misdemeanor. On November 7, 1985, Castellucci was convicted upon plea of guilty of Unauthorized use of a Motor Vehicle in violation of PL §165.05(1), a class “A” misdemeanor.
- On or about September 25, 1985, Castellucci was arrested in Kings County and charged with Possession of a Controlled Substance in the fourth degree, in violation of PL §220.21(1), a class “A” felony, and Criminal Possession of a Weapon in the third degree in violation of PL §265.02(3), a class “D” felony. On December 4, 1986, Castellucci was convicted upon plea of guilty of Criminal Possession of a Controlled Substance in the third degree in violation of PL §220.16, a class “B” felony, and Criminal Possession of a Weapon in the third degree in violation of PL §265.02(3), a class “D” felony.
- On or about January 26, 1986, Castellucci was arrested in Kings County and charged with Robbery in the second degree in violation of PL §160.10, a class “C” felony, and Grand Larceny in the second degree in violation of PL §155.35, a class “D” felony. On October 23, 1986, Castellucci was convicted by plea of guilty to Robbery in the second degree in violation of PL §160.10, a class

“C” felony. For the crimes committed on or about September 25, 1985 and January 26, 1986, Castellucci was sentenced to 3-9 years in prison concurrently.

- On April 10, 1996, Castellucci was arrested in Kings County for Possession of Gambling Records in the first degree in violation of PL §225.20(2), a class “E” felony. On May 8, 1996, he was convicted upon plea of guilty to Possession of Gambling Records in the second degree in violation of PL §225.15(2), a class “A” misdemeanor.
- On October 22, 1996, Castellucci was indicted by the United States Attorney for the Eastern District of New York for various crimes including Attempting to Evade or Defeat Tax in violation of 26 USC §7201 and Possession of Firearms in violation of 18 USC §922(g)(1).³ See USA v. Castellucci, Docket Sheet. On May 8, 1998, Castellucci pleaded guilty to those counts and was sentenced to 57 months in prison.
- On or about January 2, 2001, Castellucci and six other reputed member of the Bensonhurst Crew of the Lucchese crime family were named in an EDNY indictment. Included in the indictment were Joseph Tangorra, Joseph Truncale,⁴ Eugene Castelle, Lester Ellis, Robert Greenberg, Scott Gervasi and Castellucci.⁵ Castellucci was indicted for various Racketeering

³ The full name of the crime is listed on the docket sheet is: “Possession of Firearms in and Affecting Commerce by a Person Convicted of a Crime Punishable by Imprisonment for a Term Exceeding One Year”

⁴ Truncale and Tangorra were charged with murder. On November 29, 2000, New York Times reported, “One day in October 1988, the police found the body of 28-year-old Victor Filocamo stuffed inside the trunk of a white B.M.W. parked on 73rd Street in Bay Ridge, Brooklyn. At the time, investigators suspected that Mr. Filocamo was killed because of his ties to the underworld, and, over the last decade, three known mobsters pleaded guilty in the slaying. But yesterday, federal prosecutors announced that two additional men were responsible for the mob hit, and charged them in Federal District Court in Brooklyn with conspiracy to murder Mr. Filocamo. The murder charges were part of a broad racketeering indictment against seven reputed members of the Luchese crime family, two of whom were accused of taking part in Mr. Filocamo's death more than a decade ago inside a mob-connected social club in Bensonhurst. The seven men were also charged with other crimes, from loan sharking to drug dealing to arson. While the indictment charged the men, Joseph Tangorra, 51, and Joseph Truncale, 69, with participating in Mr. Filocamo's murder, it made no mention of a motive. But investigators said that Mr. Filocamo was killed because of suspicions that he was a government informer. The indictment said Mr. Truncale and Mr. Tangorra were members of a Luchese family group known as the Bensonhurst Crew. It also said five other men -- Eugene Castelle, 40; Lester Ellis, 50; Robert Greenberg, 29; John Castellucci, 43; and Scott Gervasi, 36 -- were members of the group. From 1987 to earlier this year, Mr. Tangorra, who is known in the underworld as Joey Flowers, and Mr. Castelle, who goes by the nickname Boopsie, supervised the Bensonhurst Crew as it ran illegal gambling dens and loan-sharking businesses throughout southern Brooklyn, the indictment said. The crew has also been accused of attempted murder...” Feuer, Allan, New York Times, Two More Men Are Charged In a Mob Killing in 1988, November 29, 2000.

