



The City of New York
BUSINESS INTEGRITY COMMISSION
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**DECISION OF THE BUSINESS INTEGRITY COMMISSION
DENYING THE APPLICATION OF KRIS INDUSTRIES INC.
TO OPERATE AS A TRADE WASTE BUSINESS**

Introduction

On or about December 1, 2017, Kris Industries Inc. (the “Applicant” or “Kris Industries”) (#494835) applied to the New York City Business Integrity Commission (the “Commission”) for a license to operate as a trade waste removal business in the City of New York. Local Law 42 of 1996 (“Local Law 42”) authorizes the Commission to review and make determinations on such applications. *See* Title 16-A, New York City Administrative Code (“Administrative Code” or “Admin. Code”) § 16-505(a). On February 27, 2020, the Commission's staff issued and served the Applicant with an 11-page Notice of the Grounds to Recommend that the License Application of Kris Industries be denied (the “Notice”). The Applicant was given 10 business days to respond, until March 11, 2020. *See* Title 17, Rules of the City of New York (“RCNY”) § 2-08(a). The Commission did not receive a response from Kris Industries.

The Commission has completed its review of the license renewal application, having considered both the Notice and Kris Industries’ failure to respond. Based on the record herein, the Commission denies Kris Industries’ license application because the Applicant lacks good character, honesty, and integrity based on the following four independently sufficient grounds:

- 1. Cesar Bermeo is an undisclosed principal of the Applicant;**
- 2. The Applicant and Cesar Bermeo were recently convicted of crimes related to illegal dumping of trade waste;**
- 3. The Applicant failed to notify the Commission of Cesar Bermeo’s arrest and criminal conviction; and**
- 4. The Applicant’s undisclosed principal, Cesar Bermeo, was a principal of a predecessor trade waste business for which the Commission would be authorized to deny a license or registration.**

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, 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, 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. *See* Admin. Code § 16-505(a). This regulatory framework continues to be the primary means of ensuring that an industry once overrun by 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.

Local Law 42 provides that “[i]t 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 [C]ommission.” Admin. Code §16-505(a). Before issuing such license, the Commission must evaluate the “good character, honesty and integrity of the applicant.” *Id.* at §16-508(b). An “applicant” for a license or registration means both the business entity and each principal thereof. *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; and

11. failure to comply with any city, state or federal law, rule or regulation relating to traffic safety or the collection, removal, transportation or disposal of trade waste in a safe manner.

Id. at § 16-509(a)(i)-(xi). *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 Elite Demolition Contracting Corp. v. The City of New York*, 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). *See also* Admin. Code § 16-509(a)(i) (failure to provide truthful information in connection with application as a consideration for denial). 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); *see also id.* at § 16-504(a).

An applicant for a private carting license (including a registration for hauling construction and demolition debris) 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).

Statement of Facts

On or about December 1, 2017, the Applicant applied to the Commission for a license to remove trade waste. *See* License Application for Kris Industries (the “License Application”). On the License Application, Kris Industries disclosed, among other things, that: (1) Lisseth Marca (“Marca”) was the Applicant’s sole principal; (2) no other person had been a past principal of the company; and (3) neither the principal nor the applicant business had pending charges or had been convicted of any criminal offense. *See* License Application at 6, 20, 22. Marca certified that all of the information contained in the License Application was “full, complete and truthful.” *Id.* at 33.

