



THE CITY OF NEW YORK
BUSINESS INTEGRITY COMMISSION
100 CHURCH STREET, 20TH FLOOR
NEW YORK, NEW YORK 10007

DECISION OF THE BUSINESS INTEGRITY COMMISSION DENYING THE EXEMPTION APPLICATION OF ULTIMATE CONCRETE WORKS INC. FOR A REGISTRATION TO OPERATE AS A TRADE WASTE BUSINESS

Ultimate Concrete Works Inc. (“UCW” or the “Applicant”) has applied to the New York City Business Integrity Commission (“Commission”), formerly known as the New York City Trade Waste Commission, for an exemption from licensing requirements and a registration to operate a trade waste business pursuant to Local Law 42 of 1996. See Title 16-A of the New York City Administrative Code (“Admin. Code”), § 16-505(a). Local Law 42, which created the Commission to 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.

On December 12, 2006, UCW applied to the Commission for an exemption from licensing requirements and for a registration enabling it to operate a trade waste business “solely engaged in the removal of waste materials resulting from building demolition, construction, alteration or excavation” – a type of waste commonly known as construction and demolition debris, or “c & d.” Admin. Code § 16-505(a). Local Law 42 authorizes the Commission to review and determine such applications for exemptions. See id. If, upon review and investigation of the exemption application, the Commission grants the applicant an exemption from licensing requirements applicable to businesses that remove other types of waste, the applicant will be issued a registration. See id.

In determining whether to grant an exemption from licensing requirements and a registration to operate a construction and demolition debris removal business, the Commission considers the same types of factors that are pertinent to the Commission’s determination whether to issue a license to a business seeking to remove other types of waste. See, e.g., Admin Code § 16-504(a) (empowering Commission to issue and establish standards for issuance, suspension, and revocation of licenses and registrations); compare Title 17, Rules of the City of New York (“RCNY”) §§ 1-06 & 2-02 (specifying information required to be submitted by license applicant) with id. §§ 1-06 & 2-03(b) (specifying information required to be submitted by registration applicant); see also Admin. Code §16-513(a)(i) (authorizing suspension or revocation of license or registration for violation of Local Law 42 or any rule promulgated pursuant thereto). Central to the Commission’s investigation and determination of an exemption application

is whether the applicant has business integrity. See 17 RCNY § 1-09 (prohibiting numerous types of conduct reflecting lack of business integrity, including violations of law, knowing association with organized crime figures, false or misleading statements to the Commission, and deceptive trade practices); Admin. Code § 16-509(a) (authorizing Commission to refuse to issue licenses to applicants lacking “good character, honesty and integrity”).

Based upon the record as to the Applicant, the Commission, for the following independently sufficient reasons, denies UCW’s exemption application and refuses to issue UCW a registration:

- The Applicant Provided False and Misleading Information to the Commission by Failing to Disclose a Principal of the Applicant in its Exemption Application
- The Applicant Knowingly Failed to Provide Information and Documentation Required by the Commission

I. REGULATORY BACKGROUND

A. The New York City Carting Industry

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

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

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

The Commission's regulatory and law-enforcement investigations have confirmed that organized crime has long infiltrated the construction and demolition debris removal sector of the carting industry as well as the garbage hauling sector that was the focus of the Manhattan District Attorney's prosecution. In light of the close nexus between the c & d sector of the carting industry and the construction industry, mob influence in the former should come as no surprise. The construction industry in New York City has been corrupted by organized crime for decades. See, e.g., James B. Jacobs, Gotham Unbound: How New York City Was Liberated from the Grip of Organized Crime 96-115 (1999) (detailing La Cosa Nostra's influence and criminal activity in the concrete, masonry, drywall, carpentry, painting, trucking, and other sectors of the City's construction industry).

