



**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
CLASS 2 REGISTRATION APPLICATION OF ASAP CLEAN OUTS, INC. TO
OPERATE AS A TRADE WASTE BUSINESS**

I. Introduction

On September 15, 2015, ASAP Clean Outs, Inc. (the “Applicant” or “ASAP”) (BIC #488481) applied to the New York City Business Integrity Commission for an exemption from the Commission’s trade waste licensing requirements “to operate a trade waste business solely engaged in the removal of waste materials resulting from building demolition, construction, alteration or excavation.” Local Law 42 of 1996 authorizes the Commission to review and make determinations on such exemption applications. *See* Title 16-A, New York City Administrative Code (“Administrative Code” or “Admin. Code”) § 16-505(a).

On December 7, 2017, the Commission’s staff issued and personally served the Applicant with a Notice to the Applicant of the Grounds to Deny the Class 2 Registration Application of ASAP Clean Outs, Inc. (BIC #488481) to Operate as a Trade Waste Business (the “Notice”). The Applicant had 10 business days to respond, which period expired on December 21, 2017. *See* Rules of the City of New York, Title 17 (“RCNY”) § 2-08(a). The Applicant did not submit a response to the Notice. The Commission has completed its review of the registration application, having carefully considered the Notice and the Applicant’s lack of response. Based on the record herein, the Commission denies the Applicant’s registration application based on the following five independently sufficient grounds:

- 1. The Applicant knowingly provided false information to the Commission;**
- 2. The Applicant’s undisclosed principal was a principal of a predecessor trade waste business for which the Commission would be authorized to deny a registration;**
- 3. The Applicant’s principal testified falsely during her sworn interview;**
- 4. The Applicant has repeatedly engaged in unregistered trade waste removal activity; and**
- 5. The Applicant has knowingly associated with an organized crime associate and a convicted racketeer.**

II. Statutory Background and Framework

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

The Commission is charged with, among other things, combating the influence of organized crime and preventing its return to the City's private carting industry. 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. *See* Admin. Code § 16-505(a). This regulatory framework continues to be the primary means of ensuring that the private carting industry remains free from organized crime and other criminality, and that commercial businesses that use private carters can be ensured of a fair, competitive market.

Pursuant to Local Law 42, a company "solely engaged in the removal of waste materials resulting from building demolition, construction, alteration or excavation," also known as construction and demolition debris or "C&D," must apply to the Commission for an exemption from the licensing requirement. *Id.* If, after it reviews an application, the Commission grants the exemption, it issues the applicant a class 2 registration. *Id.* at § 16-505(a)-(b). In reviewing the application, the Commission must evaluate the "good character, honesty and integrity of the applicant." *Id.* at § 16-508(b); *see also id.* at § 16-504(a). The "applicant" includes the business entity and each principal of the business. *Id.* at § 16-501(a).

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

1. failure by such applicant to provide truthful information in connection with the application;
2. a pending indictment or criminal action against such applicant for a crime which under this subdivision would provide a basis for the refusal of such license, or a pending civil or administrative action to which such applicant is a party and which directly relates to the fitness to conduct the

business or perform the work for which the license is sought, in which cases the commission may defer consideration of an application until a decision has been reached by the court or administrative tribunal before which such action is pending;

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

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

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

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

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

8. current membership in a trade association where such membership would be prohibited to a licensee pursuant to subdivision j of section 16-520 of this chapter unless the commission has determined, pursuant to such subdivision, that such association does not operate in a manner inconsistent with the purposes of this chapter;

9. the holding of a position in a trade association where membership or the holding of such position would be

prohibited to a licensee pursuant to subdivision j of section 16-520 of this chapter;

