



The City of New York
BUSINESS INTEGRITY COMMISSION
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**DECISION OF THE BUSINESS INTEGRITY COMMISSION DENYING THE
LICENSE RENEWAL APPLICATION OF MAC HUDSON INDUSTRIES CORP.
(BIC #4391) TO OPERATE AS A TRADE WASTE BUSINESS**

I. Introduction

On December 21, 2016, Mac Hudson Industries Corp. (BIC #4391) applied to the New York City Business Integrity Commission to renew for the second time its license to operate as a trade waste removal business in the City of New York (the “Instant Renewal Application”).¹ Local Law 42 of 1996 authorizes the Commission to review and make determinations on such applications. *See* Title 16-A, New York City Administrative Code § 16-505(a).

On May 13, 2016, the Commission’s staff served the Applicant with the Notice to the Applicant of the Grounds to Deny the License Renewal Application of Mac Hudson Industries Corp. (BIC #4391) to Operate as a Trade Waste Business. The Applicant submitted a timely response. The Commission’s staff later amended its initial notice and, on February 17, 2017, the Commission’s staff served the Applicant with the First Amended Notice to the Applicant of the Grounds to Deny the License Renewal Application of Mac Hudson Industries Corp. (BIC #4391) to Operate as a Trade Waste Business (the “First Amended Notice of Denial”). The Applicant had 10 business days to respond, until March 3, 2017. *See* Title 17 Rules of the City of New York (“RCNY”) § 2-08(a). On March 10, 2017, after receiving an extension of time, the Applicant timely submitted a five-page sworn statement from both Artie Gyftopoulos and Peter Neofytides. *See* March 10, 2017 Response (the “March 2017 Response”).

The Commission has completed its review of the Instant Renewal Application, having carefully considered the Commission staff’s First Amended Notice of Denial and the Applicant’s responses. Based on the record, the Commission denies the Instant Renewal Application because the Applicant lacks good character, honesty and integrity based on the following three independently sufficient reasons:

- 1. The Applicant provided false information to the Commission in connection with its prior applications;**
- 2. Neofytides was a principal in a previously-denied predecessor trade waste business; and**

¹ “Trade waste” or “waste” is defined at Title 16-A of the New York City Administrative Code § 16-501(f)(1).

3. The Applicant and its principal failed to pay taxes and other obligations for which judgments have been entered.

II. 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. NY 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.

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, must apply to the Commission for an exemption from the licensing requirement. *Id.* If, upon review of an application, the Commission grants an exemption from the licensing requirement, it issues the applicant a class 2 registration. *Id.* at § 16-505(a)-(b). Before issuing such registration, 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). 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.

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 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).

III. Statement of Facts

A. Procedural background

On May 14, 2012, Mac Hudson applied for a license to remove trade waste, specifically used cooking grease from restaurants and other establishments. *See* license application of Mac Hudson Industries Corp. (the “Initial Application”). The Initial Application disclosed Artie Gyftopoulos (“Gyftopoulos”) as the Applicant’s sole principal, and disclosed no beneficial interest holders, employees or vehicle operators. *See* Initial Application at pp.20, 22-25, 29, 30. Gyftopoulos certified that all of the information contained in the Initial Application was “full, complete and truthful.” *See id.* at p.33. On August 1, 2012, the Commission granted Mac Hudson a trade waste removal license, valid for the two-year period ending July 31, 2014. *See* trade waste license order for Mac Hudson Industries Corp., dated August 1, 2012.

On August 4, 2014, the Applicant submitted its first license renewal application. *See* license renewal application of Mac Hudson Industries Corp. (the “First Renewal Application”). Like the Initial Application, the First Renewal Application disclosed Gyftopoulos as the Applicant’s sole principal. However, it also disclosed 9 employees, 10 vehicle operators and 7

vehicles. *See id.* at pp.7, 9-11. The Applicant declared no changes to its business location, garage location, or mailing address. *See id.* at p.2. Gyftopoulos certified that all of the information contained in the First Renewal Application was “full, complete, and truthful.” *See id.* at p.12.