The Kris Industries Inc. Application

The Applicant disclosed its office and mailing address as 66 Champlin Avenue, Bellport, NY 11713, and its cellular telephone number as 646-525-8825. *Id.* at 1. Marca’s home address was disclosed as 135 Copiague Street, Valley Stream, NY 11580. *Id.* at 20. A total of eight employees were disclosed. *Id.* at 29. Among them, the Applicant disclosed Cesar Bermeo (“Bermeo”), who also resides at 135 Copiague Street, Valley Stream, NY 11580, as an employee and as a vehicle operator for the Applicant. *Id.* at 29-30. Elisa Bermeo-Castro (“Bermeo-Castro”) was disclosed as a secretary for the Applicant. *Id.* at 29. The Applicant also disclosed seven vehicles it intended to use to haul trade waste, including a 2003 Mack, a 2006 Mack, a 2007 Kenworth, a 2008 Kenworth, a 2016 Kenworth and a 2017 Kenworth. *Id.* at 32. Along with its application, the Applicant submitted two checks to the Commission to pay for investigation fees. Both of these checks contained the address “135 Copiague Street, Valley Stream, NY 113580.” *See* Check Nos. 1053, 1055, 1056.

The Prior Kris Trucking Corp. Application

On August 13, 2016, Kris Trucking Corp. (“Kris Trucking”) applied to the 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.” *See* Application for Exemption From Licensing Requirement for Removal of Construction and Demolition Debris (the “Registration Application”). The Registration Application filed by Kris Trucking disclosed that Bermeo was its sole principal. *See* Registration Application at 13, 15. Bermeo certified that all of the information contained in the Registration Application was “full, complete and truthful.” *Id.* at 20.

Kris Trucking disclosed its office and mailing address as 135 Copiague Street, Valley Stream, NY 11580, which is both Marca’s home address and the address that appeared on the checks for the Applicant’s investigation fees. *Id.* at 1; *see supra* at 4. In the Registration Application, Bermeo also disclosed that he lived at 135 Copiague Street, Valley Stream, NY 11580. *Id.* at 13. In addition to disclosing a shared address, Kris Trucking and Kris Industries disclosed six of the same trucks and two of the same vehicle operators on their respective applications to the Commission.¹ Both Kris Industries and Kris Trucking also disclosed the same cellular telephone number to the Commission.² *Id.* at 1; *see* License Application at 1. Approximately one month after the Applicant applied for a license, on January 31, 2018, Kris Trucking allowed its registration to expire. *See* Registration Order.

Statements Made by Bermeo and Bermeo-Castro to Commission Staff

In connection with the License Application, on March 1, 2018, a Commission staff member called the disclosed cellular telephone number for the Applicant. *See* January 9, 2020 Memorandum. The Commission staff member spoke with an individual who identified herself as “Marca.” *Id.* Marca told the staff member to speak to “Ivan.” *Id.* Later that day, the Commission staff member spoke with an individual who identified himself as “Ivan Bermeo.”³ *Id.* Bermeo stated that he is the manager for Kris Industries and that he manages the trucks and drivers. *Id.* Bermeo asked the Commission staff member to contact the office manager, “Jeanneth,” with any further questions. *Id.*

The Commission staff member then spoke with an individual who initially identified herself as “Jeanneth,” and who later referred to herself as Bermeo’s sister, Bermeo-Castro. *Id.* Bermeo-Castro stated that she was the office manager for Kris Industries and that she completed the License Application. *Id.* She also stated that her brother Bermeo manages the trucks and drivers for the Applicant. *Id.* The Commission staff informed Bermeo-Castro that based on her

¹ Kris Trucking originally disclosed four vehicles, namely, a 2003 Mack, a 2006 Mack, a 2008 Kenworth, and a 2016 Kenworth. *Id.* at 19. On June 20, 2016, Kris Trucking added a 2007 Kenworth. *See* Fleet Update Form. On October 24, 2016, Kris Trucking added a 2017 Kenworth. *See* Fleet Update Form.

² Kris Trucking disclosed telephone number 646-525-8825 as its business and cellular number. *See* Registration Application at 1.