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

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

The Commission also may refuse to issue a license or registration to any applicant who has “knowingly failed to provide information or documentation required by the Commission . . . or who has otherwise failed to demonstrate eligibility for a license.” *Id.* at § 16-509(b). *See also* 16-509(a)(i) (failure to provide truthful information in connection with application as a consideration for denial); *Elite Demolition Contracting Corp. v. The City of New York*, 4 N.Y.S.3d 196, 125 A.D.3d 576 (1st Dep’t 2015); *Breeze Carting Corp. v. The City of New York*, 52 A.D.3d 424 (1st Dep’t 2008); *Attonito v. Maldonado*, 3 A.D.3d 415 (1st Dep’t) (Commission may deny an application for an exemption “where the applicant fails to provide the necessary information, or knowingly provides false information”); leave denied 2 N.Y.3d 705 (N.Y. 2004). In addition, the Commission may refuse to issue a license or registration to an applicant that “has been determined to have committed any of the acts which would be a basis for the suspension or revocation of a license.” *Id.* at § 16-509(c). *See also id.* at § 16-504(a). Finally, the Commission may refuse to issue a license or registration to any applicant where the applicant or its principals have previously had their license or registration revoked. *Id.* at § 16-509(d).

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

III. Statement of Facts

I. Background

On September 15, 2015, the Applicant applied to the Commission for a registration to operate as a trade waste business that removes construction and demolition debris (commonly known as “C&D”). *See* class 2 registration application for ASAP Clean Outs, Inc. (the “Application”). The Applicant disclosed Meriam Jami as its president and sole owner and principal. *Id.* at p.13. The Applicant also listed Jami as the company’s sole vehicle operator. *Id.* at p.18. Jami certified that all of the information contained in the Application was “full, complete and truthful.” *Id.* at p.20.

On November 24, 2015, a member of the Commission’s staff spoke with Jami regarding the Application. During the conversation, Jami indicated that she has no

experience in the industry. *See* memo to file dated November 24, 2015 (“November 2015 Memo”). She claimed that she came up with the idea of starting a trade-waste-removal company after watching the television show “Shark Tank,” and named the Applicant “ASAP” in the hopes of being listed first on internet searches. *Id.* Jami stated that she did not know anyone in the industry and denied that she received any assistance through the application process. *Id.* She also indicated that the Applicant does not share offices with any other entity and that she purchased her truck for \$1,000 after responding to an advertisement on Craigslist. *Id.* Finally, Jami informed the Commission’s staff that the Applicant did not have any employees or vehicle operators. *Id.*

On May 5, 2016, a member of the Commission’s staff conducted a sworn interview of Jami in connection with the Commission’s review of the Application. *See* transcript of Meriam Jami (“May 2016 Jami Tr.”). Following Jami’s testimony, the Commission interviewed Jami’s husband, Thomas D’Onofrio, under oath on August 29, 2016. *See* transcript of Thomas D’Onofrio (“D’Onofrio Tr.”). On February 28, 2017, a member of the Commission’s staff interviewed Jami under oath for a second time in connection with the Application. *See* second transcript of Meriam Jami (“February 2017 Jami Tr.”).

2. Jami has no experience in the trade waste industry.

Although the Applicant certified (through its sole-disclosed principal Jami) that Jami was its president, principal and sole vehicle operator, Jami’s own testimony demonstrates this to be untrue. *See* May 2016 Jami Tr. at 84-85. Jami admitted in her sworn interview that she has no experience in the trade waste industry whatsoever. *Id.* at 30. And she clearly had no knowledge of her company’s operations. Jami could not identify who the Applicant’s customers were, despite servicing the same individual on a number of occasions. *See, e.g.,* May 2016 Jami Tr. at 74; February 2017 Jami Tr. at 28-30. She did not know who endorsed various checks paid to the Applicant, even though the same individual endorsed several checks. *Id.* at 29, 32. In addition, Jami’s husband testified that Jami was not trained to drive the Applicant’s vehicle. *See* D’Onofrio Tr. at 107-08.

