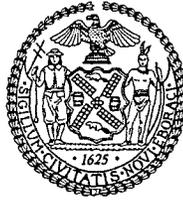


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THE CITY OF NEW YORK  
TRADE WASTE COMMISSION  
253 BROADWAY, 10TH FLOOR  
NEW YORK, NEW YORK 10007

**DECISION OF THE TRADE WASTE COMMISSION DENYING  
THE APPLICATION OF CORPORATE RECYCLING CORP. FOR A  
LICENSE TO OPERATE AS A TRADE WASTE BUSINESS**

Corporate Recycling Corp. ("Corporate" or the "Applicant") has applied to the New York City Trade Waste Commission for a license to operate as a trade waste business pursuant to Local Law 42 of 1996. See Title 16-A of the New York City Administrative Code ("Admin. Code"), § 16-508. Local Law 42, which created the Commission to license and regulate the trade waste removal industry in New York City, was enacted to address pervasive organized crime and other corruption in the commercial carting industry, to protect businesses using private carting services, and to increase competition in the industry and thereby reduce prices.

Local Law 42 authorizes the Commission to refuse to issue a license to any applicant who it determines, in the exercise of its discretion, lacks good character, honesty, and integrity. See Admin. Code §16-509(a). The law identifies a number of factors that, among others, the Commission may consider in making its determination. See id. §16-509(a)(i)-(x). These illustrative factors include the failure to provide truthful information to the Commission. Id. § 16-509(a)(i). The Commission also may refuse to issue a license to a company that has engaged in unlicensed carting activity. See id. §§ 16-509(c)(ii), 16-513(a)(i). Based upon the record as to the Applicant, the Commission finds, for the following independently sufficient reasons, that Corporate lacks good character, honesty, and integrity, and denies its license application:

(1) Corporate and its principal have engaged in unlicensed carting activity for the past several years; and

(2) Corporate's principal made false statements under oath and failed to provide requested documents in connection with the Commission's investigation of Corporate's license application.

## **I. BACKGROUND**

### **A. The New York City Carting Industry**

Virtually all of the more than 200,000 commercial business establishments in New York City contract with private carting companies to remove and dispose of their refuse. Historically, those services have been provided by several hundred companies. For the past four decades, and until only a few years ago, the private carting industry in the City was operated as an organized crime-controlled cartel engaging in a pervasive pattern of racketeering and anticompetitive practices. The United States Court of Appeals for the Second Circuit has described that cartel as "a 'black hole' in New York City's economic life." Sanitation & Recycling Industry, Inc. v. City of New York, 107 F.3d 985, 989 (2d Cir. 1997) ("SRI").

Extensive testimonial and documentary evidence adduced during lengthy City Council hearings addressing the corruption that historically has plagued this industry revealed the nature of the cartel: an entrenched anti-competitive conspiracy carried out through customer-allocation agreements among carters, who sold to one another the exclusive right to service customers, and enforced by organized crime-connected racketeers, who mediated disputes among carters. See generally Peter Reuter, Racketeering in Legitimate Industries: A Study in the Economics of Intimidation (RAND Corp. 1987). After hearing the evidence, the City Council made numerous factual findings concerning organized crime's longstanding and corrupting influence over the City's carting industry and its effects, including the anticompetitive cartel, exorbitant carting rates, and rampant customer overcharging. More generally, the Council found "that unscrupulous businesses in the industry have taken advantage of the absence of an effective regulatory scheme to engage in fraudulent conduct." Local Law 42, § 1.

The City Council's findings of extensive corruption in the commercial carting industry have been validated by the successful prosecution of many of the leading figures and companies in the industry. In 1995 and 1996, the New York County District Attorney obtained racketeering indictments against more than sixty individuals and firms connected to the City's waste removal industry. Simply put, the industry's entire modus operandi, the cartel, was indicted as a criminal enterprise. Since then, all of the defendants have either pleaded to or been found guilty of felonies; many have been sentenced to lengthy prison terms, and many millions of dollars in fines and forfeitures have been imposed.

## **B. Local Law 42**

Upon the enactment of Local Law 42, the Commission assumed regulatory authority from the Department of Consumer Affairs (the "DCA") for the licensing and registration of businesses that remove, collect, or dispose of trade waste. See Admin. Code §16-503. The carting industry quickly challenged the new law, but the courts have consistently upheld Local Law 42 against repeated facial and as-applied constitutional challenges by New York City carters. See, e.g., Sanitation & Recycling Industry, Inc. v. City of New York, 928 F. Supp. 407 (S.D.N.Y. 1996), aff'd, 107 F.3d 985 (2d Cir. 1997); Universal Sanitation Corp. v. Trade Waste Comm'n, No. 96 Civ. 6581 (S.D.N.Y. Oct. 16, 1996); Vigliotti Bros. Carting Co. v. Trade Waste Comm'n, No. 115993/96 (Sup. Ct. N.Y. Cty. Dec. 4, 1996); Fava v. City of New York, No. CV-97-0179 (E.D.N.Y. May 12, 1997); Imperial Sanitation Corp. v. City of New York, No. 97 CV 682 (E.D.N.Y. June 23, 1997); PJC Sanitation Services, Inc. v. City of New York, No. 97-CV-364 (E.D.N.Y. July 7, 1997).