Moreover, the c & d sector of the carting industry has been a subject of significant federal prosecutions over the past decade. In 1990, Anthony Vulpis, an associate of both the Gambino and the Genovese organized crime families, Angelo Paccione, and six waste hauling companies owned or controlled by them were convicted of multiple counts of racketeering and mail fraud in connection with their operation of a massive illegal landfill on Staten Island. See United States v. Paccione, 949 F.2d 1183, 1186-88 (2d Cir. 1991), cert. denied, 505 U.S. 1220 (1992). Many c & d haulers dumped their loads at this illegal landfill, which accumulated 550,000 cubic yards of refuse over a mere four-month period in 1988; during that period, "the City experienced a sharp decline in the tonnage of construction waste deposited" at its Fresh Kills landfill, as well as "a concomitant decline in revenue" from the fees that would have been charged for dumping at a legal landfill. 949 F.2d at 1188. The trial judge described this scheme as "one of the largest and most serious frauds involving environmental crimes ever prosecuted in the United States." United States v. Paccione, 751 F. Supp. 368, 371 (S.D.N.Y. 1990).

Another illegal waste disposal scheme also prominently featured haulers of construction and demolition debris. This scheme involved certain "cover" programs instituted by the City of New York at Fresh Kills, under which the City obtained materials needed to cover the garbage and other waste dumped at the landfill. Under the "free cover" program, transfer stations and carting companies could dispose of "clean fill" (i.e., soil uncontaminated by debris) at Fresh Kills free of charge. Under the "paid cover" program, the City contracted with and paid carting companies to bring clean fill to Fresh Kills. Numerous transfer stations and carters, however, abetted by corrupt City sanitation workers, dumped non-qualifying materials (including c & d) at Fresh Kills under the guise of clean fill. This was done by "cocktailing" the refuse: Refuse was

placed beneath, and hidden by, a layer of dirt on top of a truckload. When the trucks arrived at Fresh Kills, they appeared to contain nothing but clean fill, which could be dumped free of charge.

In 1994, twenty-eight individuals, including numerous owners of transfer stations and carting and trucking companies, were indicted in connection with this scheme, which deprived the City of approximately \$10 million in disposal fees. The indictments charged that from January 1988 through April 1992, the defendants participated in a racketeering conspiracy and engaged in bribery and mail fraud in connection with the operation of the City's "cover" programs. The various hauling companies, from Brooklyn, Queens, and Staten Island, were charged with paying hundreds of thousands of dollars in bribes to Department of Sanitation employees to allow them to dump non-qualifying materials at Fresh Kills without paying the City's tipping fees. See United States v. Cafra, et al., No. 94 Cr. 380 (S.D.N.Y.); United States v. Barbieri, et al., No. 94 Cr. 518 (S.D.N.Y.); see also United States v. Caccio, et al., Nos. 94 Cr. 357,358, 359, 367 (four felony informations). Twenty-seven defendants pleaded guilty in 1994 and 1995, and the remaining defendant was found guilty in 1996 after trial.

In sum, the need to root organized crime and other forms of corruption out of the City's waste removal industry applies with equal force to the garbage hauling and the c & d sectors of the industry. Local Law 42 recognizes this fact in requiring c & d haulers to obtain registrations from the Commission in order to operate in the City.

B. Local Law 42

Upon the enactment of Local Law 42, the Commission assumed regulatory authority from the Department of Consumer Affairs ("DCA") for the licensing and registration of businesses that remove, collect, or dispose of trade waste. See Admin. Code § 16-503. "Trade waste" is broadly defined and specifically includes "construction and demolition debris." Id. § 16-501(f)(1). The carting industry quickly challenged the new law, but the courts have consistently upheld Local Law 42 against repeated constitutional challenges (both facial and as applied) by New York City carters. See, e.g., Sanitation & Recycling Industry, Inc. v. City of New York, 928 F. Supp. 407 (S.D.N.Y. 1996), aff'd, 107 F.3d 985 (2d Cir. 1997); Universal Sanitation Corp. v. Trade Waste Comm'n, No. 96 Civ. 6581 (S.D.N.Y. Oct. 16, 1996); Vigliotti Bros. Carting Co. v. Trade Waste Comm'n, No. 115993/96 (Sup. Ct. N.Y. Cty. Dec. 4, 1996); Fava v. City of New York, No. CV-97-0179 (E.D.N.Y. May 12, 1997); Imperial Sanitation Corp. v. City of New York, No. 97 CV 682 (E.D.N.Y. June 23, 1997); PJC Sanitation Services, Inc. v. City of New York, No. 97-CV-364 (E.D.N.Y. July 7, 1997). The United States Court of Appeals has definitively ruled that 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).