3. Jami’s husband has extensive experience in the trade waste industry.

While Jami has no experience in the trade waste industry, the Commission’s investigation revealed that D’Onofrio has extensive experience, including having owned several trade waste businesses. *See, e.g.,* D’Onofrio Tr. at 92. Moreover, the Applicant was financed partially through a loan made by D’Onofrio’s father, which remains unpaid. *See* May 2016 Jami Tr. at 29. The Applicant shares offices with ASAP Rubbish Removal Inc., another entity owned by D’Onofrio – which bears a strikingly similar name to the Applicant. *Id.* at 42, 65. And, the Applicant utilizes the same vehicle and garage location that was once used by Liberty Demolition and Cleanouts Services, Inc., (“Liberty Demolition”). *Id.* at 46, 52. As demonstrated below, the Commission’s investigation has revealed that D’Onofrio was an undisclosed principal of Liberty Demolition.

On November 29, 2006, D’Onofrio was arrested for engaging in unregistered trade waste removal activity while operating a Liberty Demolition truck. At the time of his arrest, D’Onofrio claimed that he owned Liberty Demolition. On December 7, 2006, the Commission issued an administrative violation to “Liberty Demolition & Cleanout Service” at 8220 17th Avenue, Brooklyn, New York. See Notice of Violation for Unlicensed or Unregistered Activity TW-1640; letter to D’Onofrio, dated December 7, 2007. That address is owned by Laura Cappa and serves as the business address for Liberty Pest Control, Inc., an entity owned by Richard Cappa.¹ See filing for Liberty Pest Control with the New York State Department of State. In addition to Liberty Pest Control, Inc., the following entities (also owned by Richard Cappa) were located at this address: Liberty Exterminating Ltd.; Liberty Pest Specialists, Inc.; Liberty Consulting Services, Ltd.; and 1654 86th Street LLC.

On January 7, 2007, D’Onofrio, as president of Liberty Demolition, agreed to resolve the administrative violation by entering into a Stipulation of Settlement and paying a \$2,500 fine. See Stipulation of Settlement TW-1640. A follow-up notice was mailed to D’Onofrio confirming the settlement and affirming the Commission’s recommendation to release the truck, which had been seized at the time of his arrest. See letter to D’Onofrio dated January 11, 2007.

On March 28, 2007, shortly after Liberty Demolition admitted to engaging in unregistered activity, the company filed a registration application. See class 2 registration application of Liberty Demolition and Cleanout Services, Inc. (the “Liberty Demolition Application”). The application disclosed Joseph Hajaistron as the company’s sole principal and vehicle operator and listed the same vehicle utilized by D’Onofrio while he engaged in unregistered activity. *Id.* at pp.9, 14-15; Notice of Violation for Unlicensed or Unregistered Activity TW-1640. D’Onofrio was not disclosed on the Liberty Demolition Application in any capacity. See Liberty Demolition Application. On June 1, 2007, the Commission approved the application and issued Liberty Demolition a class 2 registration. See registration order for Liberty Demolition and Cleanout Services, Inc.

Liberty Demolition subsequently submitted three renewal applications, in April 2009, April 2011 and May 2013, each of which was approved. See Liberty Demolition Renewal Applications dated April 14, 2009, April 27, 2011, and May 8, 2013. The April 27, 2011 application disclosed D’Onofrio merely as a driver – shortly after he was caught (again) operating a Liberty Demolition vehicle. See Liberty Demolition Renewal

¹ Richard Cappa is an associate of the Colombo Organized Crime Family. In 1993, Richard Cappa was indicted for conspiracy to commit murder, violent crime in aid of racketeering offense (murder in the first degree), prohibition of illegal gambling business, and gambling and lottery. See *United States v. Amato et al.*, 1:93-cr-01364-ARR-3 (E.D.N.Y. 1993). Cappa was convicted of gambling and lottery and was sentenced to five years’ probation, 300 hours of community service, and \$50 assessment. *Id.* Additionally, Cappa’s brother, Thomas, was also indicted for the same and additional charges. Thomas Cappa pled guilty to violent crime in aid of racketeering offense (murder 1st degree) and was sentenced to 78 months in prison, \$25,000 fine, \$50 assessment, and three-years post release supervision. During his deposition, D’Onofrio acknowledged that he has worked for Richard Cappa’s company Liberty Pest Control, Inc., for over a decade. See D’Onofrio Tr. at 36, 39.

