



The City of New York
BUSINESS INTEGRITY COMMISSION
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**DECISION OF THE BUSINESS INTEGRITY COMMISSION DENYING THE
REGISTRATION APPLICATION OF RJB CONTRACTING CORP. (BIC #4276)
TO OPERATE AS A TRADE WASTE BUSINESS**

INTRODUCTION

RJB Contracting Corp. (the “Applicant” or “RJB Contracting”) (BIC #4276) has applied to the New York City Business Integrity Commission (the “Commission”) for an exemption from licensing requirements and a registration to operate a trade waste business solely engaged in the removal of waste materials resulting from building demolition, construction, alteration or excavation. See Title 16-A, New York City Administrative Code (the “Administrative Code” or “Admin. Code”) § 16-505(a). Such waste is commonly known as construction and demolition debris (referred to herein as “C & D”). Local Law 42 of 1996 (“Local Law 42”) authorizes the Commission to review and make determinations on such exemption applications. See Admin. Code § 16-505(a).

On May 2, 2016, Commission staff issued and personally served the Applicant with the Notice to the Applicant of the Grounds to Deny the Registration Application of RJB Contracting Corp. to Operate as a Trade Waste business (“Notice of Denial”). The Applicant had 10 business days to respond, which period expired on May 16, 2016. See Title 17 Rules of the City of New York (“RCNY”) § 2-08(a). The Applicant did not submit a response to the Notice of Denial. The Commission has completed its review of the registration application, having carefully considered the Commission staff’s Notice of Denial and the Applicant’s lack of response. Based on the record as to the Applicant, the Commission denies the Applicant’s registration application based on the following three independently sufficient grounds:

- 1. The Applicant Knowingly Provided False and Misleading Information to the Commission in Connection with the Application;**
- 2. The Applicant’s Principal Provided False and Misleading Information During His Sworn Testimony Before the Commission; and**
- 3. The Applicant and an Undisclosed Principal Failed to Pay Taxes and Other Obligations For Which Judgments have been Entered.**

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).

STATEMENT OF FACTS

Background

On or about November 18, 2011, the Applicant applied for an exemption from the licensing requirement for the removal of C & D. See Application for Exemption from Licensing Requirement for Removal of Construction and Demolition Debris of RJB Contracting Corp. (the “Instant Application”). The Instant Application disclosed Jhonny Brito (“Brito”) as the Applicant’s sole principal and did not disclose any vehicle operators. See id. at pp.13, 18. Brito certified that all of the information contained in the Instant Application was “full, complete and truthful.” See id. at p.20. In addition to the disclosures made in the Instant Application, Brito also provided sworn testimony before the Commission on two occasions. See Transcripts of interviews of Jhonny Brito, dated January 19, 2016 (“Brito Tr. 1”), and February 29, 2016 (“Brito Tr. 2”), respectively.

The Instant Application is not the Applicant’s first experience dealing with the Commission. In December 2007, approximately four years prior to the submission of the Instant Application, the Applicant submitted an initial class 2 registration application (the “2007

Application”).¹ Like the Instant Application, the 2007 Application disclosed Brito as the company’s sole principal. See 2007 Application at p.9.² It disclosed no other employees or drivers. See id. at pp.3, 14. On June 1, 2008, the Commission granted a class 2 registration to the Applicant, which expired on May 30, 2010. See Registration Order of RJB Contracting Corp.

On February 26, 2014, while the Instant Application was pending, Commission investigators observed the Applicant’s truck transporting trade waste, including sheetrock, wood, and concrete, without the necessary Commission registration. The truck was labeled RJB Contracting Corp. but registered to RJB Contracting Carting Corp. See Notice of Violation for Unlicensed or Unregistered Activity TW-209358.³ Although the truck was disclosed on the Instant Application, the driver (Angel M. Vega) was not, as required. Id. The Commission issued administrative violation TW-209358 against RJB Contracting Carting Corp. d/b/a RJB Contracting Corp. for engaging in unregistered trade waste removal activity in violation of Administrative Code § 16-509(b). Id. On May 9, 2014, Angelo Markatos (“Markatos”) of RJB Contracting Carting Corp. d/b/a RJB Contracting Corp., signed a Stipulation of Settlement on the company’s behalf as “President,” admitting guilt and agreeing to pay a \$2,500 fine. See Stipulation of Settlement TW-209358. The Applicant paid the administrative violation in installments, with the final payment received on September 16, 2014.