Local Law 42 specifically permits the Commission to refuse to issue a registration to an applicant "who has knowingly failed to provide the information and/or documentation required by the commission pursuant to [Title 16 of the Administrative

Code or any rules promulgated thereto]" or "who has otherwise failed to demonstrate eligibility for such license." Admin. Code §16-509(b). Applicants who knowingly fail to provide information required by the Commission (whether they fail to provide the information altogether or they provide false and misleading information) fall under the first prong. In Attonito v. Maldonado, 3 A.D.3d 415 (1st Dept. 2004); *leave denied*, 2 N.Y.3d 705 (2004), the Appellate Division affirmed the authority of the Commission to "review" exemption applications, to fully investigate any matter within its jurisdiction and to deny such applications in those cases "where the applicant fails to provide the necessary information, or knowingly provides false information." It further affirmed the authority of the Commission to investigate the accuracy of the information provided in an application. Id.

Applicants who fail to demonstrate good character, honesty and integrity using the criteria by which license applicants are judged fall under the second prong of §16-509(b). While the Appellate Division in Attonito did not directly address the second prong, by affirming the Commission's authority to investigate matters within the trade waste industry, it necessarily follows that the Commission need not ignore the results of its investigation that bear on an applicant's good character, honesty and integrity. Id.; accord Breeze Carting Corp. v. The City of New York, No. 107859/07 (Sup. Ct. N.Y. Cty. April 1, 2008)(Commission denial based on a criminal conviction, identification as an organized crime associate and false and misleading statements not considered arbitrary and capricious). Accordingly, the Commission evaluates whether applicants meet the fitness standard using the same criteria upon which license applicants may be denied, including:

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.

Admin. Code § 16-509(a)(i)-(x). While the presence of one of the above factors in the record of a registration applicant would not necessarily require a denial as a matter of law, the Commission may consider such evidence as a factor in determining overall eligibility.

II. DISCUSSION

On December 12, 2006, UCW filed application for an exemption from licensing and a trade waste registration. See UCW Application. The staff has conducted an investigation of the Applicant and its principals. Although UCW purports to be a trucking company owned by Sharon Moccia in which her husband, Angelo Moccia, is merely a driver (UCW Application at 9, 14), the staff's investigation established that Angelo Moccia is the principal manager and UCW's sole stockholder and that Sharon Moccia is ignorant about even the most basic operational aspects of UCW's business. See Transcript of Sharon Moccia's Testimony ("Moccia Tr.") at 26-27, 34, 45, 49-50. It is not necessary to establish a motive for the Applicant's failure to disclose Angelo Moccia's role, but under the circumstances, it is reasonable to assume that the Applicant sought to conceal Angelo Moccia's 2003 felony drug conspiracy conviction, as well as the fact that one of Angelo Moccia's co-defendants was the son of a capo in the Gambino crime family.

On April 30, 2008, the staff issued a 12-page recommendation that the application be denied. The Applicant was served with the recommendation on May 1, 2008 and was granted ten business days to respond (May 15, 2008). See 17 RCNY §2-08(a). The

Applicant failed to submit a response, thereby leaving the evidence against it uncontested.

The record before the Commission demonstrates that UCW provided false and misleading information to the Commission and failed to provide information and documentation required by the Commission. Accordingly, the Commission denies UCW's exemption application and refuses to issue UCW a trade waste registration.