Application dated April 27, 2011. The other two applications made no mention of D'Onofrio at all.

In July 2015, Liberty Demolition's registration expired. Two months later, in September 2015, the Applicant filed the instant Application. The Applicant's incorporation documents were filed by an individual named Joseph Idone. *See* file for filing receipt for ASAP Clean Outs Inc. Joseph Idone is also listed as an agent for several entities owned by, managed by or otherwise connected to D'Onofrio: Liberty Demolition; LCS Liberty Cleaning Services, Inc.; ASAP Rubbish Removal, Inc.; Complete House Demo, Inc.; We Care Pest Control, Inc.; and MRAC Construction, Inc.

Although the Liberty Demolition applications to the Commission made no mention of D'Onofrio, the Commission's investigation demonstrates that D'Onofrio was a principal of that company. Aside from the fact that D'Onofrio settled Liberty Demolition's administrative violation on behalf of the company in 2007, D'Onofrio testified that he completed, at least in part, two of the applications for Liberty Demolition, *id.* at 83-84; he was an authorized signatory on Liberty Demolition's bank accounts, *id.* at 48-49; he issued checks and had authority to withdraw and deposit funds on behalf of the entity, *id.* at 60-61; he had access to the entity's credit card, which was under his name and home address, *id.* at 61-62; he signed a commission directive on behalf of the entity and was authorized to pick up Commission-issued license plates, *see* file for commission directive dated August 28, 2009; and he signed the roster of vehicles as a company employee, *see* file for roster of vehicles dated August 28, 2009.

4. The Applicant failed to disclose required information to the Commission.

Aside from listing Jami as the sole principal of the Applicant and failing to disclose D'Onofrio as a principal, the Applicant provided other false and misleading information on the Application. For example, Jami is listed as the sole vehicle operator, *see* Application at p.18 (Schedule D), yet Jami testified that her husband has been operating the Applicant's vehicles. *See, e.g.,* May 2016 Jami Tr. at 85. D'Onofrio corroborated this fact: when asked who has been driving the Applicant's truck, D'Onofrio answered, "Me. You know that." D'Onofrio Tr. at 108. He further acknowledged that he was training his wife to drive the truck, but that "she didn't drive it like to work or anything. She just drove it around the block." *Id.* at 107-08. Finally, Commission investigators have stopped D'Onofrio while driving the Applicant's vehicle. *See* email dated August 26, 2016. Despite his clear involvement in the company and the Commission's formal request, the Applicant has yet to disclose D'Onofrio's involvement in the Applicant's business in any way.

In addition to the above misrepresentations, the Applicant claimed that it does not share office space, staff or equipment (including, but not limited to, telephone lines) with other businesses or organizations, as required. *See* Application at p.2 (Question 11). During her testimony, Jami initially denied sharing office space with any other business entities. *See* May 2016 Jami Tr. at 65; *see also* November 2015 Memo. But, when questioned about ASAP Rubbish Removal Inc. – D'Onofrio's company – Jami confirmed

that the company has the same business address as the Applicant. *See* May 2016 Jami Tr. at 65.

5. *Jami and D’Onofrio provided false information and testimony to the Commission.*

Similar to the false and misleading information provided on the Application, Jami and D’Onofrio both provided false information and testimony to the Commission, some of which has been discussed above. In a November 2015 conversation with a member of the Commission’s staff, Jami made several false and misleading statements. For example, Jami stated that she did not have any family members, friends, or know anyone in the construction and demolition or trade waste industry. *See* November 2015 Memo. This is false because, as she later testified, both her husband and a friend work or have worked in the industry. *See* May 2016 Jami Tr. at 20-21, 36. Moreover, Jami provided false information to the Commission when she initially claimed that she purchased a truck after responding to an advertisement online. *See* November 2015 Memo. She later admitted, and D’Onofrio confirmed, that D’Onofrio helped her purchase the truck. *See* May 2016 Jami Tr. at 47; D’Onofrio Tr. at 108.