On June 10, 2014, the Applicant and others, including Peter Neofytides (“Neofytides”) and Markatos, were named defendants in a pending class action filed in the Eastern District of New York, which alleges that the defendants failed to pay overtime wages to its employees as required pursuant to the Fair Labor Standards Act and NY Labor Law. See Amended Class Action Complaint, Remache v. RJB Contracting Corp., et al., 14 CV 3118 (E.D.N.Y.). Since filed, a total of 26 plaintiffs have joined the class action. Brito is not mentioned in the complaint. Along with the Applicant, Neofytides and Markatos, the following companies were named as defendants: Mac Hudson Group; Mac Hudson Construction Corp.; Mac Hudson; RJB Contracting Carting Corp.; Armteck and Associates Corp.; RJB Demolition Corp.; and Armtec

¹ In March 2006, the Applicant was incorporated under the name Venetian Services, Inc. by Achileas Karolidis, with a disclosed address of 36-31 10th Street, Long Island City, NY, 11106. In November 2007, the entity was renamed RJB Contracting Corp. The 2007 Application disclosed a different address for the company and made no mention of Karolidis. See 2007 Application. Karolidis, however, is disclosed as the Director of Operations for Mac Hudson Industries Corp. (“Mac Hudson”) (BIC #4391, pending renewal). See License Application for Mac Hudson Industries Corp. at p.10. In 2013, Karolidis was convicted of a misdemeanor and sentenced to three years’ probation for failure to file corporate tax returns for calendar years 2005 and 2006 in connection with his company at the time, Capital Demolition. See U.S. v. Achileas Karolidis, 12-CR-00193 (E.D.N.Y). Capital Demolition also utilized the Long Island City business address noted above. During his deposition, Brito testified that in 2006 he worked for Venetian Services, Inc. for approximately six months. See Brito Tr. 2 at pp.49-51. He also testified that Angelo Markatos was his supervisor and that Peter Neofytides was also involved. See id. at pp.51, 106. Incredibly, Brito claimed to be unaware that the Applicant was initially incorporated under the name Venetian Services, Inc. See id. at pp.14-17.

² The business name on the application was “R.J.B. Contracting Corp.,” rather than “RJB Contracting Corp.” While there is a minor difference in punctuation, the two names refer to the same company. See Brito Tr. 1 at p.43. Therefore, for ease of reference, the company will be referred to herein as “RJB Contracting Corp.,” regardless of the spelling used in a particular instance.

³ RJB Contracting Carting Corp. was incorporated on June 12, 2012 by Angelo Markatos and, although related, is a separate entity from the Applicant. RJB Contracting Carting Corp. has never filed an application with the Commission.

Services Inc. On February 8, 2016, defendants Mac Hudson Group, Mac Hudson, Mac Hudson Construction Corp., and Neofytides, were found in default.

On June 10, 2015, the Commission’s staff contacted Brito and spoke with him about the Instant Application. Brito stated that his “partner,” Neofytides, formed the company while Brito was working as a laborer. Brito also stated that the Applicant was no longer operating because the business was not profitable due to the fact that Neofytides took most of the profits. Consequently, Brito “left the business to his partner” in 2012, including the Applicant’s trucks. Brito further stated that he was not aware what, if anything, happened to the trucks.⁴ When asked why Neofytides was not disclosed in the Instant Application, Brito stated that Neofytides told Brito to put everything in his name. Further, he stated that Neofytides had all of the paperwork filled out. See Commission memorandum dated June 10, 2015 (“June 10, 2015 Memo”).⁵

During the course of the Commission’s investigation into the Applicant, public records revealed outstanding federal tax liens owed by the Applicant. Those liens are as follows:

Type	Amount	Docket No.	Date Filed
Federal Tax Lien	\$31,317	20150210539504	10/21/2015
Federal Tax Lien	\$12,358	201601220034648	1/22/2016