On March 23, 2016, the Commission’s staff spoke with Gyftopoulos regarding the First Renewal Application. Although disclosed as the sole principal of the company, Gyftopoulos could not describe the Applicant’s business operations or activities with any specificity. *See* Commission memorandum dated March 23, 2016 (stating that he was “not exactly sure what [they] do”). Furthermore, Gyftopoulos did not know where the office was located, what hours the Applicant operated, or how many employees it had. *Id.* In explaining his role at the company, Gyftopoulos stated, “I own [the Applicant], but I don’t run it.” *Id.* According to Gyftopoulos, an individual named Peter Neofytides (“Neofytides”) is the vice president and oversees the Applicant’s daily operations. *Id.*

On April 8, 2016, in response to a request from the Commission, the Applicant provided a list of its employees. *See* list of employees of Mac Hudson. The list included the names of 10 employees not previously disclosed to the Commission, but did not include all of the information that the Commission requires when disclosing an employee. *Id.* The Commission directed the Applicant to make the proper disclosures. On April 19, 2016, the Applicant complied, submitting amended Schedules C and D to the First Renewal Application, among other documents. *See* Applicant’s Amended Schedule C and Schedule D. On those disclosures, the Applicant listed Neofytides for the first time as both an employee and a vehicle operator. *See* list of employees for Mac Hudson; Amended Schedule C; Amended Schedule D. The Amended Schedule C also indicated that Mac Hudson hired Neofytides in 2012. *See* Amended Schedule C.

In addition to the above documentation, the Applicant provided the Commission with a copy of its New York state corporate tax return for the year 2014 and New Jersey state corporate tax returns for the years 2014 and 2015.² Neofytides signed both New Jersey tax returns as president, and he is listed as 100% owner of the Applicant’s voting stock. *See* 2014 and 2015 New Jersey corporate tax returns. The 2015 New Jersey tax return also lists Neofytides as 100% owner of the Applicant’s common stock. *Id.* Gyftopoulos is not listed on the New Jersey tax returns in any capacity. *Id.* However, the New York tax return lists Gyftopoulos as president and sole stockholder, and does not reference Neofytides in any way. *Id.*

After a full review of the First Renewal Application, in May 2016, the Commission’s staff served the Applicant with a notice of recommendation to deny Mac Hudson’s license renewal application. *See* Notice to Mac Hudson Industries Corp. of the Grounds to Deny the License Renewal Application of Mac Hudson Industries Corp. (BIC #4391) to Operate as a Trade Waste Business, dated May 13, 2016 (the “Recommendation”). In response to the Recommendation, on June 14, 2016, the Applicant submitted a two-page cover letter from counsel, a four-page sworn statement from both Gyftopoulos and Neofytides and five exhibits. *See* Applicant’s response to the Commission’s staff denial recommendation, dated June 14, 2016 (the “June 2016 Response”).³

² The Applicant is incorporated as a separate entity in New York and New Jersey and thus, has two separate Employer Identification Numbers.

³ All cites to statements made in the June 2016 Response refer to the sworn statement of Gyftopoulos and Neofytides, not the cover letter.

On July 31, 2016, before the Commission voted on the Recommendation, the Applicant's trade waste license expired.

After discussions between the Applicant's counsel and a member of the Commission's staff, on December 21, 2016, the Applicant submitted the Instant Renewal Application. *See* Instant Renewal Application. Along with the Instant Renewal Application, the Applicant disclosed Neofytides as a principal of the Applicant for the first time. *See* Neofytides Principal Disclosure Form, dated December 21, 2016.

B. Gyftopoulos admits that Neofytides is an undisclosed principal of the Applicant

During the Commission's review of the First Renewal Application, Gyftopoulos submitted to a sworn interview with the Commission's staff. *See* transcript of sworn interview of Artie Gyftopoulos, dated April 19, 2016 ("Gyftopoulos Tr.").⁴ Although Neofytides had not been disclosed on either of the Applicant's applications up to that point, Gyftopoulos stated that Neofytides created the Applicant business and is the person who "basically runs the company" and makes all of the decisions on behalf of the Applicant. *See* Gyftopoulos Tr. at pp.16, 19-20, 25, 33, 39 (testifying, the company was "Peter's passion"). Neofytides chose the business and garage addresses for the Applicant, filed all pertinent applications, and controls all of the Applicant's business accounts. *See id.* at pp.15, 26, 28-29. Moreover, Neofytides hires, manages and supervises the Applicant's employees. *See id.* at pp.32-37. He consults with and engages potential customers and signs all contracts on behalf of the Applicant. *See id.* at p.37. Finally, Neofytides determines employee salaries, including his own. *See id.* at p.33.

