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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 APPLICATIONS OF R.A.L.I. TRUCKING CORP. D/B/A R.A.L.I. SANITATION INC. AND R.A.L.I. ROLL-OFF CORP. FOR LICENSES TO OPERATE AS TRADE WASTE BUSINESSES

R.A.L.I. Trucking Corp. d/b/a R.A.L.I. Sanitation Inc. ("RALI Trucking") and R.A.L.I. Roll-Off Corp. ("RALI Roll-Off")(collectively "the Applicants") have applied to the New York City Trade Waste Commission ("Commission") for licenses to operate as trade waste businesses pursuant to Local Law 42 of 1996. See Title 16-A of the New York City Administrative Code ("Admin. Code"), §§16-505(a), 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 associations with organized crime figures and racketeers and the failure to provide truthful information to the Commission in connection with the license application. Based upon the record as to these Applicants, the Commission finds that the Applicants lack good character,

honesty, and integrity, and denies their license applications for the following independently sufficient reasons:

(1) RALI Trucking has failed to pay over $9,000 in fees owed to the Commission;

(2) A Principal of RALI Trucking has failed to pay over $8,000 in taxes to the United States;

(3) RALI Trucking has failed to pay over $9,000 in taxes to New York City;

(4) RALI Trucking has repeatedly and knowingly failed to provide documents required by the Commission pursuant to its licensing investigation; and

(5) The Applicants have provided misleading and contradictory information to the Commission.

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 recently, the commercial 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":

> Like those dense stars found in the firmament, the cartel can not be seen and its existence can only be shown by its effect on the conduct of those falling within its ambit. Because of its strong gravitational field, no light escapes very far from a "black hole" before it is dragged back . . . [T]he record before us reveals that

from the cartel's domination of the carting industry, no carter escapes.

Sanitation & Recycling Industry, Inc. v. City of New York, 107 F.3d 985, 989 (2d Cir. 1997) ("SRI") (citation omitted).

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 found:

(1) "that the carting industry has been corruptly influenced by organized crime for more than four decades";

(2) "that organized crime's corrupting influence over the industry has fostered and sustained a cartel in which carters do not compete for customers";

(3) that to ensure carting companies' continuing unlawful advantages, "customers are compelled to enter into long-term contracts with onerous terms, including 'evergreen' clauses";

(4) "that the anti-competitive effects of this cartel have resulted, with few exceptions, in the maximum [legal] rates . . . being the only rate available to businesses";

(5) "that businesses often pay substantially higher amounts than allowed under the maximum rate because carters improperly charge or overcharge for more waste than they actually remove";

(6) "that organized crime's corrupting influence has resulted in numerous crimes and wrongful acts, including physical violence, threats of violence, and property damage to both customers and competing carting firms";

(7) "that recent indictments have disclosed the pervasive nature of the problem, the structure of the cartel, and the corruption it furthers through the activities of individual carters and trade associations";

(8) "that unscrupulous businesses in the industry have taken advantage of the absence of an effective regulatory scheme to engage in fraudulent conduct"; and

(9) "that a situation in which New York City businesses, both large and small, must pay a 'mob tax' in order to provide for removal of trade waste is harmful to the growth and prosperity of the local economy."

Local Law 42, § 1.

The criminal cartel operated through the industry's four leading New York City trade associations, the Association of Trade Waste Removers of Greater New York ("GNYTW"), the Greater New York Waste Paper Association ("WPA"), the Kings County Trade Waste Association ("KCTW"), and the Queens County Trade Waste Association ("QCTW"), all of which were controlled by organized crime figures for many years. See, e.g., Local Law 42, §1; United States v. International Brotherhood of Teamsters (Adelstein), 998 F.2d 120 (2d Cir. 1993). As the Second Circuit found, regardless of whatever limited legitimate purposes these trade associations might have served, they "operate[d] in illegal ways" by "enforc[ing] the cartel's anticompetitive dominance of the waste collection industry." SRI, 107 F.3d at 999.

In June 1995, all four trade associations, together with seventeen individuals and twenty-three carting companies, were indicted as a result of a five-year investigation into the industry by the Manhattan District Attorney's Office and the New York Police Department. See People v. Ass'n of Trade Waste Removers of Greater New York Inc. et al., Indictment No. 5614/95 (Sup. Ct. N.Y. Cty.). The defendants included capos and soldiers in the Genovese and Gambino organized crime families who acted as "business agents" for the four trade associations, as well as carters closely associated with organized crime and the companies they operated.