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

Company	Type	Amount	Docket No.	Date Filed
Mac Hudson Industries Corp. ⁶	Federal Tax Lien	\$312,725	201512290670590	12/29/15
Mac Hudson Industries Corp.	NYS Tax Warrant	\$78,053	E041761156W0017	12/31/14
MCHC Inc. d/b/a Mac Hudson Group. ⁷	NYS Dept. of Labor	\$142,449	Numerous	2011-2014
Mac Hudson Corp.	NYS Dept. of Labor	\$14,754.71	Numerous	2009-2011

⁴ The Applicant’s two vehicles were re-registered to other entities affiliated with Neofytides and Markatos. The Applicant’s 1999 Volvo was transferred from Stavros Waste Services, Inc. (BIC #2050, expired) to the Applicant in July 2008, to NuWaste Services Corp. (BIC #4184, pending renewal) in December 2013 and then to Armtech Industries Corp. (BIC #475035, pending renewal) in March of 2014. The Applicant’s 1986 dump truck was also transferred from Stavros Waste Services, Inc. to the Applicant in July 2008, to NuWaste Services Corp. in December 2013, then to RJB Contracting Carting Corp. (unregistered) in February 2014, and is currently owned by Armtech Industries Corp. as of April 2014.

⁵ During the same conversation, Brito stated that he receives work through Local 79 and was not interested in continuing with the Instant Application. See June 10, 2015 Memo. On June 24, 2015, the Applicant submitted written notice to the Commission requesting a withdrawal of the Instant Application and a full refund. See letter from Jhonny Brito, dated June 24, 2015.

⁶ Neofytides is disclosed as the Vice President of Mac Hudson. He is also linked to this entity through the entity’s disclosed address, Commission’s customer register certification, lawsuits, and published statements by Neofytides.

⁷ Neofytides is listed as the CEO of MCHC Inc. on the New York State Department of State website and is linked to this entity through lawsuits, as well.

P & S Kingswood Corporation ⁸	Commissioner of State Insurance Fund	\$59,059.05	1764924	2003
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False Statements on the Instant Application

The Applicant failed to provide truthful information in the Instant Application regarding the Applicant's principals. During his testimony before the Commission, Brito testified that Markatos and Neofytides had direct control over the Applicant's business affairs. Specifically, with respect to Markatos, Brito acknowledged that Markatos was listed as vice president of the Applicant on the Applicant's New York Commercial Bank business checking account. See Brito Tr. 2 at p.117, Exh. 6. Moreover, Brito repeatedly testified that Markatos exercised direct control over all of the Applicant's affairs. See, e.g., Brito Tr. 2 at pp.115-16. For example, Brito stated that Markatos makes most of the decisions on behalf of the Applicant, describing Markatos as the "mastermind" who "did everything." See id. at pp.19, 56, 115-17. According to Brito, Markatos suggested that Brito start the business, and directed Brito as to when and where to file pertinent applications. See id. at p.20. Markatos chose the business address for the Applicant. See id. at pp.30-31. He had authority and control over the Applicant's business account. See id. at pp.43-44. He supervised the Applicant's employees. See id. at p.51. He consulted with and engaged potential customers. Id. He signed all contracts on behalf of the Applicant. See id. at pp.51-52, 115-16. Finally, Markatos dictated the percentage that he would receive under each contract, an amount Brito could not even estimate. See id. at p.52.

Not only did the Applicant fail to disclose Markatos, it also failed to disclose Neofytides as a principal. See Instant Application. Brito told the Commission's staff that Neofytides was his partner, who started the business and kept most of the profits. See June 10, 2015 Memo.⁹ Neofytides, Brito, and Markatos jointly opened the Applicant's business checking account. See Brito Tr. 2 at p.101. Neofytides is listed on that account as the corporation's secretary. See id. at p.117, Exh. 7. He signed checks and made other decisions on behalf of the Applicant and dictated how Brito would be paid. See, e.g., Brito Tr. 2 at pp.101, 112-14.