Gyftopoulos' testimony also demonstrated that although he was disclosed as the Applicant's sole principal on the Applicant's first two applications, his involvement in the company is limited at best. Gyftopoulos is not compensated by the Applicant in any manner. *See* Gyftopoulos Tr. at p.33. He could not answer questions regarding even the most basic matters relating to the Applicant. As mere examples, Gyftopoulos could not describe the Applicant's process for the collection of oil and has never visited any of the Applicant's business or garage locations. *See id.* at pp.23-25, 36. He did not know how many trucks the Applicant owns or how much it paid for them; nor could he estimate the number of customers the Applicant has. *See id.* at pp.33, 35. Gyftopoulos did not know how much any of the Applicant's employees were paid, how often they were paid, what their duties were or whether they were full-time, part-time or seasonal. *See id.* at pp.30, 32, 38. Finally, Gyftopoulos made clear that the Applicant's operations are "all Peter's [Neofytides] responsibility." *See id.* at p.25. When asked who besides Neofytides controls the Applicant, Gyftopoulos responded, "Nobody, it's Peter, period." *See id.* at p.39.

This is not the first time that Neofytides has been an undisclosed principal of a trade waste company. During a conversation with Commission's staff regarding the registration application for RJB Contracting Corp., Jhonny Brito, the sole disclosed principal, named Peter as his "partner." *See* memo to file dated June 10, 2015. When asked why Neofytides was not disclosed on the application, Brito indicated Neofytides had advised to put everything in Brito's name and had filled out all of the paperwork. *Id.* Accordingly, in June 2016, the Commission denied the license

⁴ On the Instant Renewal Application, the Applicant failed to disclose the fact that Gyftopoulos testified before the Commission on April 19, 2016, as required. *See* Instant Renewal Application at p.5 (Question 9).

application of RJB Contracting Corp. (BIC #4276). Among the grounds for the denial was the fact that Neofytides was an undisclosed principal of the company and Brito testified falsely in a sworn interview with the Commission's staff in a vain attempt to hide Neofytides' role in the company. *See* Decision of the Business Integrity Commission Denying the Registration Application of RJB Contracting Corp. (BIC #4276), dated June 22, 2016 ("Denial Decision of RJB Contracting Corp."). Ultimately, however, Brito admitted Neofytides was a signatory on the company's bank account, signed checks on behalf of the company as corporate secretary and made other decisions on behalf of the company. *See* Brito Tr. 2 at 102, 113, 116-17, 126.

C. The Applicant omitted additional material information on prior applications

In addition to failing to disclose Neofytides' role in the company, the Applicant also omitted other required information on its applications. On both the Initial Application and the First Renewal Application, the Applicant failed to disclose all of its employees and to notify the Commission when it hired new employees, as required. For example, the Applicant failed to notify the Commission that it had hired Neofytides' mother in September 2012 and subsequently failed to disclose her on the First Renewal Application. *See* Instant Renewal Application (listing her date of hire as September 15, 2012). The Applicant also failed to disclose at least three drivers. The Commission only discovered the existence of those drivers when Commission investigators pulled over the Applicant's trucks and found the undisclosed drivers operating the truck. *See* Notices of Violation TW – 9746 (William Tamayo); TW – 9747 (Freddy Guitierrez); TW – 209545 (Andreas Fortes).

The Applicant also provided false information regarding its office and its affiliation with other business entities. For example, on both the Initial Application and the First Renewal Application, the Applicant disclosed 29 Spring Brook Lane, Hillsdale, NY ("29 Spring Brook Lane") as its main office address. *See* Initial Application at p.1; First Renewal Application at p.7 (Schedule A). This address is a large residential home in Columbia County, New York, approximately three hours from New York City, and owned by Neofytides' mother. *See* email dated June 21, 2016.⁵ However, public records show and Gyftopoulos' own testimony demonstrate that at the time the Applicant filed the Initial Application and the First Renewal Application, the Applicant's true business address was 36-31 10th Street, Long Island City, New York. *See* federal tax lien, filed December 8, 2016; Gyftopoulos Tr. at p.23.