More carting industry indictments followed. In June 1996, both the Manhattan District Attorney and the United States Attorney for the Southern District of New York obtained major indictments of New York metropolitan area carters. The state indictments, against thirteen individuals and eight companies, were (like their 1995 counterpart) based upon undercover operations, including electronic surveillance intercepts, which revealed a trade waste removal industry still rife with corruption and organized crime influence. The federal indictment, against seven individuals and fourteen corporations associated with the Genovese and Gambino organized crime families (including the brother and nephew of Genovese boss Vincent "Chin" Gigante), included charges of racketeering, extortion, arson, and bribery. See United States v. Mario Gigante et al., No. 96 Cr. 466 (S.D.N.Y.). In November 1996, the Manhattan District Attorney announced a third round of indictments in his continuing investigation of the industry, bringing the total number of defendants in the state prosecution to thirty-four individuals, thirty-four companies, and four trade waste associations.

The accuracy of the sweeping charges in the indictments has been repeatedly confirmed by a series of guilty pleas and jury verdicts. On October 23, 1996, defendant John Vitale pleaded guilty to a state antitrust violation for his participation in the anticompetitive criminal cartel. In his allocution, Vitale, a principal of the carting company Vibro, Inc., acknowledged that he turned to the trade associations, and specifically to Genovese capo Alphonse Malangone and Gambino soldier Joseph Francolino, to obtain their assistance in preventing a competitor from bidding on a "Vibro-owned" building, 200 Madison Avenue in Manhattan.

On January 27, 1997, Angelo Ponte, a lead defendant in the state prosecution and the owner of what was once one of New York City's largest carting companies, pleaded guilty to attempted enterprise corruption and agreed to a prison sentence of two to six years and to pay $7.5 million in fines, restitution, and civil forfeitures. In his allocution, Ponte acknowledged the existence of a "property rights" system in the New York City carting industry, enforced by a cartel comprised of carters and their trade associations through customer allocation schemes, price fixing, bid rigging, and economic retaliation, for the purpose of restraining competition and driving up carting prices and carting company profits. His son, Vincent J. Ponte, pleaded guilty to paying a $10,000 bribe to obtain a carting contract

to service an office building. Both defendants agreed to be permanently barred from the New York City carting industry.

On January 28, 1997, Vincent Vigliotti became the fourth individual defendant to plead guilty to carting industry corruption charges. Two carting companies and a transfer station run by Vigliotti's family under his auspices pleaded guilty to criminal antitrust violations. In his allocution, Vigliotti confirmed Ponte's admissions as to the scope of the criminal antitrust conspiracy in the carting industry, illustrated by trade association-enforced compensation payments for lost customers and concerted efforts to deter competitors from entering the market through threats and economic retaliation. Vigliotti agreed to serve a prison term of one to three years, to pay $2.1 million in fines, restitution, and civil forfeitures, and to be permanently barred from the New York City carting industry.

On February 13, 1997, the KCTW pleaded guilty to criminal restraint of trade and agreed to pay a $1 million fine, and four individuals who were officers of or otherwise closely associated with the KCTW, as well as their affiliated carting companies, pleaded guilty to corruption charges. The Brooklyn carters who were the KCTW's principal representatives -- president Frank Allocca and vice-president Daniel Todisco -- pleaded guilty to attempted enterprise corruption, as did Brooklyn carter Dominick Vulpis; each of their defendant companies pleaded guilty to criminal restraint of trade. Brooklyn carter and KCTW secretary Raymond Polidori also pleaded guilty to criminal restraint of trade, as did two related companies controlled by Polidori. These individual defendants agreed to pay fines ranging from $250,000 to $750,000, to serve sentences ranging from probation to 4½ years in prison, and to be permanently barred from the New York City carting industry. The same day, Manhattan carters Henry Tamily and Joseph Virzi pleaded guilty to attempted enterprise corruption and agreed to similar sentences, fines, and prohibitions. All six defendants confirmed the existence of the criminal cartel and admitted to specific instances of their participation in it.