Jami also claimed that the name “ASAP” was her idea. *See* November 2015 Memo; May 2016 Jami Tr. at 28. However, D’Onofrio incorporated a company named ASAP Rubbish Removal, Inc. – located at the same address as the Applicant – two years prior to the Applicant’s incorporation. *See* May 2016 Jami Tr. at 42; D’Onofrio Tr. at 93. Strangely, when asked about the origins of the Applicant’s name, D’Onofrio testified: “I don’t know but she came up with ASAP – I have no idea. ASAP, I like the name too. I thought it was a nice name.” *See* D’Onofrio Tr. at 91.

Throughout her testimony, Jami contradicted herself regarding her husband’s role with regard to the Applicant. *See* May 2016 Jami Tr. at 24, 73-77. Initially, Jami testified that she operated the Applicant’s truck on at least five separate occasions in December – which would amount to unregistered activity. *See* May 2016 Jami Tr. at 31, 39. She testified that she “brought the truck to the location, waited there, and then took the truck back.” *Id.* at 39. However, she later changed her testimony to say that either she or her husband drive the Applicant’s vehicle. *Id.* at 52. Even this admission is misleading: D’Onofrio testified that he has operated the truck at all times, and that Jami has never driven the truck other than to take it around the block. *See* D’Onofrio Tr. at 107-08. In another instance, Jami testified that her husband “stopped driving” for the Applicant in December 2015. *See* May 2016 Jami Tr. at 58. Later in her testimony, Jami contradicted herself by acknowledging that D’Onofrio was currently a driver for the company. *Id.* at 85. Similarly, D’Onofrio also offered contradictory testimony regarding who is operating the Applicant’s truck. *See* D’Onofrio Tr. at 108, 110-13 (after just admitting he always drives the Applicant’s truck, D’Onofrio testified he did not know who drove the truck on one instance, yet later confirming he drove the truck to and from the site).

6. *History of unregistered activity*

Commission investigators have observed the Applicant engaging in unregistered trade waste removal activity, and, during her testimony, Jami admitted that the Applicant has engaged in unregistered trade waste removal activity at least 15 times. *See* February 2017 Jami Tr. at 14, 28. For example, on December 23, 2015, a Commission investigator observed the Applicant's truck being loaded with C&D at 290 Manhattan Avenue, Brooklyn, New York 11211. *See* Memo to file dated January 11, 2016 ("January Memo"). The investigator spoke with Jami, who informed the investigator that she had dropped off the truck that morning and taken a car service home. *Id.* Jami claimed that she had taken the truck to that location at the request of a friend, though she refused to provide further details about who the friend was. *Id.* After being asked repeatedly who the contractor on the job was, Jami quickly mentioned a company by the name MRAC and hung up. *Id.*

On August 13, 2016, Commission investigators observed D'Onofrio operating the Applicant's truck in the vicinity of Cooper Tank Transfer Station. When approached by one of the investigators, D'Onofrio stated that he was transporting C&D from his father's house at 218 33rd Street in Brooklyn, New York. *See* email dated August 26, 2016.

7. *The Applicant has knowingly associated with an associate of organized crime.*

While engaging in unregistered activity, the Applicant has serviced entities owned by an associate of the Gambino Organized Crime Family named Richard J. Juliano. Specifically, the Applicant has serviced Greenwood Heights LLC and Fifth Avenue 816 LLC. *See, e.g.,* February 2017 Jami Tr. at 28-30. On at least two separate occasions, Juliano paid the Applicant directly.

Juliano is the son of Richard Juliano, a Gambino soldier, and the nephew of Joseph "Sonny" Juliano, a reputed Gambino capo. In January 2007, Juliano and his father were indicted in the United States District Court for the Eastern District of New York, along with other Gambino associates, for racketeering, bribery, extortion, money laundering, loansharking and bank fraud. *See* Indictment No. CR 07-56-07. On July 25, 2008, Juliano pled guilty to conspiracy to commit a racketeering act – loansharking – and was sentenced to a prison term of one year and one day. *See* Judgment for Richard J. Juliano.