The Applicant also failed to disclose that it shared office space, staff or equipment with other businesses or organizations, as required. *See* Initial Application at p.2 (Question 11). At the time the Applicant filed the Initial Application, it shared an address with three entities: Mac Hudson Construction Corp.; RJB Contracting Corp.; and RJB Contracting Carting Corp. *See* Amended Class Action Complaint, *Remache v. Mac Hudson Industries Corp., et al.*, 14 CV 3118 (E.D.N.Y.). Ultimately, the Applicant disclosed most of the above-described information on the Instant Renewal Application but only after the Commission served the Applicant with the staff's Recommendation.

⁵ The 29 Spring Brook Lane address is also the office, mailing and garage address for RJB Contracting Corp. *See* registration application for RJB Contracting Corp. at p.1.

D. The Applicant received multiple violations for its failure to disclose information

The Applicant received numerous administrative violations during the time it has held a Commission-issued license. On May 3, 2013, Commission investigators observed the Applicant's truck engaged in the removal of trade waste without displaying its Commission-issued trade waste plates. *See* Notice of Violation TW – 9756. Additionally, the investigators noted that the Applicant's truck was labeled with an address of 36-31 10th Street, Long Island City, New York, which is different than the address disclosed on the Initial Application. *See* Notice of Violation TW – 9745. The investigators stopped the vehicle and questioned the driver (Freddy Guitierrez) and the helper (William Tamayo), neither of whom had been disclosed to the Commission. *See* Notices of Violation TW – 9746; TW – 9747.⁶ Accordingly, the Commission issued administrative violations against the Applicant for failure to disclose a business address, an employee, and a vehicle operator, and for failing to register a new vehicle with the Commission. *See* Notices of Violation TW – 9745; TW – 9746; TW – 9747; and TW – 9756. In June 2013, Neofytides settled three of the administrative violations on behalf of the Applicant, admitting fault and agreeing to pay \$250 per violation, for a total of \$750. *See* Early Settlement Forms for TW – 9745; TW – 9746; TW – 9747. In July 2013, the Commission received payment in full, plus an additional \$350 to settle the remaining administrative violation. *See* Early Settlement Form for TW – 9756.

On March 31, 2014, Commission investigators conducted an inspection of the Applicant's truck and interviewed the driver, Andreas Fortes. Fortes told the investigators that he had been working for the Applicant for 10 months, however, he had not been disclosed to the Commission. *Id.* Nor was the Applicant's truck registered with the Commission, as required. Consequently, the truck did not have Commission-issued trade waste plates. Accordingly, on April 2, 2014, the Commission issued administrative violations against the Applicant for failure to disclose a vehicle operator and failure to properly affix Commission-issued plates to the truck. *See* Notices of Violation TW – 209545; TW – 209546. On April 14, 2014, the Applicant settled Notice of Violation TW – 209545 and paid a \$250 fine. *See* Early Settlement Form TW – 209545. On April 16, 2014, the Applicant paid a \$500 fine to resolve Notice of Violation TW – 209546. *See* Notice of Violation TW – 209546.

E. The Applicant has extensive debt

In addition to the disclosure failures set forth above, the Applicant also has amassed a large amount of debt. On May 19, 2014, the Applicant, Neofytides and others, were sued by a total of 26 plaintiffs in a class action filed in the United States District Court for the Eastern District of New York alleging that the defendants failed to pay overtime wages to its employees as required pursuant to the Fair Labor Standards Act and the New York State Labor Law. *See* Amended Class Action Complaint, *Remache v. Mac Hudson Industries Corp., et al.*, 14 CV 3118 (E.D.N.Y.). The following companies were named as co-defendants: Mac Hudson Group; Mac Hudson Construction Corp.; RJB Contracting Corp.; RJB Contracting Carting Corp.; Armteck and Associates Corp.; RJB Demolition Corp.; and Armtec Services Inc. On February 8, 2016, the

⁶ Both Tamayo and Guitierrez indicated they had been employed by the Applicant for at least five months prior to the date of the violations. *Id.*

Applicant along with defendants Mac Hudson Group, Mac Hudson Construction Corp., and Neofytides, were found in default.⁷

The Applicant owes substantial amounts of state and federal taxes. Those debts are as follows:

Type	Date Filed	Docket No.	Amount
NYS Tax Warrant	12/31/14	E041761156W0017	\$78,053
Federal Tax Lien	12/29/15	201512290670590	\$312,725
NYS Tax Warrant	7/12/16	E041761156	\$1,289
Federal Tax Lien	12/8/16	201612080582654	\$780

Additionally, other entities operated by Neofytides also owe significant debts to state and federal government agencies. Those debts are as follows:

Company	Type	Date Filed	Docket No.	Amount
MCHC Inc. d/b/a Mac Hudson Group. ⁸	NYS Dept. of Labor Warrants	2011-2014	Numerous	\$142,449
Mac Hudson Corp.	NYS Dept. of Labor Warrants	2009-2011	Numerous	\$14,844.71
Mac Hudson Corp.	NYS Worker's Compensation Board Warrant	5/11/2011	1566491	\$76,000
Mac Hudson Corp.	NYS Tax Warrant	8/17/2011	1596526	\$1,685.86
P & S Kingswood Corporation ⁹	Commissioner of State Insurance Fund Warrants	2003	1764924	\$59,059.05

Thus, the Applicant owes \$392,847 in state and federal taxes from 2014 and 2015. Neofytides separately owes judgments totaling \$294,038.62 from other companies that he operates.

⁷ The Applicant did not disclose this lawsuit to the Commission. See Instant Renewal Application at p.5; Neofytides Principal Disclosure Form at pp.9-10.

⁸ Neofytides is listed as the CEO of MCHC Inc. on the New York State Department of State website, and he has acknowledged ownership. See Neofytides' Principal Disclosure Form.

⁹ Neofytides is listed as the CEO of P & S Kingswood Corporation on the New York State Department of State website. Neofytides did not disclose this entity on his Principal Disclosure Form.

IV. Basis for Denial

1. The Applicant provided false information to the Commission in connection with its prior applications.

The Commission may refuse to issue a license to an applicant who lacks good character, honesty and integrity. *See* Admin. Code § 16-509(a). One factor the Commission may consider in making this determination is whether the applicant failed to provide truthful information in connection with the application. *See* Admin. Code §§ 16-509(a)(i). Here, the Applicant failed to provide truthful information to the Commission in connection with its applications in several respects. Although the Commission approved the Initial Application, it only discovered the false statements and material omissions during the background investigation in connection with the First Renewal Application. Consequently, the Commission served the Applicant with the staff's Recommendation for denial of the First Renewal Application. However, before the Commission made a final determination on the Recommendation, the Applicant's license expired. After discussions between the Applicant's representative and the Commission's staff, the Applicant filed the Instant Renewal Application, disclosing Neofytides as a principal for the first time.

a) The Applicant failed to disclose Neofytides as a principal in prior applications.

The Commission's rules and regulations require applicants to disclose all principals of the company. Section 16-501(d) of the Administrative Code, defines a principal as, among other things, "all . . . persons participating directly or indirectly in the control of such business entity." Admin. Code § 16-501(d). The Applicant failed to disclose Neofytides as a principal of the Applicant on both the Initial Application and the First Renewal Application. *See* Initial Application at p.20 (Schedule A); First Renewal Application at p.7 (Schedule A). Yet, the evidence clearly demonstrates that Neofytides has been a principal of the Applicant since its inception.

In his sworn testimony, Gyftopoulos repeatedly described Neofytides' direct control over the Applicant's affairs. According to Gyftopoulos, Neofytides has run the operations of the Applicant's business from the time of incorporation to the present. Gyftopoulos Tr. at pp.16, 37-39 (Neofytides exercises sole managerial and supervisory control over Applicant). Gyftopoulos stated that he formed the company at Neofytides' direction with the understanding that Neofytides would "totally run it." *See id.* at p.19. And, Neofytides has done just that: he hires and supervises all of the Applicant's employees, and determines their salaries. *See id.* at pp.32-37. He completes and files all required applications and signs all contracts on behalf of the Applicant. *See, e.g., id.* at pp.14, 24, 36.

In stark contrast to Neofytides' role, Gyftopoulos does almost nothing for the Applicant. He does not have even a basic understanding of the company's operations. *See id.* at pp.32-38. And Gyftopoulos concedes that Neofytides does it all. *See id.* at p.39 ("it's Peter, period"). Thus, not only is Neofytides an undisclosed principal of the Applicant, he appears to be the only individual capable of running the company. It is likely that the Applicant sought to conceal

Neofytides' role in the Applicant's business because Neofytides has amassed hundreds of thousands of dollars in debt.