On February 24, 1997, defendants Michael D'Ambrosio, Robros Recycling Corp., and Vaparo, Inc. all pleaded guilty in allocutions before New York Supreme Court Justice Leslie Crocker Snyder. D'Ambrosio

pleaded guilty to attempted enterprise corruption, and his companies pleaded to criminal antitrust violations.

On July 21, 1997, Philip Barretti, another lead defendant in the state prosecution and the former owner of New York City's largest carting company, pleaded guilty to two counts of attempted enterprise corruption and agreed to a prison sentence of 4½ to 13½ years and to pay $6 million in fines, restitution, and civil forfeitures. Frank Giovinco, former head of the WPA, pleaded guilty to attempted enterprise corruption and agreed to a prison sentence of 3½ to 10½ years. Carters Paul Mongelli and Louis Mongelli also pleaded guilty to attempted enterprise corruption, and agreed to prison sentences of four to twelve and $3^1/_3$ to ten years, respectively. All four defendants agreed to be permanently barred from the New York City carting industry. On the same day, Philip Barretti, Jr. and Mark Barretti pleaded guilty to a Class E environmental felony and commercial bribery, respectively, and agreed to be sentenced to five years probation. The Barretti and Mongelli carting companies also pleaded guilty at the same time. A few days later, the WPA pleaded guilty to criminal restraint of trade.

In the federal case, on September 30, 1997, Thomas Milo, a Gambino family associate, and his company, Suburban Carting, among others, pleaded guilty to federal charges of conspiracy to defraud the United States and to make and file false and fraudulent tax returns, and, respectively, to defraud Westchester County in connection with a transfer station contract and to violate the Taft-Hartley Act by making unlawful payments to a union official. In their allocutions, Suburban and Milo admitted that one objective of the conspiracy was to conceal the distribution of cartel "property rights" profits by engaging in sham transactions.

The pleas of guilty to reduced charges by the state defendants took place in the context of an ongoing prosecution of the entire enterprise corruption conspiracy, in which testimony had begun in March 1997. The remaining defendants were the GNYTW, Gambino soldier Joseph Francolino and one of his carting companies, Genovese capo Alphonse Malangone, and two carting companies controlled by defendant Patrick Pecoraro (whose case, together with the case against the QCTW, had been severed due to the death of their attorney during the trial). On October 21,

1997, the jury returned guilty verdicts on enterprise corruption charges – the most serious charges in the indictment – against all six of the remaining defendants, as well as guilty verdicts on a host of other criminal charges. On November 18, 1997, Francolino was sentenced to a prison term of ten to thirty years and fined $900,000, and the GNYTW was fined $9 million.

On January 21, 1998, Patrick Pecoraro pleaded guilty to attempted enterprise corruption and agreed to serve a prison sentence of one to three years, to pay a $1 million fine, and to be barred permanently from the New York City carting industry. On the same day, the QCTW pleaded guilty to a criminal antitrust violation and agreed to forfeit all of its assets. Numerous other guilty pleas have followed.

In sum, it is far too late in the day for anyone to question the existence of a powerful criminal cartel in the New York City carting industry. Its existence has been proven beyond a reasonable doubt. The proof at trial also established conclusively that the cartel which controlled the carting industry for decades through a rigorously enforced customer-allocation system was itself controlled by organized crime, whose presence in the industry was so pervasive and entrenched – extending to and emanating from all of the industry's trade associations, which counted among their collective membership virtually every carter – that it could not have escaped the notice of any carter. These criminal convictions confirm the judgment of the Mayor and the City Council in enacting Local Law 42, and creating the Commission, to address this pervasive problem.

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, 940 F. Supp. 656 (S.D.N.Y. 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). Although Local Law 42 became effective immediately, trade waste removal licenses previously issued by the DCA remained valid pending decision by the Commission on timely filed license applications. See Local Law 42, §14(iii)(1). The Applicant holds a DCA license and timely filed an application for a license from the Commission.

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). In determining whether to issue a license to an applicant, the Commission may consider, among other things, the following matters, if applicable:

(i) failure by such applicant to provide truthful information in connection with the application;

(ii) 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;

(iii) 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;

(iv) 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;

(v) 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;

(vi) 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;

(vii) 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;

(viii) 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;

(ix) 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;

(x) 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..

Admin. Code § 16-509(a)(i)-(x).