⁵ In the indictment Tangorra and Eugene “Boopsie” Castelle, Castellucci’s brother, were identified as caporegimes in the Lucchese organized crime family. Truncale and Gervasi were identified as Lucchese family soldiers.



crimes in violation 18 USC §1962(c) and 1963 (“RICO”). See United States v. Tangorra et al., Docket Sheet; and Teamsters Local 282 Independent Review Board Recommendation, dated October 13, 2010. Castellucci was convicted of Racketeering, in violation of RICO and sentenced to serve 41 months in prison. See United States v. Tangorra et al., Docket Sheet. Castellucci was released from prison on October 20, 2004.

On September 14, 2010, the FBI released an affidavit which stated that Castellucci was a made member of the Lucchese organized crime family with the rank of soldier. See In re: John Castelle, Affidavit of Special Agent Geraldine Hart, dated September 14, 2010. The affidavit states that three confidential informants have confirmed this information, and that the FBI has observed Castellucci engage in a “walk and talk” with Steven Crea, the Boss of the Lucchese organized crime family.

C. Castellucci’s Role in Absolute

While Absolute only identified Castellucci as a driver, the Commission uncovered evidence that Castellucci had substantial involvement in Absolute’s business and was in fact an undisclosed principal.

On March 10, 2010, the Commission deposed Richard Bassi, a principal of Rebco Contracting Corp. The deposition related to the Commission’s inquiry into Rebco’s work for the Metropolitan Transportation Authority (“MTA”). During the Commission’s inquiry, Bassi testified that he would subcontract work to Absolute, and his contact at the company was “John”, who he believed was the owner of Absolute. Moreover, Bassi testified that he did not know of Brenman or Kogan, the disclosed principals of Absolute. See transcript Bassi Deposition Transcript at 52-55.

On February 7, 2011, Brenman and Kogan were deposed by the Commission. Kogan conceded that he was merely an investor in the company, and he did not have responsibility for the day-to-day operations. See transcript of February 7, 2011, deposition of Pavel Kogan (“Kogan Dep.”).

Brenman’s testimony also demonstrates that, although he is identified as the President of Absolute, he has only limited involvement in Absolute’s operations. Brenman testified that he only dedicates “four to five hours [a week], at least” to Absolute. See transcript Brenman Dep. at 40.

When asked who assists him with running what is a complex business, Brenman readily identified Castellucci. He testified as follows:

- Q. So John pretty much runs the business and brings major decisions to you?
- A. Yes. He does the day-to-day work.
- Q. What is the day-to-day work, what do you know him to do?



- A. He goes to the yard, he disperses drivers to the work, he – mostly this is it.
- Q. He estimates jobs?
- A. Estimates jobs. It's not every day. It does not happen every day.
- Q. If say –
- A. Mostly it's working with the drivers and the equipment itself, I mean the trucks. They get a lot of damage.
- Q. Does he control where the trucks go every day?
- A. Not really. I mean –
- Q. I mean he dispatches them, right?
- A. He dispatches them, yes.

Id. at 42. Brenman further testified that Castellucci was involved in the hiring of employees, monitoring of employee hours, collecting company checks and cashing them, and handled office petty cash. Id. at 52, 61, 74, 84, 92, and 95. Brenman's deposition testimony also corroborated Richard Bassi's testimony, stating that Bassi dealt directly with Castellucci when subcontracting work on two major projects in New York City, the Second Avenue Subway and the Seven Line Extension Projects. See id. at 24, 25, 78, and 83-4. Indeed, at his deposition, Brenman conceded that Castellucci had directly controlled Absolute's "day-to-day operations." See transcript Brenman Dep. at 41 and 96.

When Brenman was asked if he knew about Castellucci's ties to organized crime and his criminal record, Brenman testified was as follows:

- Q. Did you know that the FBI has named John Castelle to be a made member of the Lucchese organized crime family?
- A. No, No.

- Q. Has John communicated with you at all with regard to his being named as an associate of the Lucchese organized crime family?
- A. Like I knew that he had some problems, he was in jail or something, but nothing like that.
- Q. What did you know about his going to jail?
- A. That he went to jail.
- Q. Do you know what for?
- A. No.
- Q. Do you know what the allegations were surrounding the case?
- A. No.
- Q. When I say Castellucci, I mean Castelle too?