³ The Registration Application filed by Kris Trucking disclosed “Cesar Ivan Bermeo” as: (1) its agent for service of process; (2) its only principal; and (3) an operator of vehicles. *See id.* at 2, 13, 18.

description, she and her brother Bermeo should be disclosed to the Commission as principals or as employees subject to additional disclosure. *Id.*

On April 3, 2018, a Commission staff member spoke with Bermeo-Castro again. *Id.* at 2. She indicated that she had completed an Employee/Agent disclosure form for herself. *Id.* However, Bermeo-Castro revealed that Bermeo did not want to be disclosed to the Commission as either a principal or as an employee or agent who is subject to additional disclosure. Bermeo-Castro now claimed that Bermeo was only a vehicle operator for the Applicant. *Id.* On April 16, 2018, Bermeo-Castro filed her disclosure form with the Commission. *See* Employee/Agent Disclosure Form for a Trade Waste Business. As of the date of this decision, the Applicant has failed to disclose Bermeo as a principal or as an employee or agent who is subject to additional disclosure. *Id.*

Bermeo's Arrest and Charges Filed Against Kris Trucking

On November 26, 2018, Bermeo and Kris Trucking were indicted in the County Court of the State of New York, Suffolk County, and were charged with one count of conspiracy in the fifth degree, in violation of New York Penal Law (“PL”) § 105.05(1) (a class A misdemeanor); five counts of criminal mischief in the second degree, in violation of PL § 145.10 (a class D felony); four counts of endangering public health in the third degree in violation of Environmental Conservation Law (“ECL”) § 71-2712(1) (a class E felony); four counts of endangering public health in the fourth degree in violation of ECL § 71-2711(3) (a class A misdemeanor); four counts of operating a solid waste management facility without a permit in violation of ECL § 2703(2)(b)(i) (a class B misdemeanor); and four counts of operating a solid waste management facility without a permit in violation of ECL § 2703(2)(c)(i) (a class A misdemeanor). *See* Indictment, *People of the State of New York v. Cesar Ivan Bermeo, Kris Trucking Corp., et al.* (“Indictment”).

With respect to the crime of conspiracy in the fifth degree, the Indictment alleged that between January 1, 2018 and July 26, 2018, Bermeo, Kris Trucking, and others “with the intent that conduct constituting the crime of Criminal Mischief in the Second Degree, said crime being a felony, did knowingly and intentionally agree with one or more persons to engage in or cause the performance of such conduct as would constitute the above mentioned felony.” *Id.* at 15. With respect to endangering public health, safety or the environment, the Indictment alleged that between May 7, 2018 and May 11, 2018, at a location in Smithtown, New York, Bermeo, Kris Trucking and others “did recklessly engage in conduct which caused the release of a substance acutely hazardous to public health, safety or the environment, to wit: Heptachlor.”⁴ *Id.* at 43. With respect to operating a solid waste management facility without a permit, the Indictment alleged that during the same time period and location, Bermeo, Kris Trucking, and others commenced operation of a new solid waste management facility in Smithtown, New York, “without having obtained a permit from the New York State Department of Environmental Conservation, and thereby caused or attempted to cause the release of more than ten (10) cubic yards of solid waste into the environment.” *Id.* at 44.

⁴ Merriam-Webster dictionary defines Heptachlor as a cyclodiene chlorinated hydrocarbon pesticide that causes liver disease in animals and is a suspected human carcinogen.

According to the indictment, on May 9, 2018, Bermeo received a text message to send fill material to a location in Patchogue, New York. *Id.* at 21. On May 10, 2018, Bermeo arranged for Kris Trucking trucks to dump loads of fill material mixed with concrete foundation at a residential property located in Patchogue, New York. *Id.* On May 10, 2018, three Kris Trucking dump trucks, loaded with waste from a construction site located in Brooklyn, New York, each dumped a load of solid waste at the same residential property.