II. THE APPLICANTS

For all intents and purposes, RALI Trucking and RALI Roll-Off are one entity and will be treated as such in this decision. The license applications for both Applicants indicate that their businesses are located at the same Maspeth address and that they have identical business phone numbers and fax numbers. License Application of RALI Trucking ("Trucking Lic. App.") at 1; License Application of RALI Roll-Off ("Roll-Off Lic. App.") at 1.

There is contradictory information in the record on the question of precisely which member of the Cicillini family (Immacolata Cicillini and her children - Roberto Cicillini, Linda Cicillini and Angelo Cicillini) holds which position in which company. Nevertheless, at a minimum there is considerable overlap in personnel, and the record strongly suggests that the two companies are identical. To the extent that RALI Roll-Off and RALI Trucking differ in the identity of its disclosed principals, the Commission believes that these discrepancies are the result of a deliberate attempt to disguise the role of Roberto Cicillini as the de facto head of both companies.

In addition to an overlap of principals and employees, the Applicants share equipment (for example, the same 1973 Mack Truck - VIN #DM685SK14-814 - appears on both license applications). Trucking Lic. App. at 30; Roll-Off Lic. App. at 32.

Furthermore, correspondence from counsel indicates that the two companies are intertwined. Notwithstanding counsel's nominal claims that he only represents RALI Roll-Off and that RALI Roll-Off and RALI Trucking are two entirely different companies, counsel in fact proposed that RALI Roll-Off pay the significant outstanding license fees owed by RALI Trucking (supra at 12-13), but that it would do so only if RALI Roll-Off was granted a trade waste license. Counsel also conveyed his client's "offer" to dissolve both companies if a resolution could not be reached. In light of RALI Roll-Off's readiness to pay the fees of RALI Trucking and its claims to be able to dissolve at will "two entirely different corporations," the conclusion is inescapable that RALI Roll-Off is merely an alter ego of RALI Trucking. Therefore, evidence that one of the companies does not meet the fitness standard applies equally to both companies.

III. DISCUSSION

The Applicants filed with the Commission applications for trade waste removal licenses on August 30, 1996 (RALI Trucking) and October 5, 2000 (RALI Roll-Off). The Commission's staff has conducted an investigation of the Applicants. On May 30, 2002, the staff issued a 17-page recommendation that the applications be denied. The Applicants have failed to respond to the staff's recommendation. The Commission has carefully considered both the staff's recommendation and the Applicants' failure to respond. For the independently sufficient reasons set forth below, the Commission finds that the Applicants lack good character, honesty, and integrity and denies their license applications.

A. RALI Trucking Has Failed to Pay Over $9,000 in Fees Owed to the Commission.

As is further set forth below, RALI Trucking has failed to pay the Commission over $9,000 in license and truck fees since August 30, 1996.[1]

From 1996 to date, over 10 invoices have been delivered to RALI Trucking, yet RALI Trucking has never paid a single invoice presented to it

[1] RALI Trucking was permitted to operate while its license application was pending because carting licenses previously issued by the DCA remained valid pending decision by the Commission on timely filed license applications. See Local Law 42, §14(iii)(a).

by the Commission. Even personal assurances from Roberto Cicillini himself that payments would be delivered were empty promises. On June 27, 2000, the Commission issued a directive to RALI Trucking to pay all outstanding fees by August 11, 2000, or risk the termination of its ability to continue to operate as a trade waste removal business and the potential adverse effects on the pending license application. Regardless of that warning, no payments were made. As of the date of the staff's recommendation, RALI Trucking owed the Commission $9,546.84.

The Applicants have fully acknowledged the existence of fees owed to the Commission. First, the Commission's staff spoke to Roberto Cicillini personally in 1998 when he promised (but ultimately failed) to send a check for the amount due at that time - $2,775.68. Furthermore, RALI Roll-Off offered to pay RALI Trucking's debt[2] in exchange for a license. In simple terms, the Applicants brazenly attempted to leverage RALI Trucking's noncompliance into the grant of the application for its alter ego, RALI Roll-Off.

The failure to pay licensing fees directly related to RALI Trucking's business, despite repeated and false promises to pay, demonstrates the RALI Trucking's lack of fitness to hold a trade waste license. The Applicants have not contested these findings. Based on this independent ground, the Commission denies the Applicants' license applications.

B. A Principal of RALI Trucking Has Failed to Pay Over $8,000 in Taxes to the United States.

"The 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." NYC Admin. Code §16-509(a)(x).