Juliano's identification as a member of the organized crime family has been widely reported in the press. Since at least 2007, Juliano has repeatedly been identified as an associate of the Gambino crime family. *See, e.g.,* press release of the United States Attorney's Office for the Eastern District of New York, dated January 30, 2007; *Failed Bribery Scheme Leads to Mafia Indictments*, CHICAGO SYNDICATE, February 1, 2007; *King of kink: Spring me to watch my Biz, says sex toy peddler*, Daily News, October 29, 2007.

IV. BASIS FOR DENIAL

A. The Applicant knowingly provided false information to the Commission.

All Applicants must provide truthful and non-misleading information to the Commission. A knowing failure to do so is a ground for denial of the application. *See* Admin. Code §16-509(b); *Attonito v. Maldonado*, 3 A.D.3d 415 (1st Dept. 2004) *leave denied* 2 N.Y.3d 705 (2004); *Breeze Carting Corp. v. The City of New York*, 52 A.D.3d 424, 860 N.Y.S.2d 103 (1st Dept. 2008). It is crucial that applicants provide truthful and accurate information about its principals and employees, so that the Commission can properly conduct a background investigation and prevent corrupt actors from gaining access to the trade waste industry.

Section 16-501(d) of the Administrative Code defines a principal as, among other things, “all other persons participating directly or indirectly in the control of such business entity.” Admin. Code § 16-501(d). Despite the fact that D’Onofrio clearly plays a major role in the Applicant’s business, the Application failed to disclose D’Onofrio as a principal. *See* Application at p.13 (Schedule A). It is clear that, without D’Onofrio, the Applicant could not function.

First, Jami has no experience in the industry. *See* May 2016 Jami Tr. at 30. In contrast, D’Onofrio – Jami’s husband – has extensive experience. For example, although his involvement in Liberty Demolition was also undisclosed, D’Onofrio played an important role with respect to that company. *See, e.g.*, D’Onofrio Tr. at 48, 54, 59-60 (acknowledging he was signatory on the bank accounts, endorsed checks and had authority to withdraw on behalf of the Applicant); *see also* Stipulation of Settlement TW-1640. Moreover, D’Onofrio owns ASAP Rubbish Removal, Inc., which bears a remarkably similar name to that of the Applicant and is located at the same business address. *See* D’Onofrio Tr. at 92. The Applicant utilizes the same vehicle and garage previously utilized by Liberty Demolition. Finally, although Jami claims she does not want her husband involved in the Applicant’s affairs, Jami acknowledged that D’Onofrio has driven the Applicant’s truck on several occasions. *See, e.g.*, February 2017 Jami Tr. at 44; May 2016 Jami Tr. at 52. And the Commission’s investigators have found D’Onofrio doing so. *See* email dated August 26, 2016.

At the very least, the Application should have disclosed D’Onofrio as a vehicle operator, but failed to do so. *See* Application at p.18 (Schedule D). The Applicant disclosed Jami as the only vehicle operator for the company. *Id.* During her testimony, Jami continued to testify that she has driven the truck on several occasions, yet D’Onofrio directly contradicted that testimony, stating that Jami cannot drive the truck for business purposes. *See* February 2017 Jami Tr. at 14; D’Onofrio Tr. at 107-08.

The Applicant also provided false and misleading information to the Commission by claiming it did not share offices with other businesses or organizations. As discussed above, this is false because the Applicant shares offices with ASAP Rubbish Removal, Inc. *See* May 2016 Jami Tr. at 65. The failure to disclose this fact was intentional: ASAP

Rubbish Removal, Inc. is owned by D'Onofrio, from whom the Applicant clearly is attempting to distance itself.

The failure of the Applicant to provide truthful and non-misleading information on its application to the Commission demonstrates that the Applicant lacks good character, honesty, and integrity. The Applicant has not disputed the Commission's staff's assertions on this point. Accordingly, the Commission denies the Application based on this independently sufficient basis. *See* Admin. Code §§ 16-509(a)(i); 16-509(b).