A. The Applicant Provided False and Misleading Information to the Commission by Failing to Disclose a Principal of the Applicant in its Exemption Application

All Applicants must provide truthful and non-misleading information to the Commission. A knowing failure to do so is a ground for denial of the application. *See* Admin. Code §16-509(b); *Attonito v. Maldonado*, 3 A.D.3d 415 (1st Dept. 2004); *leave denied* 2 N.Y.3d 705 (2004); *Breeze Carting Corp. v. The City of New York*, No. 107859/07 (Sup. Ct. N.Y. Cty. April 1, 2008). UCW's application is contradicted by its supporting attachment and Sharon Moccia's testimony. Accordingly, the Commission cannot place any confidence in UCW's application, finds it unreliable and denies UCW's application.

The exemption application filed by UCW asks in Question 12, "On Schedule A, identify all individuals who are principals of [the] applicant business." *See* UCW Application at 2. Schedule A disclosed only one principal – Sharon Moccia, President of UCW - and further stated that Sharon Moccia owned 100% of the company's stock from September 25, 2002¹ until the date the application was filed (December 12, 2006). *Id.* at 9. Moccia signed a sworn certification under penalty of perjury that she "read and understood the questions contained in the attached application and its attachments" and "that to the best of [her] knowledge the information provided in response to each question and in the attachments is full, complete and truthful." *Id.* at 16.

However, UCW's application contained attachments that directly contradict Moccia's sworn application that she has always been the sole stockholder of UCW. According to the Applicant's 2005 federal tax return,² the sole stockholder of UCW was not Sharon Moccia, but her husband Angelo Moccia. UCW's 2005 federal tax return asked, "At the end of the tax year, did any individual, partnership, estate, or trust own, directly or indirectly, 50% or more of the corporation's voting stock?" UCW marked "Yes." The return further asked, "If 'Yes,' attach a schedule showing name and identifying number." UCW stated "Angelo Moccia" and provided his social security number. Sharon Moccia was not listed on the schedule attached to the tax return as a stockholder. *See* UCW 2005 Federal Tax Return.³ If the tax return was truthful and accurate, Angelo Moccia should have been disclosed as a principal of UCW by virtue of his direct stock ownership of UCW. *See* NYC Admin. Code §16-501(d) ("principal"

¹ UCW was incorporated on September 25, 2002.

² The tax return for the 2005 calendar year attached to UCW's application was the most recent tax return that had been completed when UCW filed its application with the Commission in December 2006.

³ The 2005 tax return was prepared by Luigi J. Moccia, the accountant for UCW. Luigi Moccia is the brother-in-law of Sharon Moccia and the brother of Angelo Moccia.

includes "every stockholder holding ten percent or more of the outstanding shares of the corporation"). On the other hand, if the tax return was untruthful and/or inaccurate, the applicant provided misleading information to the Commission that contradicted its application. Either scenario reflects poorly on UCW's fitness to hold a trade waste registration.

In any event, regardless of stock ownership, Angelo Moccia is a principal of UCW based on his significant involvement in the operations of this company. See NYC Admin. Code §16-501(d)("principal" shall include all "persons participating directly or indirectly in the control of such business entity."). According to Sharon Moccia's pre-testimony questionnaire, her husband is the "supervisor" of UCW and has been so from UCW's inception. See Moccia Questionnaire at 4. During her testimony, Moccia testified that Angelo Moccia was a "foreman," "in charge of jobs" and "a supervisor." See Moccia Tr. at 26-27. She further testified that Angelo Moccia has the authority to use the credit card on behalf of the company, to negotiate vehicle purchases and to obtain financing for purchased vehicles. Id. at 39. Sharon Moccia testified that her husband makes the decisions regarding subcontracting work to other companies, handles the court proceedings for summonses received by UCW, pays the administrative fines and retrieves impounded vehicles. Id. at 34, 44. She also admitted that her husband even helped create the name of the company. Id. at 26. Sharon Moccia testified that her husband is the "boss" of UCW, along with her. Id. at 45. Based on Sharon Moccia's testimony regarding Angelo Moccia's significant "control" of UCW, he is a principal of the company and should have been disclosed in the application.