Roberto Cicillini testified at his deposition that he owed the IRS between $8,000 and $10,000 dollars. This debt arose from the way the Cicillini family initially financed RALI Trucking. Roberto Cicillini cashed in a retirement annuity that he had built up at his union, IBT Local 282,

[2] RALI Roll-Off did not offer to pay off RALI Trucking's tax obligations to the city and the federal government, only the fees owed to the Commission.

during his five or six years as a truck driver for another company. It was worth approximately $25,000. Roberto Cicillini simply withdrew the entire amount and invested it in the business. He testified that it was his understanding that he could withdraw the money without paying taxes if he invested the money in a business. He later learned that was not correct and acknowledged his debt.

In approximately July 1998, Roberto Cicillini called the IRS to work out a payment plan, yet acknowledged that he did not have any money to make any payments at that time.[3] The Applicant has since refused to respond to the Commission's demands for documentation that the taxes have been paid or that a written payment plan has been agreed to by the IRS. See *supra* at 15-16. Apparently, the debt remains outstanding.

"The 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." NYC Admin. Code §16-509(a)(x). The Applicants have not contested these findings. Based on this independent ground, the Commission denies the Applicants' license applications.

C. RALI Trucking Has Failed to Pay Over $9,000 in Taxes to New York City.

It is a sufficient independent ground to deny a license based upon "[t]he 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." NYC Admin. Code §16-509(a)(x).

A judgment was docketed against RALI Trucking in Queens County Supreme Court by the New York City Department of Finance on February 5, 1996 for a tax warrant in the amount of $9,505.68. The Commission's staff informed Roberto Cicillini and Linda Cicillini that unless they provided documentation that the debt had been paid, the license would be in jeopardy.

[3] However, at the same time, Roberto Cicillini testified that RALI started conducting virtually all of its transactions in cash in order to avoid placing the money into a checking account, where it could be located and seized by the IRS.

Despite the warning, the judgment remains unsatisfied. The Applicants have not contested these findings.

The Commission finds that RALI Trucking's refusal to satisfy a debt that has been reduced to judgment is a sufficient independent ground for denial of the Applicants' license applications.

D. RALI Trucking Has Repeatedly and Knowingly Failed to Provide Documents Required by the Commission Pursuant to Its Licensing Investigation.

The Commission has the power "[t]o investigate any matter within the jurisdiction conferred by [Local Law 42] and [has] full power to compel the attendance, examine and take testimony under oath of such persons as it may deem necessary in relation to such investigation, and to require the production of books, accounts, papers and other evidence relevant to such investigation." Admin. Code §16-504(c). The Commission may refuse to grant a license to an Applicant that "has knowingly failed to provide the information and/or documentation required by the commission . . . ." Admin. Code. §16-509(b). ..." Throughout the licensing process, the Applicants have knowingly failed to provide information to the Commission.

Roberto Cicillini testified at his deposition on November 17, 1998 that RALI Trucking was attempting to work out the matter of back taxes owed to the Internal Revenue Service. At that time, he was informed by Commission staff that no further action could be taken on RALI Trucking's license application until proof was submitted that the outstanding tax liabilities were either satisfied or being paid down pursuant to a written agreement with the IRS. When no such proof was submitted over the next two months, the Commission's staff sent a letter to RALI Trucking on January 19, 1999 repeating the request for documentation. After another month passed with no response, the staff sent a final letter dated February 23, 1999, requesting documentation of the resolution of the outstanding tax liabilities. RALI Trucking was warned that the "failure to provide information requested by the Commission pursuant to this licensing investigation may have a negative impact on RALI [Trucking]'s application for a trade waste removal license." To date, there has been no response from RALI Trucking. The Applicants apparently decided to overcome this difficulty by incorporating RALI Roll-

Off a few months later and ignoring the Commission's requests for information.[4]

The Applicants have not contested these findings. Based on the failure of RALI Trucking to submit the requested information to the Commission, the Commission denies the Applicants' license applications.

E. The Applicants Have Provided Misleading and Contradictory Information to the Commission.

A license may be denied for the "failure by such applicant to provide truthful information in connection with the application." Admin. Code §16-509(a)(i).