B. The Applicant's undisclosed principal was a principal of a predecessor trade waste business for which the Commission would be authorized to deny a registration.

In determining an applicant's business integrity, the Commission may consider whether a principal of the applicant was a "principal in a predecessor trade waste business . . . where the commission would be authorized to deny a license to such predecessor business . . ." *Id.* at § 16-509(a)(vii). The term "predecessor trade waste business" is defined as "any business engaged in the removal, collection or disposal of trade waste in which one or more principals of the applicant were principals in the five year period preceding the application." *Id.* at § 16-508(b).

As demonstrated above, D'Onofrio is an undisclosed principal of the Applicant. He was also an undisclosed principal of Liberty Demolition, having been extensively engaged in the entity's affairs from its inception in 2006 until it ceased doing business in 2015, *i.e.*, within the last five years. In fact, at the time of his arrest, D'Onofrio admitted that he owned Liberty Demolition. *See* Notice of Violation for Unlicensed or Unregistered Activity TW-1640; *see also* Stipulation of Settlement in Lieu of Violation TW-1640. Additionally, D'Onofrio acknowledged that he completed parts of two of Liberty Demolition's applications, *see* D'Onofrio Tr. at 63-65, 85; he operated Liberty Demolition's truck, *id.* at 44; he was an authorized signatory on Liberty Demolition bank accounts, *id.* at 48-49; he issued checks on behalf of the entity and had authority to withdraw and deposit funds on behalf of the entity, *id.* at 60-61; he had access to the entity's credit card which was under his name and home address, *id.* at 61-62; he signed a commission directive on behalf of the entity and was authorized to pick up Commission-issued license plates, *see* file for commission directive dated August 28, 2009; and he signed the roster of vehicles as company employee, *see* file for roster of vehicles dated August 28, 2009.

Thus, D'Onofrio is a principal of the Applicant, and – within the last five years – was a principal of Liberty Demolition (albeit undisclosed in both instances). The Applicant has not disputed the Commission's staff's assertions on this point. As the failure to disclose a principal is a ground for denial of a registration application, the Commission denies the Application based on Administrative Code § 16-509(a)(vii) because the Applicant's principal was also a principal of a predecessor trade waste business for which the Commission would be authorized to deny a registration to that business.

C. The Applicant's principal testified falsely during her sworn interview.

The Commission has the power “[t]o investigate any matter within the jurisdiction conferred by [Local Law 42] and [has] full power to compel the attendance, examine and take testimony under oath of such persons as it may deem necessary in relation to such investigation, and to require the production of books, accounts, papers and other evidence relevant to such investigation.” *See* Admin. Code § 16-504(c). The Commission may refuse to issue a registration to an applicant who has “knowingly failed to provide the information and/or documentation required by the Commission.” *Id.* at §16-509(b). Here, in addition to having submitted documents containing false and misleading information regarding the Applicant's principals, Jami provided the Commission with false and misleading testimony while under oath.

As fully described above, Jami mischaracterized D’Onofrio’s role with the Applicant. For example, although Jami testified that he was not involved in the Applicant’s affairs, *see* Jami Tr. at 58, she later acknowledged D’Onofrio is involved. *See, e.g.*, May 2016 Jami Tr. at 85. For example, in addition to being the sole vehicle operator for the Applicant, Jami admitted that D’Onofrio helped her obtain the Applicant’s truck. *Id.* at 47. Additionally, D’Onofrio testified that he has been training his wife to drive the Applicant’s truck, but that she has not driven for the company. *See* D’Onofrio Tr. at 107-08.

Jami’s failure to provide the Commission truthful information during her sworn interview further demonstrates that she and the Applicant lack good character, honesty, and integrity. The Applicant has not disputed the Commission’s staff’s assertions on this point. Accordingly, the Commission denies the Application based on this independently sufficient basis. *See* Admin. Code §§ 16-509(a)(i); 16-509(b).