Angelo Moccia's supervisory status is corroborated by the observations of police officers from the NYC Department of Sanitation ("DSNY"). On May 26, 2006, a DSNY police officer observed a vehicle registered to the applicant illegally dump a load of broken concrete at a location in Brooklyn. The officer noted in his report that a supervising lieutenant arrived at the scene and interviewed the UCW driver as well as "his boss Angelo." See DSNY Report of Officer Colon.⁴ Sharon Moccia testified that her husband responded to the location after the driver was cited and that he was the only Angelo who worked for UCW. See Moccia Tr. at 45.

In addition, Sharon Moccia's ignorance of most of the company's operations and her minor contribution to the company, despite her purported status as the sole owner and officer of UCW, are further evidence that Angelo Moccia runs the company and is the true principal of UCW. Moccia testified that she merely handles the "paperwork" and has no involvement in the daily operations of the Applicant. See Moccia Tr. at 27. Nor does Sharon Moccia have any prior experience in the trucking or construction industry, unlike her husband, who worked "in the field since he [was] about 17, 18 years old" and most recently worked for MECC Contracting Inc. See Moccia Questionnaire at 4, 10; Moccia Tr. at 25-26.

⁴ Officer Colon issued two summonses for illegal dumping: one to UCW (Violation No. E136784643) and one to the driver, Paolo Frogiero (Violation No. E136784634). UCW and Frogiero were both found in violation of the offense of illegal dumping and each paid a fine of \$1,500. See ECB Database Entries for E136784643, E136784635.

Furthermore, Moccia repeatedly professed ignorance regarding most company operations. For example, Moccia did not know how much money was needed or spent to create the company, what kind of equipment was needed, when or where the equipment was purchased, whether it was financed or purchased outright, where the company garage is located, the amount of rent for the garage, the name of the garage landlord, the names of companies that subcontract for UCW, the approximate gross sales of the company, whether the company was making a profit or the factors that affect the cost of a concrete job. See Moccia Tr. at 31-36. Moccia testimony regarding the company's equipment appeared to be mostly guesswork:

Q: What kind of equipment did you need to start up the company?

A: I can't think of the name of what that thing is called. A bobcat.

Q: What is that?

A: It helps you to dig and stuff. It is like small.

Q: Where did you get the bobcat from?

A: I am not sure it it's - bobcat, I don't know. It's like, you know, when you get a car you go to a dealership. It is a dealership.

Q: Did you handle that?

A: No.

Q: Who handled that?

A: My husband.

Q: Do you know how much it was?

A: No, not offhand.

Q: Do you know if you purchased it outright or you financed it?

A: I am going to say we financed it. Am I guessing again now? Like am I guessing again?

Q: You tell me.

A: Can I look to see, because I am almost positive we financed it, and I could fax you something over to show that we financed it.

Id. at 31-32.

Q: How much do you pay for rent of the garage?

A: I am not positive with that. I'm going to have to let you know a lot of things.

Q: Who found the garage?

A: My husband.

Q: Do you know who you rent the garage from?

A: No.

Q: Do you have a lease?

A: I don't know.

Id. at 33-34.

Q: Who would make the decision to subcontract?

A: My husband.

Q: Do you know the names of any of the companies that you subcontract work to?

A: Offhand, no.

Q: In the past year, how many jobs would you say you subcontracted?

A: I am not really sure.

Q: At least one?

A: I would say more than that.

Q: Does it happen frequently or seldom?

A: I am not sure.

Id. at 34-35.

Moccia was even unsure about whether she designated her husband as an officer of the company; at first, she testified that her husband was a Vice President, but then claimed that she was not sure and even asked where the corporate officers were listed:

Q: Have you been the president since the beginning?

A: Yes.

Q: Has there ever been any other president?

A: No.

Q: Does the company have any vice presidents?

A: Just my husband. He helps me out basically, because he works like the field and stuff.

Q: So he is an officer of the company?

A: I am not sure. I think I'm just president. An officer would be written on the corporation, right? If I am not mistaken, wouldn't that be on the papers of that?

Q: Well, I'm asking you. It is your corporation. Who are the officers of your corporation?

A: I would say it's just me.

Q: Who is the owner of the company?

A: Me.

Q: You are the 100 percent owner?

A: Yes.

Q: Have you been the 100% owner from the beginning?

A: Yes.