In the June 2016 Response, the Applicant characterizes its failure to disclose Neofytides as a mere "mistake" and argues that "there is no evidence that [it] intentionally excluded Neofytides from either application." See June 2016 Response at p.1 (Gyftopoulos thought "principal" was "just for shareholders"). This argument is unavailing. First, the various applications clearly define the term "principal." See Initial Application at p.36 (Appendix A); First Renewal Application at p.7 (Schedule A) (instructing applicants to "identify all persons who are principals of the licensee . . . including but not limited to directors, officers and stockholders"). And, given Neofytides' extensive involvement in the Applicant's business from the inception of the company, the fact that the Applicant did not disclose Neofytides in any capacity until after the Commission's staff recommended denying the Applicant demonstrates a clear intent to conceal Neofytides.

The Applicant also claimed that its 2014 Financial Statement and Customer Register demonstrates that the Applicant did not intentionally conceal Neofytides' role with the Applicant. See June 2016 Response at pp.1-2; March 2017 Response at p.2. This claim is also without merit. The information in the 2014 Financial Statement is false: it discloses Neofytides' start date as January 2014, when the record clearly demonstrates that Neofytides has been a principal of the Applicant since May 2012. See Gyftopoulos Tr. at pp.19-20; Instant Renewal Application at p.8 (Schedule A). And while the Applicant points to the fact that Neofytides executed settlements on behalf of the Applicant as evidence that the Applicant did not seek to conceal Neofytides' involvement, it does not explain why the Applicant would not disclose Neofytides even as an employee of the company when he so clearly handles its day-to-day operations.

In the March 2017 Response, the Applicant acknowledges and takes responsibility for the numerous false statements herein detailed, including its failure to disclose Neofytides as a principal in prior applications. See March 2017 Response at p.2. The Applicant then states it has fully corrected its mistakes since June 2016 and is ready to fully comply with the Commission's rules and regulation. See March 2017 Response at p.2. Yet, the Commission notes that despite being the driving force behind the company from its inception, the Applicant was silent as to Neofytides' involvement in any capacity until *after* the Commission's staff recommended that the Commission deny the First Renewal Application.

b) The Applicant provided false information regarding its employees and drivers.

The Applicant also provided false information by not disclosing its full roster of employees on both the Initial Application and the First Renewal Application. The Applicant clearly was aware of the disclosure requirement, not only because the Commission's rules require such disclosure, but also as a result of the various administrative violations the Commission issued against the Applicant for failing to disclose employees. In spite of this, the Applicant did not disclose those employees until pressed to do so by the Commission.

The Applicant argued repeatedly in the June 2016 Response that the numerous omissions were "oversights" and "lapses in attention" that do not amount to a knowing failure to provide

truthful information to the Commission, or warrant the drastic action of denying the renewal of the Applicant's license. *See* June 2016 Response at p.2. The sheer number of "oversights," particularly when viewed in the broader factual context of this matter, demonstrates that these were intentional omissions. Any question as to whether all employees had to be disclosed should have been answered by the fact that the Applicant accumulated six administrative violations for failure to disclose information.

The Applicant also provided false information by failing to disclose its true roster of drivers on both the Initial Application and the First Renewal Application. In the June 2016 Response, the Applicant raises the same arguments it presented with respect to its other omissions. (The March 2017 Response simply repeats the same arguments on this point.) The arguments are equally unavailing in this context.

c) The Applicant provided false information about its business addresses and affiliation with other businesses in prior applications.

Both the Initial Application and the First Renewal Application disclosed an upstate New York address (29 Spring Brook Lane) as the Applicant's business and garage address. Yet, the Commission's investigation determined that the Applicant conducted its business operations from an address in Long Island City, New York. Additionally, the Applicant claimed that it did not share offices with other businesses or organizations. But the Applicant shared offices with at least three organizations when it submitted the Initial Application and an additional entity when it submitted its First Renewal Application. Each of those entities were closely connected to Neofytides.