The indictment further alleged that between May 7, 2018 and May 26, 2018, Bermeo, Kris Trucking, and others, at a location in Patchogue, New York, recklessly engaged in conduct which caused the release of a substance hazardous to public health, safety or the environment. *Id.* at 44. On May 7, 2018 and May 26, 2018, a codefendant and Bermeo intentionally caused more than \$1,500 in property damage. *Id.*

On May 17, 2018, a codefendant sent a text message to Bermeo instructing Bermeo to bring 1,000 yards of fill to a location in Southampton, New York. *Id.* at 24. On May 24, 2018, the codefendant called Bermeo, and they agreed that Bermeo would have Kris Trucking trucks dump loads of purported fill at the same location. *Id.* at 25. On May 20, 2018 and June 6, 2018, a codefendant and Bermeo arranged for Kris Trucking dump trucks to remove waste from a construction site in Long Island City, New York, and to dump that waste at a residential property located in Holtsville, New York. *Id.*

Bermeo and Kris Trucking's Convictions

On July 25, 2019, Bermeo pled guilty in the County Court, Suffolk County, to two counts of endangering public health in the fourth degree in violation of ECL § 71-2711(3), a class A misdemeanor. During Bermeo's plea allocution, he admitted that he "engage[d] in reckless conduct which caused the release of a substance hazardous to the public health, safety or the environment." *See People of the State of New York v. Cesar Ivan Bermeo and Kris Trucking Corp.*, Plea Minutes at 13. As of the date of this decision, the Applicant has not disclosed Bermeo's arrest or conviction to the Commission.⁵

Immediately after Mr. Bermeo pleaded guilty to his crimes, the court inquired if Mr. Bermeo's attorney had the "authority to take the pleas on [behalf of] Kris Industries." *Id.* at 15. During the plea, the prosecutor informed the court that Kris Trucking is also known as "Kris Industries" by stating the following:

Your Honor, subject to the court's approval, the people and the defendant have worked out a disposition in this matter. The defendant, Kris Trucking Corp., also known as Kris Industries, was indicted under Indictment 2052D of 2018.

Id. at 16.

⁵ An applicant for a license or registration is required to notify the Commission within 10 business days of an arrest or criminal conviction of a principal or any employee or agent subsequent to the submission of the application. *See* 17 RCNY § 2-05(a)(1).

Kris Trucking, also known as Kris Industries, pled guilty to two counts of criminal mischief in the second degree in violation of PL § 145.10, a class D felony. *See* Kris Industries Certificate of Disposition. Kris Trucking was sentenced to three years' probation. *Id.* As of the date of this decision, Kris Industries has not disclosed this conviction to the Commission.

Basis for Denial

1. Cesar Bermeo is an undisclosed principal of the Applicant.

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, 860N.Y.S.2d 103 (1st Dept. 2008). All applicants must provide “a list of names and addresses of all principals of the applicant business, including any manager or other person who has policy or financial decision-making authority on the business.” *See* Admin. Code § 16-508(a)(i). Cesar Bermeo was not, but should have been, disclosed to the Commission as a principal of the Applicant.

Question 13 of the License Application directed the Applicant to, “[o]n Schedule A, identify all individuals who are principals of Applicant business and provide the information requested.” *See* License Application at 3. The Applicant disclosed one principal on Schedule A – “Lisseth Marca.” *See* License Application at 20. Bermeo was disclosed only as an employee in Schedule H and as a vehicle operator in Schedule I. *Id.* at 29-30.

The definition of “principal” includes “corporate officers and directors, all stockholders holding ten percent or more of the outstanding shares of the corporation *and all other persons participating directly or indirectly in the control of such business entity.*” *See* Admin. Code § 16-501(d) (italics added). Bermeo admitted to members of the Commission’s staff that he manages the trucks and drivers for the Applicant. His sister, Bermeo-Castro, similarly admitted Bermeo’s role in the applicant company as a manager. The Applicant disclosed the same telephone number that Bermeo disclosed for Kris Trucking – a company for which he was a principal. The Applicant disclosed seven vehicles to be used by the business. Six of those seven vehicles were used by Kris Trucking. In addition to almost identical vehicle fleets, the business address of Kris Trucking is also Bermeo’s home address.