Local Law 42 provides that "it shall be unlawful for any person to operate a business for the purpose of the collection of trade waste . . . without having first obtained a license therefor from the Commission." Admin. Code §16-505(a). After providing a license applicant with notice and an opportunity to be heard, the Commission may "refuse to issue a license to an applicant who lacks good character, honesty and integrity." Id. §16-509(a). As the United States Court of Appeals has definitively ruled, an applicant for a trade waste removal license under Local Law 42 has no entitlement to and no property interest in a license, and the Commission is vested with broad discretion to grant or deny a license application. SRI, 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).

## II. DISCUSSION

On August 30, 1996, Corporate submitted a license application to the Commission. Based upon a subsequent field investigation, the Commission's staff concluded that Corporate and its principal, James Spero, were engaging in unlicensed carting activity. The staff further concluded that Spero made false statements under oath and failed to provide requested documents in connection with its investigation of Corporate's license application.

On August 13, 1999, the staff issued a recommendation that Corporate's license application be denied. The recommendation was served that day on Corporate and on James Spero. Under the Commission's rules, Corporate had until August 27, 1999 to submit a written response to the staff's recommendation, see 17 RCNY § 2-08(a), and Corporate and Spero were informed of that fact. Corporate has not submitted any response to the staff's recommendation. The Commission has fully considered the recommendation and, for the reasons set forth below, denies Corporate's license application.

### A. Unlicensed Carting Activity by Corporate and Its Principal

Corporate's sole disclosed principal is James Spero. The Applicant's office and garage are located at 466 Carroll Street, Brooklyn. Trans American Paper Fibre Corp. ("Trans American"), a paper recycling company, is located at the same address. James Spero's father, Dominic Spero, owns Trans American.

The Applicant was incorporated in February 1995 but has never held a carting license or any other license issued by the DCA. Trans American once held a DCA license to operate as a junk dealer, but the law requiring licensure for such businesses was repealed in 1992. No record of any other type of DCA license exists for Trans American, and it did not submit a license or registration application to the Commission. Corporate's application indicates that James Spero does not own any interest in Trans American. The Dun & Bradstreet report on Trans American, however,

states that James Spero is its vice president and has been active in the company since 1991.

The Commission's staff conducted a field investigation of Corporate and Trans American from October 1996 to February 1997. On December 3 and 4, 1996 and January 8 and 10, 1997, Commission detectives surveilled Corporate's business premises. They observed three men, later identified as James Spero, Johnny Covington, and Charles Collins, driving two 1989 Mack trucks. One of the trucks, bearing New York license plate no. 11766AH, was registered to "James Spero-Corporate Recycling Corp." on August 29, 1996, the day before Corporate filed its application with the Commission. The previous registrant for that truck was Dominic Spero. The other truck bore New York license plate no. 29322AC and was registered to "Domenick [sic] Spero-Trans American Paper Inc." on March 9, 1995.

On the four dates of surveillance, the two trucks stopped at commercial locations in Manhattan, Brooklyn, and Staten Island, where the drivers collected cardboard and paper. At one of the Staten Island locations, the paper bins bore the name "Corporate Paper Recycling Corp." and the number "718 522-4601," which is the telephone number on the Applicant's letterhead. The drivers carted the cardboard and paper to Corporate's and Trans American's garage at 466 Carroll Street. The detectives photographed these activities.

The Commission's detectives also conducted interviews of employees at the serviced businesses. None of the businesses had written contracts for paper and cardboard pick-ups. One business provided an invoice, dated November 8, 1996, from Trans-American and a canceled check payable to Trans-American. Another business provided an undated invoice from Trans American for services rendered in December 1997. A third business provided a check, dated March 14, 1996, from Trans American for paper.

James Spero appeared for depositions by the Commission's staff on November 13, 1996 and April 16, 1997. In his first deposition, Spero testified that his father had been in the waste paper industry for about twenty years and was ready to retire but still works a few hours a day to solicit business. 11/13/96 Dep. Tr. at 5-6. Spero also testified that he works for Trans American intermittently, for up to a week at a time. Id. at 7. Regarding Corporate, Spero testified that it did not have any potential clients

and that he had not used the Applicant's truck, which he had purchased from his father. Id. at 9-10.

On April 16, 1997, Spero testified that Trans American was no longer operating and that Corporate had no customers or accounts. 4/16/97 Dep. Tr. at 7-8, 11, 13. He then contradicted himself, testifying that Corporate sometimes buys paper from customers and picks it up. Id. at 20-26. He estimated that Corporate had been picking up paper from one company in Queens about once every two months and from another company once every couple of weeks. Id. at 22, 31-32. Spero claimed that he did not consider those companies to be true customers or accounts because they were not steady pick-ups. Id. at 31. He also testified that he sometimes gets calls for paper pick-ups in response to Corporate's advertisement in "The Graphic Arts Blue Book," a trade publication for the printing industry. Id. at 20, 33-34, 35-36. Spero testified that Corporate has serviced about ten different customers since it incorporated in 1995. Id. at 34. Spero also initially denied that Corporate or Trans American had any employees (id. at 14), but then admitted that Johnny Covington and Charles Collins sometimes work for Corporate part-time. Id. at 37-42.