The Applicant also provided false information regarding its office address and its affiliation with other business entities. The Applicant falsely disclosed 29 Spring Brook Lane, Hillsdale, NY ("29 Spring Brook Lane"), as the Applicant's main office, mailing and garage address. See Instant Application at p.1. That address, which is owned by Neofytides' sister, is also the disclosed office and garage address for Mac Hudson, which is operated by Neofytides.

⁸ Neofytides is listed as the CEO of P & S Kingswood Corporation on the New York State Department of State website.

⁹ During his testimony, Brito denied his prior statements to the Commission regarding Neofytides' control over the Applicant. See Brito Tr. 2 at p.91. However, Brito's testimony made clear that Neofytides exerted control over the Applicant's financial affairs. For example, while reviewing Exh. 7, the business account's signature cards, Brito was asked, "And at the time that the account was opened, was Peter [Neofytides] present?" Brito testified, "I think we were – let me think. The 25th of July, 2008, yeah. Pete arrived there. He arrived there, he sat down and he said that we should open the account, that he would – he was going to find a lot of clients for us because he has a lot of friends, and he was going to charge him [sic] for all the clients that he would acquire for us. He was going to ask for 60 percent, 60 or 40 something. Yes, that's what I remember. That's why I also told Angelo I don't want anything to do with him." See id. at p.101.

See License Application for Mac Hudson at p.1; Brito Tr. 2 at pp.92, 129.¹⁰ The Applicant's actual business address was located at 36-31 10th Street, Long Island City, New York, a fact that Brito confirms. See id. at pp.20-21. The Applicant also disclosed the Long Island address in its New York State Department of State incorporation documents and on Brito's application with the New York City Department of Buildings for a general contractor license.

Moreover, Question 11 of the Instant Application asks, "Does the applicant business share any office space, staff or equipment (including, but not limited to, telephone lines) with any other business or organization?" See Instant Application at p.2. The Applicant answered, "No." Id. However, public records show and Brito's testimony confirms that the Applicant's Long Island City address was shared with other entities. See Brito Tr. 2 at p.77. More importantly, the Applicant shared offices with other related entities subsequent to the submission of the Instant Application. Specifically, a public records search shows that Mac Hudson, Mac Hudson Construction Corp., Armteck and Associates Corp., and RJB Contracting Carting Corp. all conduct business out of the Long Island City office location.¹¹ Additionally, Brito testified that the Applicant occupies a small space in a trailer that it shares with the aforementioned entities. See, e.g., id. at pp.76-78.¹² Thus, the Applicant falsely denied sharing office space and office personnel with other entities. See, e.g., id. at pp.81-82.

The Applicant is required to disclose all vehicle operators on Schedule D of the Instant Application. See Instant Application at p.18. Despite the fact that the Instant Application disclosed Brito as the Applicant's president, sole owner and operator, the Commission's investigation and Brito's own testimony refutes this. See, e.g., Brito Tr. 2 at p.115. First, although the Applicant did not disclose any vehicle operators, the Commission's investigation revealed that the Applicant did employ drivers, a fact Brito also confirmed. See id. at pp.72-73. As discussed above, Angel M. Vega was employed by the Applicant as a vehicle operator when Commission investigators observed the Applicant operating without the required Commission registration. See Notice of Violation for Unlicensed or Unregistered Activity TW-209358. Additionally, Commission investigators discovered Wilson Arias Oquendo to be an operator for the Applicant in similar fashion. See Notice of Violation TW-3716.¹³ Neither driver was disclosed on the Instant Application.

¹⁰ During his testimony, Brito maintained that he did not know who owns the disclosed location, who he leases it from or how much he pays to rent the space. See id. at pp.27-29. Brito further testified that he did not recall ever having an office there or being at this location. Id. Furthermore, despite his inability to recall ever visiting the location, Brito testified that he thought the location is a commercial lot. Id. Contrary to Brito's testimony, the disclosed address is a large residential home in Columbia County, approximately three hours from New York City, and owned by Kyriaktsa Neofytides, Peter Neofytides' sister. On April 8, 2016, Kyriaktsa Neofytides was disclosed as an "employee" of Mac Hudson. See file for list of employees for Mac Hudson.