Bermeo was the principal of a predecessor company (Kris Trucking) and participated directly or indirectly in the control of the applicant business as a self-described manager. Bermeo-Castro’s statements that Bermeo does not want to be disclosed to the Commission reveals the intent of the Applicant to conceal Bermeo’s status as principal. The Applicant did not dispute this point. Accordingly, the Commission denies the License Application on this independently sufficient ground.

2. The Applicant and Cesar Bermeo were recently convicted of charges related to illegal dumping of trade waste.

In making a determination as to an applicant's good character, honesty and integrity to operate a trade waste business, Administrative Code § 16-509(a)(iii) expressly permits the Commission to consider the conviction of an applicant for a crime which, considering the factors set forth in Correction Law § 753, would provide a basis for the refusal of such license or registration." Those factors are as follows:

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

See N.Y. Correction Law §753(1).

In July 2019, Kris Trucking (also known as Kris Industries), pled guilty to two counts of criminal mischief in the second degree, a class D felony. The plea related to the illegal dumping of solid waste and contaminants. *See* Kris Industries Certificate of Disposition. Also in July 2019, Bermeo pled guilty to two counts of endangering public health in the fourth degree in violation of ECL § 71-2711(3), a class A misdemeanor.⁶ In committing these crimes related to illegal dumping, Bermeo "engage[d] in reckless conduct which caused the release of a substance hazardous to the public health, safety or the environment" in Suffolk County. *See* Indictment.

⁶ The Certificate of Disposition for Kris Industries (Indictment Number 2052D-2018) states that "Kris Industries" was convicted of two counts of Criminal Mischief in the second degree in violation of PL 145.10.

Despite the State's public policy to encourage the licensure and employment of persons previously convicted of one or more criminal offenses, *see id.* at § 753(1)(a), as demonstrated below, the Correction Law factors weigh in favor of denying the License Application based on Kris Industries' conviction for criminal mischief related to illegal dumping in connection with its trade waste business. Additionally, Bermeo's conviction for endangering the public health related to illegal dumping also weighs in favor of denying the License Application.

The charge of criminal mischief in the third degree is a class D felony, punishable by up to seven years in prison. *See* PL §§ 70.00(2)(d), 145.10. The charge of endangering public health in the fourth degree in violation is a class A misdemeanor, punishable by up to one year in jail. *See* ECL § 71-2711(3). *See also* Correction Law § 753(1)(f). Thus, these crimes are serious offenses. These illegal dumping related convictions involved the Applicant and use of its employees and vehicles, therefore they relate to the duties and responsibilities of Kris Industries for which licensure is sought. *See id.* at § 753(1)(b).

The conspiracy occurred between at least January 1, 2018 and July 26, 2018 – ending less than two years ago. *See id.* at § 753(1)(d). These crimes are so recent, so serious, and so closely related to both the purposes for which a license is sought and the duties and responsibilities associated with such a license, that it should preclude the grant of a trade waste removal license to the Applicant. *See id.* at § 753(1)(b), (c). And Bermeo was in his 30s during his participation in the criminal schemes – plainly old enough to know what the law required, how to obey it, and to recognize that the schemes in which he and his codefendants were involved were illegal. *See id.* at § 753(1)(e).

Kris Industries did not respond to the Notice nor did Bermeo produce any information regarding his rehabilitation or good conduct nor has any been produced on his behalf. *See id.* at § 753(1)(g). The Commission's interest in protecting property, and the safety and welfare of the general public is clear. *See id.* at § 753(1)(h). Public confidence in the integrity of the trade waste industry would be undermined if those proven to have ignored the law received licenses or registrations from the Commission. Both Bermeo's and the Applicant's guilty pleas to crimes that directly involve the trade waste industry compel the conclusion that the Applicant lacks good character, honesty, and integrity. The Applicant did not dispute this point. Accordingly, the Commission denies the License Application on this independently sufficient ground.