Despite the existence of a docketed judgment for city taxes against RALI Trucking and a large federal tax debt, none of this information was disclosed on RALI Trucking's license application. Question 8 of RALI Trucking's license application states "List on Schedule Q any tax liens entered against the applicant business by any tax authority. If none, state 'none.'" RALI Trucking answered "None." Trucking Lic. App. at 37. Question 9 of RALI Trucking's license application states "List on Schedule R any monies currently owed by applicant business to tax authorities" (other than those listed in Question 8) and "[indicate the status of the matter (i.e., the date by which the relevant party will make payment, whether the tax authorities have instituted proceedings against the applicant, etc.) If none, state 'none.'" RALI Trucking left Schedule R blank. Trucking Lic. App. at 38. See also Roll-Off Lic. App. at 39-40 (no tax liens, no taxes owed). In conjunction with the failure to disclose the tax liabilities, the decision to leave this question blank renders the omission false and misleading.

In addition, both Applicants failed to disclose the fact that another family-owned company, Cicillini Ready Mix (a cement company), is located at the same location as the Applicants. See Employee Disclosure Form of

[4] The only reasonable explanation for the formation of a second Cicillini trade waste company was to move the business from RALI Trucking into RALI Roll-Off in an attempt to escape from RALI Trucking's financial debts and obligations. Despite the fact that RALI Roll-Off was not licensed to operate, the record demonstrates that it was already actively engaged in business. Correspondence from RALI Roll-Off requested a temporary license to that it could "*continue* [its] normal business operations as a Trade Waste Business" and offered to pay off RALI Trucking's Commission fees so that it could "*continue* to do business in the City of New York" (italics added). This evidence of apparent unlicensed activity reflects adversely on the Applicant's fitness for a trade waste license.

Angelo Cicillini at 12. The license application for RALI Trucking indicates that the only companies on the premises are RALI Trucking and RALI Sanitation. Trucking Lic. App. at 4. Similarly misleading is the license application for RALI Roll-Off which indicates that it does not share office space, staff or equipment with anyone (not even RALI Trucking). Roll-Off Lic. App. at 4.[5]

Furthermore, Roberto Cicillini's deposition testimony was internally inconsistent as well as contradicted by his sister Linda's testimony. Roberto Cicillini initially testified that RALI started conducting virtually all of its business in cash in the summer of 1998, in order to hide the income from the IRS. However, Roberto Cicillini later testified in a convoluted manner that the reason, albeit nonsensical, for the cash payments was to reserve the option to force Waste Management to refund excessive dumping fees. Roberto Cicillini's testimony conflicted with Linda's, who stated that most of RALI Trucking's business was paid by check (although she later claimed ignorance based on her supposed reduced involvement in the business). Viewed in the context of the record as a whole, the deposition testimony is ludicrous and utterly unworthy of belief.

The Applicants have not contested these findings. Based on the false and misleading answers provided by the Applicants, the Commission denies the Applicants' license applications.

IV. 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. The evidence recounted above demonstrates convincingly that RALI Trucking and RALI Roll-Off fall far short of that standard.

It is of grave concern to the Commission that the Applicants have refused to satisfy significant outstanding unpaid Commission fees and taxes owed to New York City and the United States, that the Applicants have submitted false and misleading information to the Commission and that the Applicants have failed to provide information requested by the Commission.

[5] This is what one would expect if the only purpose of creating RALI Roll-Off is to avoid paying the legitimate debts of RALI Trucking.

For the independently sufficient reasons discussed above, the Commission denies RALI Trucking's and RALI Roll-Off's license applications.

This license denial decision is effective fourteen days from the date hereof. In order that RALI Trucking's customers may make other carting arrangements without an interruption in service, RALI Trucking is directed (i) to continue servicing their customers for the next fourteen days in accordance with their existing contractual arrangements, unless advised to the contrary by those customers, and (ii) to send a copy of the attached notice to each of their customers by first-class U.S. mail by no later than July 5, 2002. The Applicants shall not service any customers, or otherwise operate as a trade waste removal business in the City of New York, after the expiration of the fourteen-day period.

Dated: June 27, 2002

THE TRADE WASTE COMMISSION

José Maldonado
Chairman

John Doherty, Commissioner
Department of Sanitation

Gretchen Dykstra, Commissioner
Department of Consumer Affairs

Rose Gill Hearn, Commissioner
Department of Investigation

Robert Walsh, Commissioner
Department of Business Services