¹¹ Mac Hudson Construction Corp. was incorporated in April 2012. Notably, like the Applicant and others, the entity also used the 29 Spring Brook Lane address as its business address, but operated out of Long Island City.

¹² Brito initially testified that he did not know or recall who owned, managed or supervised any of the entities with whom he shared a small office space. See, e.g., Brito Tr. 2 at pp.36, 63-65. He later acknowledged that both Markatos and Neofytides were involved in the affairs of the entities. See, e.g., id. at pp.36, 95, 129, 133.

¹³ On May 17, 2009, Commission investigators stopped one of the Applicant's vehicle, operated by Oquendo, and issued an administrative violation against the Applicant for failure to label its vehicle properly in violation of Title 17 RCNY § 7-03(b). See Notice of Violation TW-3716. Oquendo has also been disclosed as a vehicle operator for

False Statements During Sworn Testimony

Similar to the false and misleading information on the Instant Application, Brito gave false and misleading testimony to the Commission with respect to Neofytides' involvement in the Applicant's business. Initially, Brito testified that he did not know Neofytides well and had never met him. See Brito Tr. 2 at pp.94-96. Brito then admitted he may have conversed with Neofytides in passing. See id. at p.96.¹⁴ Brito also testified that Neofytides did not have any role in the Applicant's business and did not sign any checks on behalf of the Applicant. See id. at pp.94, 97.

When confronted with a copy of the Applicant's bank signature cards listing Neofytides as secretary of the Applicant, Brito acknowledged that, in 2008, he met with Neofytides (and Markatos) immediately prior to the opening of the Applicant's business account. See id. at p.101. However, Brito maintained that he severed all ties to Neofytides after opening the bank account. See, e.g., id. at p.101, 108. Only after he was presented with a check from the Applicant from the year 2011, did Brito acknowledge that Neofytides may have, in fact, signed business checks on behalf of the Applicant. See id. at p.110.¹⁵ When asked why Neofytides would sign checks on behalf of the Applicant, Brito testified that "Angelo [Markatos] brought him in as secretary. I don't know why. I can't remember that time. I don't know why he did that." See id. at p.126. When Brito was presented with yet another check from the Applicant from 2013, Brito acknowledged that the check was signed by both Markatos and Neofytides, again stating that "Angelo [Markatos] put him as secretary so he gave him authorization to sign the checks." See id. at pp.131-32; Exh. 8.

BASIS FOR DENIAL

1. The Applicant Knowingly Provided False and Misleading Information to the Commission in Connection with the Application.

All applicants must provide truthful information to the Commission. A knowing failure to do so is a ground for denial of the application. See Admin. Code §§ 16-509(a)(i); 16-509(b); Attonito v. Maldonado, 3 A.D.3d 415 (1st Dept. 2004), leave denied 2 N.Y.3d 705 (2004); Breeze Carting Corp. v. The City of New York, 52 A.D.3d 424, 860 N.Y.S.2d 103 (1st Dept. 2008). The Applicant provided untruthful information to the Commission in the Instant Application in several respects. Each false and misleading statement is an independent ground for denial.

Mac Hudson in August 2012. Notably, Wilson Arias Oquendo is now disclosed as principal of Armtech Industries Corp. (BIC #475075).

¹⁴ Brito's contention that he did not know Neofytides well is not credible given that Brito testified he has been working for Neofytides since approximately 1999 on numerous projects. See Brito Tr. 2 at p.95. Brito also testified that he considers Neofytides to be cheap and stated that Neofytides pays his employees late and has an attitude when paying them. See id. at pp.95, 104. Such characterizations demonstrate that Brito is clearly familiar with Neofytides.

¹⁵ This admission contradicts Brito's earlier testimony where he testified that no one other than himself signed checks on behalf of the Applicant, despite having acknowledged Markatos as signatory on the Applicant's business account. See id. at pp.37-39.

a) The Applicant Failed to Disclose Angelo Markatos as a Principal.

The Applicant failed to disclose Angelo Markatos as a principal of the Applicant on Schedule A of the Instant Application. See Instant Application at p.13. This failure is a material omission and is contradicted by Brito's sworn testimony. Section 16-501(d) of the Administrative Code, defines "principal" as, among other things, "all other persons participating directly or indirectly in the control of such business entity." Admin. Code § 16-501(d). Clearly, under this definition, Markatos was a principal of the Applicant, who was required to be disclosed as such on the Instant Application.