On July 16, 1999, the Commission's staff was advised by the Workers Compensation Board that Corporate has maintained coverage through the State Insurance Fund for three employees since April 30, 1998.

Based upon the foregoing, the Commission concludes that Corporate's sole principal, James Spero, has engaged in unlicensed carting activity by operating Corporate and/or Trans American since at least 1995. Such illegal activity provides ample grounds for denial of Corporate's license application. See Admin. Code §§ 16-509(c)(ii), 16-513(a)(i), 16-505(a).

**B. Corporate's Principal's False Statements and Failure to Provide Requested Information in Connection with the Commission's Investigation**

In his first deposition, James Spero testified that Corporate had no customers and was not operating. In his second deposition, Spero acknowledged that Corporate had been servicing customers since 1995. The Commission's field investigation and Spero's later admission establish that

Spero made false statements under oath about Corporate's activities in his first deposition. An applicant's failure to provide truthful information to the Commission in connection with its license application is an independent ground for denial of the application. Admin. Code § 16-509(a)(i).

Spero also failed to provide requested documents to the Commission's staff. By letter dated November 25, 1997, the staff informed Spero that Corporate had not complied with a previous request for financial documents, including Corporate's cash receipts journal, bank statements, and canceled checks. By letter dated December 1, 1997, Spero replied that he could not locate any canceled checks for Corporate's checking account. He also submitted an affidavit stating that Corporate did not maintain a cash receipts journal. In his letter, Spero asserted that Corporate could not afford an accountant or bookkeeper because it could not solicit accounts without a license.

On November 5, 1998, the staff conducted a surprise audit at Corporate's business premises, seeking its customer and vendor invoices, Corporate's and Spero's tax returns for 1995 through 1997, and Corporate's bank statements. The auditors found none of those records. Spero explained that he kept all of Corporate's records at his parents' house and agreed to provide them by November 12, 1998. Some of Corporate's bank statements, but none of the other documents, have been provided.

The Commission may refuse to grant a license to an applicant who "has knowingly failed to provide the information and/or documentation" requested by the staff. Admin. Code § 16-509(b). Corporate's failure to provide documents requested by the staff constitutes another independent basis on which the Commission denies Corporate's license application.

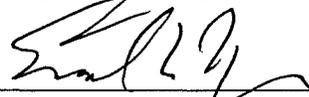
### III. CONCLUSION

The Commission is vested with broad discretion to refuse to issue a license to any applicant that it determines lacks good character, honesty, and integrity. For the independently sufficient reasons set forth above, i.e., Corporate's and its principal's years of unlicensed carting activity and its principal's false statements and failure to cooperate in connection with the Commission's licensing investigation, the Commission concludes that Corporate lacks good character, honesty, and integrity and, therefore, denies its license application.

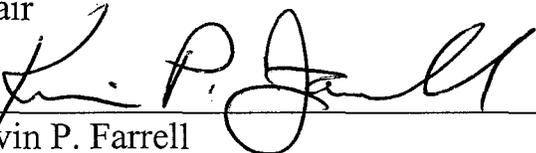
This license denial decision is effective immediately.

Dated: September 17, 1999

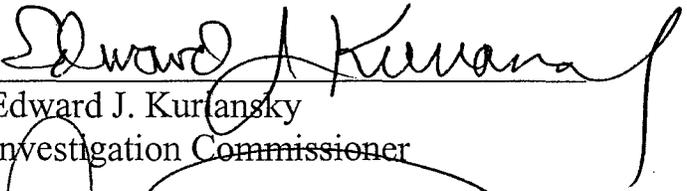
#### THE TRADE WASTE COMMISSION



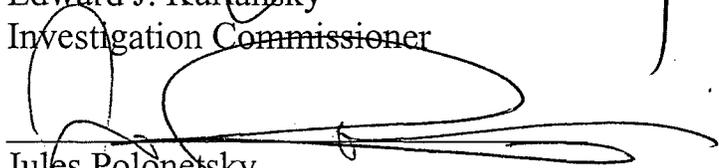
Edward T. Ferguson, III  
Chair



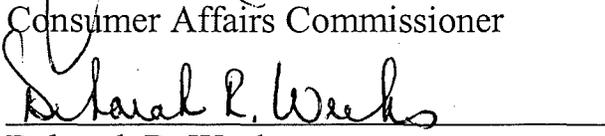
Kevin P. Farrell  
Sanitation Commissioner



Edward J. Kurtansky  
Investigation Commissioner



Jules Polonetsky  
Consumer Affairs Commissioner



Deborah R. Weeks  
Acting Business Services Commissioner