Q: From the time you formed the company until now has anybody ever owned any piece of the company besides you?

A: No. It is pretty much me.

Q: What do you mean, it's pretty much you?

A: It has always been me. The only thing I'm thinking of, I am not sure if my husband is an officer like you just asked. That is the only thing I can't be sure. I believe it's just me.

Q: Who makes the decisions about who is going to be an officer of the company?

A: It would be me.

Q: Do you know if you have made your husband an officer of the company?

A: I don't think so. I don't think so.

Id. at 23-24.

Moccia also could not answer questions about why she decided to be the sole owner of UCW, claiming it was simply at her husband's suggestion:

Q: What made you decide that you would be 100 percent owner of the company rather than both of you?

A: I don't know. He asked me if I wanted to, and I said okay.

Id. at 26. Moccia's ignorance regarding the fundamental operations of UCW further supports the conclusion that Angelo Moccia was the true owner of the company and should have been disclosed as a principal in the application.

The staff's investigation into the background of Angelo Moccia revealed that he was convicted on October 20, 2003, in Queens County Supreme Court of the felony crime of Conspiracy in the Fourth Degree and sentenced to a term of five years probation. See Criminal History Report of Angelo Moccia. Moccia, along with 28 other defendants, including Christopher Carneglia (the son of John Carneglia, a captain in the Gambino organized crime family) participated in a drug crew that "reaped windfall profits of over

\$1 million a year.” See Queens County District Attorney’s Office Press Release, dated April 3, 2003. The indictment charged Angelo Moccia with aiding his brother, Pasquale Moccia, in the sale of over ½ ounce of cocaine to an undercover police officer in exchange for \$1,400.⁵ Simultaneous with the arrests of Angelo Moccia and his brother on April 3, 2003, narcotics detectives executed a search warrant at 153-23 79th Street, Ozone Park, NY - the home of Sharon and Angelo Moccia, the business address of UCW and the residence of Angelo’s brother. Pursuant to the warrant, detectives recovered several guns, a quantity of marijuana, drug paraphernalia and \$12,384 in cash.⁶ See Vouchers L737496, L737498, L737500, L737499, L737495 and L737497.

Moccia testified that she was aware of the convictions of her husband and his brother, but claimed ignorance about the details and placed the blame for her husband’s arrest on his brother. See Moccia Tr. at 51-53 (“Basically, I don’t know. His brother got in trouble, and they took my husband, too, and it was just basically – to be honest with you, I really don’t know, even know what it was for”).

Question 26 of the application asks the applicant to disclose all felony and misdemeanor convictions of any current principal of the company. See UCW Application at 5 (“Has the applicant business, or any current principal, ... ever been convicted of any misdemeanor or felony in any jurisdiction?”). UCW’s failure to disclose Angelo Moccia as a principal of the company was an unsuccessful attempt to conceal his felony narcotics conspiracy conviction. Nondisclosure was supposed to allow Sharon Moccia to avoid answering that question in the application. However, after Sharon Moccia was confronted with questions about her husband’s conviction during her sworn testimony, she began crying. See Moccia Tr. at 62.

The failure of the Applicant to provide truthful and non-misleading information to the Commission is evidence that the Applicant lacks good character, honesty and integrity. The Applicant failed to submit a response, thereby leaving the evidence against it uncontested. The Commission denies UCW’s application on this independently sufficient ground. See Admin. Code §§16-509(b); 16-509(a)(i).

B. The Applicant Has Knowingly Failed to Provide Information and Documentation Required by the Commission

“The commission may refuse to issue a license or registration to an applicant for such license or an applicant for registration who has knowingly failed to provide the

⁵ Angelo Moccia’s brother, Pasquale Moccia, was convicted of Conspiracy in the Second Degree on October 20, 2003 and was sentenced to 3.5 years to 10.5 years in prison. See Criminal History report for Pasquale Moccia.