3. The Applicant failed to notify the Commission of Cesar Bermeo's arrest and conviction.

An applicant for a license has a duty to notify the Commission within 10 business days of an arrest or criminal conviction of a principal subsequent to the submission of the application. *See* 17 RCNY § 2-05(a)(1). The Applicant submitted the License Application to the Commission on December 1, 2017. As described above, Bermeo was arrested and charged with multiple offenses on July 17, 2018, while the Commission was considering the License Application. *See* Indictment. On July 25, 2019, Bermeo was convicted of two counts of endangering public health in the fourth degree. Again, this occurred while the License Application was pending with the Commission.

Neither Bermeo nor the Applicant (nor the Applicant's predecessor) notified the Commission of those arrests or convictions. The failure of the Applicant to perform this legal obligation demonstrates that it lacks good character, honesty, and integrity. The Applicant did not dispute this point. Accordingly, the Commission should deny the License Application based on this independently sufficient ground.

4. The Applicant's undisclosed principal, Cesar Bermeo, was a principal of a predecessor trade waste business for which the Commission would be authorized to deny a license or 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..." *See* Admin. Code § 16-509(a)(vii). The term "predecessor trade 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." *See* Admin. Code § 16-508(b).

As established above, Bermeo is an undisclosed principal of the Applicant. He was also the sole principal of Kris Trucking until its registration expired on January 31, 2018. The Applicant submitted its License Application to the Commission on December 1, 2017. *See* License Application.

In July 2019, Bermeo pled guilty to two counts of endangering public health in the fourth degree, a class A misdemeanor. *See* Bermeo Certificate of Disposition. In July 2019, Kris Trucking, also known as Kris Industries, pled guilty to two counts of criminal mischief in the second degree, a class D felony. *See* Kris Industries Certificate of Disposition. Bermeo and Kris Trucking were both charged in the same criminal scheme to illegally dump contaminants such as a suspected carcinogen and trade waste. These crimes go to the crux of an applicant or person's character, honesty, and integrity and are directly tied to the trade waste industry. Based on the nature and seriousness of the convictions, the Commission would be authorized to deny Kris Trucking's Registration Application.

The common thread of Bermeo being both the principal of Kris Trucking and an undisclosed principal of Kris Industries is evident by his own statements to the Commission that he was the manager for Kris Industries and that he manages the trucks and drivers. The nexus between the two companies is furthered by the fact that, among other things, six vehicles from the seven-vehicle fleet of Kris Trucking are now part of seven-vehicle fleet of the Applicant. In addition to sharing Bermeo and the six trucks, the two companies also share similar employees, telephone numbers, and addresses. The Applicant did not dispute this point. For this independently sufficient reason, the Commission denies the License Application.

Conclusion

The Commission is vested with broad discretion to refuse to issue a license or an exemption from the license requirement to any applicant it determines lacks good character, honesty and integrity. The record as detailed herein demonstrates that the Applicant lacks those essential

qualities. Accordingly, based on the four independently sufficient grounds detailed above, the Commission denies Kris Industries Inc.'s License Application.

This license denial is effective immediately. Kris Industries Inc. may not operate as a trade waste business in the City of New York.

Dated: March 30, 2020

THE NEW YORK CITY
BUSINESS INTEGRITY COMMISSION

**Approved at March 30, 2020
Telephonic Commission Meeting**

Noah D. Genel
Commissioner and Chair

**Approved at March 30, 2020
Telephonic Commission Meeting**

Robert Orlin, Deputy Commissioner of Legal
Affairs (Designee)
Department of Sanitation

**Approved at March 30, 2020
Telephonic Commission Meeting**

Margaret Garnett, Commissioner
Department of Investigation

**Approved at March 30, 2020
Telephonic Commission Meeting**

Lorelei Salas, Commissioner
Department of Consumer and Worker Protection

**Approved at March 30, 2020
Telephonic Commission Meeting**

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

**Approved at March 30, 2020
Telephonic Commission Meeting**

Matthew Hyland, Inspector
(Designee)
New York City Police Department