- A. I understand.
- Q. Anything about Anthony Castelle in the news –
- A. No.
- Q. -- newspapers, anything about Eugene Castellucci or Castelle in the newspapers?
- A. No.
- Q. Is this the first that you've heard about John Castelle or any of his family being associated with organized crime families?
- A. I wouldn't say that. I knew he went to jail. But after jail, I don't see any connection with him. I don't know any of it.
- Q. So you knew that he went to jail?
- A. Right.
- Q. Did you also know that he was affiliated with organized crime?
- A. I don't know for what he went to jail.
- Q. Okay. But did you know that he was affiliated with members of organized crime, that he associated with members of organized crime?
- A. Not in that way you are asking.
- Q. How? Explain it to me.
- A. I knew that he went to jail. But again, I don't know what the affiliation was, for what he went to jail. But he's out of jail in other words.
- Q. Did you know of his reputation of his being a member of an organized crime family?
- A. No.
- Q. You did not know?
- A. No.
- Q. This is the first you've heard of it today?
- A. No. I heard about, but it's just rumors.
- Q. What rumors did you hear about him?
- A. About him?
- Q. What rumors.
- A. That we was – the rumors about his connection to the crime family, but I didn't know what it was about.

Id. at 103-107.

By letter dated February 16, 2011, Absolute sought to withdraw its pending registration application and return its trade waste plates. See Letter from Absolute to the Commission, dated February 16, 2011. By letter dated February 22, 2011, the Commission responded to Absolute, explaining that the Commission accepted the return of the Trade Waste conveyance plates, but denied their request to withdraw their pending application. See Letter from the Commission to Absolute, dated February 22, 2011. The Commission, in its discretion, had a reasonable basis to



do so. See Pure Earth Inc. v. Business Integrity Commission, No. 113998/10 (N.Y. Sup. Ct. N.Y. Cty., Oct. 12, 2011) at 14-15.

Absolute commenced a proceeding pursuant to Article 78 of the Civil Procedure Laws and Rules challenging the Commission's denial of Absolute's request to withdraw their application. On April 12, 2012, The Supreme Court granted the Commission's motion to dismiss Absolute's petition, and denied the relief sought by Absolute in its entirety. See Absolute Trucking, Inc. et al. v. The City of New York Business Integrity Commission et al., No. 103233/11 (N.Y. Sup. Ct. N.Y. Cty., April 18, 2012).

Basis for Denial

The Applicant's undisclosed principal, John Castelle AKA "Big John" Castellucci is a made member of the Lucchese organized crime family, and a convicted racketeer. Further, in their applications to the Commission, the Applicant repeatedly and affirmatively misrepresented Castelle's true role in the company as principal.

The Commission denies Absolute's registration renewal application because its undisclosed principal, Castellucci, is a made member of the Lucchese organized crime family. Further, Castellucci has an extensive criminal history, including convictions for racketeering offenses under RICO. See supra at 7-8. Castellucci was also convicted of racketeering activity as listed in the New York State Enterprise Corruption Statute, PL §460.10(1) for his conviction for Criminal Possession of a Controlled Substance in the third degree in violation of PL §220.16, a class "B" felony, and Criminal Possession of a Weapon in the third degree in violation of PL §265.02(3), a class "D" felony. Castellucci's well-established involvement in organized crime and extensive criminal history make clear that he lacks good character, honesty and integrity.

Although not disclosed as such on any of its applications, Castellucci was acting as a principal of Absolute. A principal is defined as "...all other persons participating directly or indirectly in the control of such business entity." Admin. Code §16-501(d). First, according to Brenman's testimony, Castellucci controls Absolute's day-to-day operations, including dispatching the trucks, the hiring of employees, monitoring of employee hours, collecting company checks, cashing them and handling the office's petty cash. See supra at 9-10. Second, Castellucci has a role in obtaining work for the company. According to sworn testimony from a non-interested party, Rebcoco contacts Castellucci, not Brenman, when subcontracting work to Absolute for the biggest projects in New York City. Finally, Castellucci's role as an undisclosed principal is further corroborated by the testimony of both of Absolute's reported principals, Brenman and Kogan, that they are not involved in the day-to-day operation of the business in any meaningful way. See supra at 9-10. As Absolute made false statement to the Commission about Castellucci's true role in the company, the Commission denies Absolute's registration



renewal application on this independently sufficient ground. Admin. Code § 16-509(a)(i) and (b).