In the June 2016 Response, the Applicant states that it initially operated its office and garage from 29 Spring Brook Lane and that the entity later began operating from Long Island City. *See* Response at p.2. However, there is no evidence that the Applicant ever conducted business at 29 Spring Brook Lane. In fact, when asked about the Applicant's business addresses, Gyftopoulos provided a New Jersey address and a general location somewhere in Long Island City. *See* Gyftopoulos Tr. at pp.22-23. Although the June 2016 Response implies that the Applicant disclosed the Long Island City address to the Commission when it submitted the 2014 Financial Statement, the Commission first learned of the undisclosed address on May 3, 2013, when it issued an administrative violation to the Applicant for failure to disclose its business address. That is nine months prior to the Applicant's submission of the 2014 Financial Statement. *See* Notice of Violation TW – 9745. Finally, even assuming the Applicant initially operated from 29 Spring Brook Lane, the Applicant failed to timely update the Commission of any changes to its business address, as required. *See* Title 17 RCNY §2-05(a)(2) (requiring all licensees to notify the Commission of any material changes to the application within ten days).

In the March 2017 Response, the Applicant claims that had, the Commission interviewed Neofytides, any misunderstanding regarding where the Applicant conducted business would have been resolved. The Commission notes, however, that any misunderstandings resulted from the Applicant's failure to disclose its true business location.

In the March 2017 Response, the Applicant states that it did not share an "office space" with RJB Contracting Corp., though both entities were located on the same property. *See* March

2017 Response at p.3. This statement is in stark contrast with the June 2016 Response, which stated that the two entities did share office space. There, the Applicant argued that it did not disclose that fact that it shared space with RJB Contracting because Neofytides has not worked at RJB Contracting Corp. for seven years. *See* June 2016 Response at p.3. But this claim is irrelevant here. Moreover, payroll checks endorsed by Neofytides on behalf of RJB Contracting Corp. as late as the year 2013 demonstrate that Neofytides was employed by RJB Contracting Corp. more recently. *See* Denial Decision of RJB Contracting Corp. at p.9. Finally, the Applicant did share offices with other businesses besides RJB Contracting Corp., and simply failed to disclose those connections. The Applicant made no mention of this fact in the March 2017 Response.

The Applicant has repeatedly made false statements and material omissions on the Initial Application, the First Renewal Application and in the June 2016 Response. This conduct demonstrates that the Applicant and its principals (both disclosed and undisclosed) lack good character, honesty, and integrity. Accordingly, the Commission denies the Instant Renewal Application based on this independently sufficient ground. *See* Admin. Code §§ 16-509(a)(i); 16-509(b).

2. Neofytides was a principal in a previously-denied predecessor trade waste business.

One factor that the Commission may consider in making this determination is 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.” *See id.* at § 16-508(b).

The Commission may deny the Instant Renewal Application based on the “predecessor trade waste business” factor. The Commission has determined that Neofytides was an undisclosed principal of RJB Contracting Corp. *See* Denial Decision of RJB Contracting Corp. at p.10. RJB Contracting was a business engaged in the removal, collection or disposal of trade waste. *Id.* The Commission denied RJB Contracting’s application on June 22, 2016, and the Applicant filed the Instant Renewal Application on December 21, 2016. Thus, Neofytides was a principal of RJB Contracting within the five year period preceding the Instant Renewal Application.

In the March 2017 Response, the Applicant argues that while Neofytides was a principal of RJB Contracting Corp., he was not responsible for completing the registration application, and was thus, unaware that Brito had failed to disclose him as a principal. *See* Second Response at p.3. This statement is contradicts Brito’s sworn testimony, in which he testified that Angelo Markatos, a family member of Neofytides, and others were responsible for filling all pertinent paperwork. *See, e.g.,* Brito Tr. 2 at pp.19-20, 59. Moreover, in prior conversations, Brito informed the Commission that Neofytides had advised him to “put everything in Brito’s name.” *See* memo to file dated June 10, 2015. These statements, coupled with the fact that Neofytides was not disclosed as a principal on two separate filings with the Commission, indicates an intent to conceal the true nature of Neofytides’ involvement in the Applicant company. Accordingly, the

Commission denies the Instant Renewal Application based on this independently sufficient ground. *See* Admin. Code § 16-509(a)(vii).