D. The Applicant has repeatedly engaged in unregistered trade waste removal activity.

The Commission is authorized to deny the registration application of a company that has engaged in unregistered trade waste removal activity in the City of New York. *See* Admin. Code §§16-505(a), 16-509(c)(ii), 16-513(a)(i). Here, the Applicant’s own testimony and the Commission’s investigation reveals the Applicant has repeatedly engaged in unregistered activity on at least 15 instances since incorporating. *See* February 2017 Jami Tr. at 14, 28. This illegal activity is further evidence that the Applicant and its principals, lack good character, honesty, and integrity and is a basis on which to deny the Application. The Applicant has not disputed the Commission’s staff’s assertions on this point. Accordingly, the Commission denies the Application based on this independently sufficient basis. *See* Admin. Code §§16-505(a), 16-509(c)(ii), 16-513(a)(i).

E. The Applicant has knowingly associated with an organized crime associate and a convicted racketeer.

The Commission may deny an application of a business whose principals have had business dealings 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 persons. *See* Admin.

Code §16-509(a)(v), (vi); *SRI*, 107 F.3d at 998. The Commission may consider those factors in determining an applicant's eligibility for a trade waste exemption from licensing and a trade waste registration. Admin. Code § 16-509(a)(v), (vi).

Juliano has been publicly identified by law enforcement as an associate of the Gambino organized crime family and has been convicted of a racketeering activity. *See, e.g.*, Press Release *Undercover Operation Reveals Plot to Pay Bribes to Secure the Release from Federal Detention of an Associate of the Sicilian Mafia*, E.D.N.Y., January 30, 2007. Notwithstanding Juliano's status as a member of organized crime, and despite his criminal conviction, the Applicant initiated and maintained a business relationship with him. In fact, Juliano, both individually and through his entities, paid the Applicant with a total of six checks in the span of two months for removal of C&D at various job sites. *See, e.g.*, February 2017 Jami Tr. at 30. The Applicant has not disputed the Commission's staff's assertions on this point. Accordingly, the Commission denies the Application based on this independently sufficient basis. *See* Admin. Code §§ 16-509(a)(v), (vi).

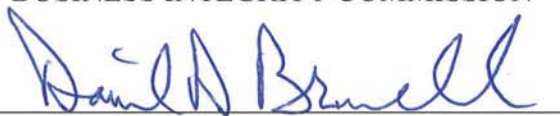
V. CONCLUSION

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 and its principals lack good character, honesty and integrity. Accordingly, based on the above-listed independently sufficient grounds, the Commission denies the registration application of ASAP Clean Outs, Inc.

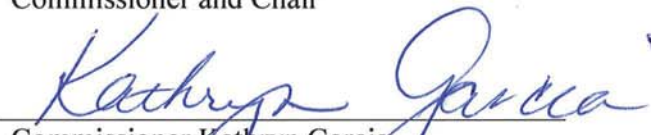
This denial decision is effective immediately. ASAP Clean Outs, Inc. may not operate as a trade waste business in the City of New York.

Dated: February 20, 2018

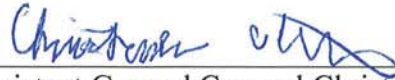
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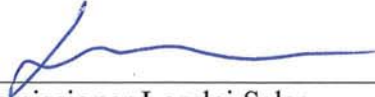
Daniel D. Brownell
Commissioner and Chair



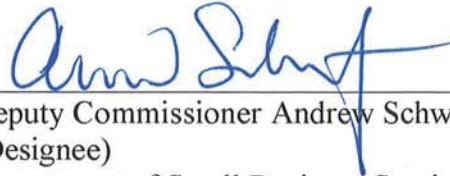
Commissioner Kathryn Garcia
Department of Sanitation



Assistant General Counsel Christopher Tellet
(Designee)
Department of Investigation



Commissioner Lorelei Salas
Department of Consumer Affairs



Deputy Commissioner Andrew Schwartz
(Designee)
Department of Small Business Services



Deputy Inspector Dominick C. D'Orazio
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New York City Police Department