In his testimony, Brito continuously referred to Markatos' direct control over the Applicant's affairs. In fact, Markatos' role with regards to the Applicant is so extensive that it is unclear exactly what control Brito had over the Applicant's business and affairs. See id. at p.113.¹⁶ Brito referred to Markatos as the "mastermind," who ran the Applicant's business from the time the Applicant was incorporated to the present. See id. at pp.19-20. Brito's claim that he did not disclose Markatos (or Neofytides) as a principal because the Applicant and the Instant Application were under his name is both baseless and not credible. See id. at pp.115-17.

b) The Applicant Failed to Disclose Peter Neofytides as a Principal.

The Applicant also failed to disclose Peter Neofytides as a principal on the Instant Application. See Instant Application at p.13. Brito referred to Neofytides as his partner. See June 10, 2015 Memo. Neofytides was also disclosed as the corporate secretary for the Applicant's business account and signed checks on the Applicant's behalf. See Exhs. 7, 8. Thus, Neofytides clearly asserted direct control over the Applicant and its business affairs. Brito's claim that Neofytides' involvement ended shortly after opening the Applicant's business account is contradicted by Brito's own testimony acknowledging Neofytides' signature on payroll checks issued almost a decade after that meeting. See Brito Tr. 2 at p.126.

c) The Applicant Provided False and Misleading Information about Its Business Addresses and Affiliation with Other Businesses.

The Applicant provided false and misleading information to the Commission by disclosing false business, mailing and garage addresses. Brito's claim that he could not recall ever visiting the disclosed property, and his description of the property as a commercial lot,¹⁷ demonstrates that Brito likely has never been on the premises, let alone conducted business there.

The claim that the Applicant did not share offices with other businesses or organizations is also false. As discussed above, public records and Brito's own admissions refute that claim. In fact, the Applicant shared offices with at least five other organizations when it submitted the Instant Application and four other entities since submitting the Instant Application. See Brito Tr.

¹⁶ Throughout his testimony, Brito repeatedly referred to himself as merely a laborer. See Brito Tr. 1 at p.24; Brito Tr. 2 at pp.134-35.

¹⁷ As noted above, the property is, in fact, a residence.

2 at p.77. The failure to disclose this fact was clearly intentional: the entities that the Applicant failed to disclose all were closely connected to Neofytides and Markatos.¹⁸

d) The Applicant Provided False and Misleading Information regarding Its Vehicle Operators.

The Applicant also provided false and misleading information when it failed to disclose its vehicle operators on the Instant Application. To date, the Applicant has not amended the Instant Application to disclose any of its vehicle operators, even after being caught by Commission investigators with undisclosed operators driving its vehicles.

The fact that the Applicant repeatedly made false statements on the Instant Application (through both misstatements and material omissions) demonstrates that the Applicant lacks good character, honesty, and integrity. The Applicant has not refuted any of these points. Accordingly, the Commission denies the Instant Application on this independently sufficient basis. See Admin. Code §§ 16-509(a)(i); 16-509(b).

2. The Applicant's Principal Provided False and Misleading Information During His Sworn Testimony Before the Commission.

The Commission has the power “[t]o investigate any matter within the jurisdiction conferred by [Local Law 42] and [has] full power to compel the attendance, examine and take testimony under oath of such persons as it may deem necessary in relation to such investigation, and to require the production of books, accounts, papers and other evidence relevant to such investigation.” See Admin. Code § 16-504(c). Moreover, the Commission may refuse to issue a registration to an applicant who has provided false and misleading information to the Commission. See Admin. Code § 16-509(a)(i); Attonito v. Maldonado, 3 A.D.3d 415 (1st Dept. 2004) leave denied 2 N.Y.3d 705 (2004); Breeze Carting Corp. v. The City of New York, 52 A.D.3d 424, 860 N.Y.S.2d 103 (1st Dept. 2008). Here, the Applicant provided the Commission with false and misleading testimony in two sworn interviews with the Commission.