3. The Applicant and its principal failed to pay taxes and other obligations for which judgments have been entered.

In determining whether an applicant lacks good character, honesty and integrity, the Commission may consider an applicant's "failure to pay any tax, fine, penalty, fee related to the applicant's business . . . for which judgment has been entered by a court or administrative tribunal of competent jurisdiction . . ." *See* Admin. Code § 16-509(a)(x). *See also id.* at §§ 16-513(a)(iv), 16-509(b). As listed above, the Applicant owes \$392,847 in state and federal taxes from 2014 and 2015. Additionally, the Applicant's undisclosed principal, Neofytides, has accumulated judgments totaling \$294,038.62 in connection with other companies that he operates, which remain unpaid.¹⁰ These outstanding judgments are an independently sufficient basis to deny the Instant Renewal Application.

In an effort to avoid denial of the Instant Renewal Application, the Applicant offered to satisfy its liabilities within 30 days from the date of the June 2016 Response and to agree to a suspension of its license until those debts are satisfied. *See* June 2016 Response at p.3. Notably, the Applicant made a similar statement in the Instant Renewal Application, stating that it would pay off its debts by December 2016. That date has long since passed, and the debts remain. Thus, Neofytides acknowledges that he owes, at the very least, a substantial portion of the debt, but has failed to honor his commitment to pay it.

In the March 2017 Response, the Applicant again acknowledges its debts and proposes satisfaction of those debts through the assistance of investors. *See* Second Response at pp.3-4. This proposal rings hollow, given the Applicant's prior commitments to resolve its debts. Accordingly, the Commission denies the Instant Renewal Application based on this independently sufficient ground. *See* Admin. Code § 16-509(a)(x).

As a general matter, the Applicant urges the Commission not to deny the Instant Renewal Application claiming denial would not advance the Commission's core mission since the Applicant does not have any affiliation with organized crime. *See* March 2017 Response at p.1. The Applicant adds further that the Commission's goal of ensuring that businesses "conduct their affairs with honesty and integrity," would not be furthered. *See id.* Finally, the Applicant states that denial of its license would result in the loss of employment for its employees and vehicle operators, as well as, a loss of reliable and affordable service for its customers. *See id.*

Combating organized crime is not the Commission's sole mission. The Commission also seeks to promote practices which support a fair and competitive market by ensuring that it licenses and registers only applicants possessing good character, honesty and integrity. Here, the conduct of the Applicant demonstrates a distinct lack of those qualities. While the Commission gives due consideration to the potential loss of employment, it is noteworthy that the Applicant's employees and employees of other entities managed by Neofytides have filed a class action against the

¹⁰ Neofytides recently filed his personal tax returns from 2010 through 2015 claiming financial difficulties for the late filing. *See* Neofytides' Principal Disclosure Form.

Applicant, Neofytides, and his other entities for failure to pay its employees prevailing wages and benefits.

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 conduct of the Applicant indicates that it and its principals lack good character, honesty and integrity. Accordingly, based on the aforementioned independently sufficient grounds, the Commission denies the license renewal application of Mac Hudson Industries Corp.

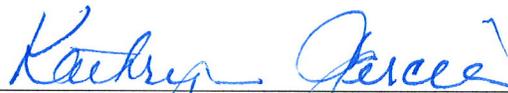
The denial is effective 14 days from the date of this denial decision. In order that the Applicant's customers may make arrangements to have their trade waste collected without an interruption in service, the Applicant is directed to continue servicing its customers for the next 14 days in accordance with existing contractual arrangements, unless advised not to do so by particular customers. The Applicant may not accept new customers during this period. After the expiration of the 14-day period, the Applicant shall no longer service any customer or otherwise operate as a trade waste removal business in the City of New York.

Dated: March 31, 2017

THE NEW YORK CITY
BUSINESS INTEGRITY COMMISSION



Daniel D. Brownell
Commissioner and Chair



Commissioner Kathryn Garcia
Department of Sanitation



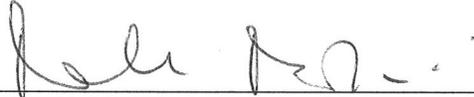
Commissioner Mark G. Peters
Department of Investigation



Commissioner Lorelei Salas
Department of Consumer Affairs



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



Deputy Inspector Dominick C. Dorazio
(Designee)
New York City Police Department