⁶ Moccia testified that the cash recovered was earnings from UCW concrete jobs, not proceeds of drug sales. See Moccia Tr. at 60-61. This testimony lacks credibility given her ignorance regarding other aspects of the company’s finances: e.g., gross sales (“Q: Approximately what were the gross sales of the company in the past year? A: I would have to get back to you with that.”) and profit/loss status (“Q: Is the company making a profit? A: Barely, I would say. I’m not - I don’t know.”). Id. at 35-36. Moccia’s testimony regarding her family’s ability to support its standard of living also lacked credibility. Moccia could not explain how they afforded to pay their monthly mortgage payment of \$4,000, given her lack of salary, her husband’s minimal salary of \$25,000 and no other sources of income besides rental income of \$1,400 per month. Id. at 18-19, 23, 29-30.

information and/or documentation required by the commission pursuant to this chapter or any rules promulgated pursuant hereto.” See Admin. Code §16-509(b).

Subsequent to Sharon Moccia’s testimony, the staff requested follow-up information and documentation from UCW. On August 15, 2007, a staff attorney sent a letter to Sharon Moccia at UCW (by mail and fax) requesting financial documentation of UCW and Sharon and Angelo Moccia (including, among other things, corporate and personal tax returns, corporate and personal bank statements, and corporate and personal expenses). Sharon Moccia was informed that the response was due by September 14, 2007, and that requests for additional time needed to be submitted prior to the due date. The letter contained a warning that “the failure to provide the requested information and/or documentation may result in the withdrawal or denial of UCW’s application.” See BIC Letter to UCW, dated August 15, 2007. To date, no response has been received.

UCW was given a second opportunity to comply with the Commission’s request. On September 26, 2007, a staff attorney sent another letter to Sharon Moccia at UCW (by mail and fax) giving UCW another chance to provide the requested information. Moccia was informed that the response was due by October 12, 2007. The letter also warned Moccia that the “failure to provide the requested information will result in the withdrawal or denial of UCW’s application.” See BIC Letter to UCW, dated September 26, 2007. To date, no response has been received.

Despite repeated requests, the Applicant failed to provide the required information. “[T]he commission may refuse to issue a license or registration to an applicant for such license or an applicant for registration who has knowingly failed to provide the information and/or documentation required by the commission pursuant to this chapter or any rules promulgated pursuant hereto.” Admin. Code §16-509(b). By failing to respond to the Commission’s repeated requests, the Applicant has “knowingly failed to provide the information” required by the Commission and has demonstrated that it lacks good character, honesty and integrity. The Applicant failed to submit a response, thereby leaving the evidence against it uncontested. Based on this independently sufficient ground, the Commission denies the Applicant’s exemption/registration application.

III. CONCLUSION

UCW has not satisfied its burden of demonstrating its eligibility for a trade waste registration. “The commission may refuse to issue a license or registration to an applicant ... who has otherwise failed to demonstrate eligibility for such license under this chapter”. See Admin. Code §16-509(b). In addition, UCW “has knowingly failed to provide the information and/or documentation required by the commission” by providing false and misleading information in its application. Id. Based upon the above independently sufficient reasons, the Commission denies UCW’s exemption application and refuses to issue UCW a registration.

This exemption/registration denial is effective immediately. UCW may not operate as a trade waste business in the City of New York.

Dated: June 24, 2008

THE BUSINESS INTEGRITY COMMISSION



Michael J. Mansfield
Chairman



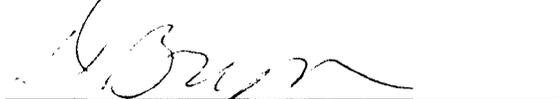
John Doherly, Commissioner
Department of Sanitation



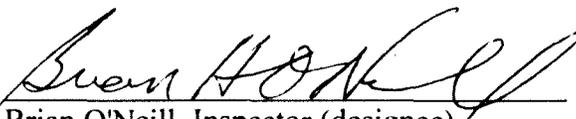
Rose Gill Hearn, Commissioner
Department of Investigation



Jonathan Mintz, Commissioner
Department of Consumer Affairs



Deborah Buyer, General Counsel (designee)
Department of Small Business Services



Brian O'Neill, Inspector (designee)
New York City Police Department