Even if Castellucci was not acting as an undisclosed principal (which he was), the Commission would still deny Absolute's registration renewal application because the disclosed principals clearly associated with Castellucci "when the applicant knew or should have known of the organized crime associations of such person." Admin. Code § 16-509(a)(vi). To the extent that Brenman and Kogan claim that they did not know that Castellucci was a made member of the Lucchese organized crime family, such claim is not credible, particularly in light of Brenman's concession at his deposition that he had heard rumors of Castellucci's involvement in organized crime. See transcript Brenman Dep. at 107. The Commission should also consider the fact that Absolute's principals knowingly associated with a person who has been convicted of a racketeering activity. At the time Castellucci began working for Absolute in 2005, he was already a convicted criminal several times over, including a felony conviction for racketeering in 2001. Supra at 7-8. Here too, any claim by Brenman and Kogan that they were not aware that Castellucci was a convicted racketeer is not credible, particularly in light of Brenman's concession that he was well aware that his "employee," Castellucci, had been in jail. As Absolute associated with a member of an organized crime group and a convicted racketeer, the Commission denies their registration renewal application based upon this independently sufficient ground. Admin. Code §16-509(a)(v) and (vi).

Finally, in a glaring attempt to engage in deceit and subterfuge, Absolute made multiple false and misleading statements to the Commission. When seeking the grant of its registration in 2005, Absolute failed to inform the Commission that Castellucci worked for the company at all, no doubt because they were aware that disclosure of the employment of an organized crime figure and convicted racketeer would have resulted in denial. When they did finally include Castellucci as an employee on their 2007 and 2009 renewal applications, Absolute continued to hide Castellucci's true identity by listing him using his alias, "John Castelle." Moreover, Absolute affirmatively misrepresented that Castellucci was a driver, when his actual role was far more extensive. Finally, in yet another attempt to deceive the Commission, Absolute affirmatively stated that none of Absolute's "principals, employees, or affiliates been arrested, convicted of, or subject to any criminal charge in any jurisdiction" when they knew that the individual who was largely running the business was a soldier in the Lucchese organized crime family and a convicted racketeer. In sum, Absolute made every effort to conceal from the Commission that Castellucci was working for, and in fact largely operating, Absolute's business. Accordingly, the Commission denies Absolute's registration renewal application on this independently sufficient ground. Admin. Code § 16-509(a)(i) and (b).



Conclusion

The Commission is vested with broad discretion to issue a license or refuse to grant an exemption from the license requirement and issue a registration in lieu of a license, to any applicant who it determines to be lacking in good character, honesty and integrity. The record as detailed above demonstrates that the Applicant falls short of that standard. Accordingly, based on the above independently sufficient reasons, the Commission denies Absolute's exemption application and registration.

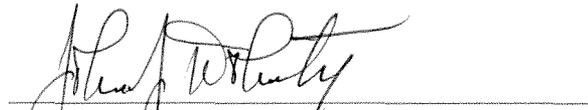
This exemption/registration denial is effective immediately. Absolute Trucking, Inc. may not operate as a trade waste business in the City of New York.

Dated: June 5, 2012

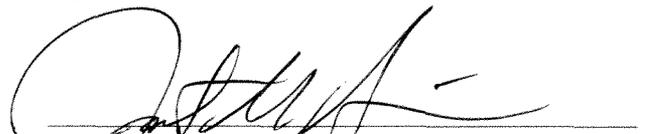
THE BUSINESS INTEGRITY COMMISSION



Shari C. Hyman
Commissioner and Chair



John Doherty, Commissioner
Department of Sanitation



Janet Lim, Assistant General Counsel (designee)
Department of Consumer Affairs



Rose Gill Hearn, Commissioner (designee)
Department of Investigation



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Kathleen Ahn, General Counsel (designee)
Department of Small Business Services

A handwritten signature in black ink, appearing to read "Brian O'Neill". The signature is cursive and somewhat stylized, with a large loop at the end.

Brian O'Neill, Inspector (designee)
New York City Police Department