Brito mischaracterized Neofytides’ involvement in and control and management of the Applicant. Brito initially attempted to minimize Neofytides’ involvement with the Applicant and maintained he did not want anything to do with Neofytides. See id. at p.100 (testifying, “I remember that I told Angelo I don’t want anything to do with Peter. I want Peter out of this and then I signed this and then that’s where this ended”). Later in his testimony, Brito reiterated that Neofytides’ involvement ended shortly after opening the Applicant’s business account. See id. at p.108. In fact, even after he was presented with evidence to the contrary (a check signed by Neofytides), Brito continued to deny Neofytides’ involvement in the Applicant’s business. See id. at pp.111-12 (stating that Neofytides had nothing to do with Brito or the Instant Application).

¹⁸ As discussed above, Stavros Waste Services, Inc., Mac Hudson and Armtch Industries Corp. have filed applications with the Commission. None of the applications submitted disclosed Neofytides or Markatos as principals or employees of the companies, displaying a pattern of deliberate and calculated behavior. In fact, the only disclosure came in a recent response to the Commission’s request for information from Mac Hudson. Mac Hudson submitted a list of “employees,” which included Neofytides. See file for list of employees for Mac Hudson.

Brito's repeated mischaracterization of Neofytides' role in the Applicant's business, even when presented with evidence contradicting Brito's statements, further demonstrates that the Applicant and its disclosed principal lack good character, honesty and integrity. Accordingly, the Commission denies the Instant Application on this independently sufficient basis. See Admin. Code §§ 16-509(a)(i); 16-509(b).

3. The Applicant and an Undisclosed 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). The Applicant owes \$43,675 in federal taxes from 2014 and 2015. Additionally, the Applicant's undisclosed principal, Neofytides, has accumulated unpaid judgments totaling \$607,040.76. The Applicant has not refuted these points. These outstanding judgments are an independently sufficient basis for denial of the Instant Application. Accordingly, the Commission denies the Instant Application on this independently sufficient basis. See Admin. Code §§ 16-509(a)(i); 16-509(b).

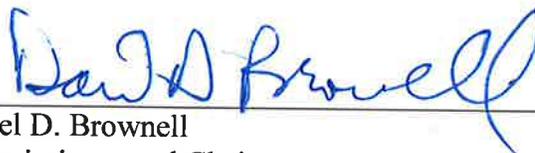
CONCLUSION

The Commission is vested with broad discretion to refuse to issue a license or registration to any applicant it determines lacks good character, honesty and integrity. Based on the record set forth above, the Applicant has demonstrated that it lacks those characteristics. Accordingly, based on the above independently sufficient grounds, the Commission denies the registration application of RJB Contracting Corp.

This denial decision is effective immediately. RJB Contracting Corp. may not operate as a trade waste business in the City of New York.

Dated: June 22, 2016

THE NEW YORK CITY
BUSINESS INTEGRITY COMMISSION



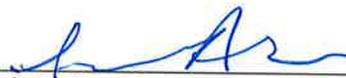
Daniel D. Brownell
Commissioner and Chair



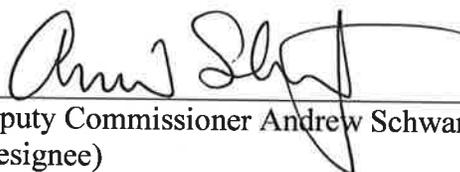
Commissioner Kathryn Garcia
Department of Sanitation



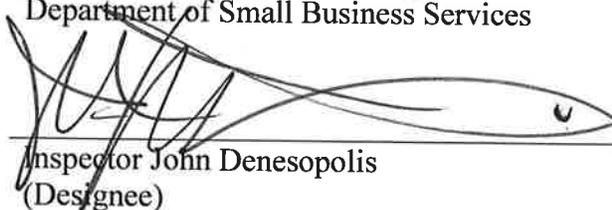
Chantal Senatus, Deputy General Counsel
(Designee)
Department of Investigation



Assistant Commissioner Sandra Abeles
(Designee)
Department of Consumer Affairs



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



Inspector John Denesopolis
(Designee)
New York City Police Department