



**DECISION OF THE BUSINESS INTEGRITY COMMISSION DENYING THE  
REGISTRATION RENEWAL APPLICATION OF VERA CONSTRUCTION INC. TO  
OPERATE AS A TRADE WASTE BUSINESS**

**Introduction**

Vera Construction Inc. (“Vera Construction” 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 renewal of 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” – a type of waste commonly known as construction and demolition debris, or “c & d.” See Title 16-A of the New York City Administrative Code (“Admin. Code”), §16-505(a).

On April 15, 2013 the staff issued and served the Applicant with Notice of the Grounds to Recommend that the Application be Denied. The Applicant was granted ten business days to respond, until April 25, 2013. See 17 Rules of the City of New York §2-08(a). The Applicant did not submit any response. Based upon the record as to the Applicant, the Commission now denies Vera Construction’s exemption renewal application because the Applicant lacks good character, honesty and integrity based on the following independently sufficient reasons:

- A. The Applicant Has Failed to Pay Taxes, Fines, Penalties, or Fees That are Related to the Applicant’s Business That are Owed to the New York City Environmental Control Board, the Commissioner of the State Insurance Fund, the Clerk of the Court Queens County Supreme Court and the Clerk of the Court Kings County Supreme Court.
  
- B. The Applicant Knowingly Failed to Provide Information and Documentation Required by the Commission.

**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. 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. International Brotherhood of Teamsters (Adelstein), 998 F.2d 120 (2d Cir. 1993); People v. Ass’n of Trade Waste Removers of Greater New York Inc. et al., Indictment No. 5614/95 (Sup. Ct. N.Y. Cty.); United States v. Mario Gigante et al., No. 96 Cr. 466 (S.D.N.Y.); People v. GNYTW, 701 N.Y.S.2d 12 (1<sup>st</sup> Dep’t 1999). The construction and demolition debris removal sector of the City’s carting industry 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, et al., No. 94 Cr. 380 (S.D.N.Y.); United States v. Barbieri, et al., No. 94 Cr. 518 (S.D.N.Y.); United States v. Caccio, et al., Nos. 94 Cr. 357,358, 359, 367.

The Commission is charged with, *inter alia*, combating the pervasive 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). It is this licensing scheme that continues to be the primary means of ensuring that an industry historically plagued with 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," commonly known as construction and demolition debris, or "C & D" removal, must apply to the Commission for an exemption from the licensing requirement. Id. If, upon review and investigation of an exemption application, the Commission grants the applicant an exemption from the licensing requirement, it issues the applicant a Class 2 registration. Id. Before issuing such registration, the Commission must evaluate the "good character, honesty and integrity of the applicant." Id. at §16-508(b). The New York City Administrative Code provides an illustrative list of relevant factors for the Commission to consider in making a licensing or registration decision:

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 §509(a)(i)-(x). Additionally, the Commission 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 §509(b). The Commission may refuse to issue a license or registration to an applicant when such applicant was previously issued a license which was revoked or not renewed, or where the applicant “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 §509(c). 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 §509(d).

An applicant for a private carting license (including construction and demolition) 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 Industry, Inc., 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). NY Admin. Code § 16-116.

### **Statement of Facts**

Vera Construction Inc. applied to the Commission for an exemption from licensing requirements and a registration to operate as a trade waste business that removes construction and demolition debris. See Registration Application (“Application”). The Application disclosed Luis E. Vera as the sole principal. See Registration Application at 9. On or about April 1, 2007, the Commission granted the Applicant a trade waste registration. See Registration Order. The Applicant’s registration has been effective since that date. Applicant filed the most recent renewal application (the “Pending Renewal Application”) on March 31, 2011.

In its review of the Pending Renewal Application, the Commission determined that:

- the Applicant had \$458,986.01 of pending New York City Environmental Control Board (“ECB”) fines;
- the Applicant had an unsatisfied judgment for \$127,416.30 filed by the Commissioner of the State Insurance Fund in the Supreme Court of the State of New York, New York County;
- the Criminal Court of the City of New York, Kings County, docketed a lien against Applicant for \$500.00
- the Criminal Court of the City of New York, Queens County, docketed a lien against Applicant for \$500.00

On August 23<sup>rd</sup>, 2012 a member of the Commission staff called Vera Construction to inform them that documentation reflecting the resolution of their significant debts needed to be provided to the Commission in order to move forward with their Pending Renewal Application. The Commission staff member spoke to Maria Rios, who indicated that Vera Construction would provide the Commission with the requested information related to the outstanding debts. Vera



Construction failed to submit any documentation, or otherwise respond to the Commission's request.

Having received no response, on October 19<sup>th</sup>, 2012, a member of the Commission staff again called Vera Construction and spoke with Maria Modar, who identified herself as Office Manager. Again, the Commission requested documentation reflecting that Vera's outstanding debts had been resolved. In a further effort to obtain such information, the Commission also sent the Applicant a letter, dated October 24, 2012, in which the Applicant was advised in writing of their specific debts, and was provided a detailed list of all ECB debt, including docket numbers and dates of violation. The Applicant was given a deadline of November 16<sup>th</sup>, 2012, and was advised that failure to provide the required information might result in the Pending Renewal Application being withdrawn or denied". This letter was sent via regular mail and registered mail to the address previously provided by the Applicant, and confirmed by Ms. Modar. See October 24, 2012 letter from the Commission to the Applicant.

Despite the November 16, 2012, deadline, the Applicant failed to respond to the Commission's request, and again failed to provide any information demonstrating that it had resolved its significant, outstanding fine. Phone messages were left for Ms. Modar on November 14 and November 19, 2012. On December 7, 2012, a member of the Commission's staff spoke to Ms. Modar, who indicated that Vera Construction was working with an attorney to reduce the ECB debt. The Commission instructed Ms. Modar to send written correspondence outlining Vera's Efforts to resolve their outstanding debts. Again, the Applicant failed to comply with such instruction. On December 20, a member of the Commission staff again spoke with Ms. Modar, who again told the Commission that she is working with an attorney to reduce the ECB debt. The Commission again requested this information in writing. No such paperwork was ever received by the Commission, nor has the Applicant responded to subsequent phone inquires or otherwise provided any documentation to indicate that it is addressing its outstanding debts.

According to a judgment and lien search conducted on April 1, 2013, the following judgments and liens have been docketed against the Applicant (totaling \$227,416.30):

Creditor	Filing Number	Amount
Criminal Court of the City of New York	1178053	\$500.00
Criminal Court of the City of New York	2736362	\$500.00
Commissioner of State Insurance Fund, NY	3058703	\$127,416.30

In addition, according to a search of the ECB database on April 1, 2013, fines totaling \$458,986.01 have been docketed against the Applicant. These fines are listed in Appendix A, attached.

In total, Vera Construction has \$587,402.31 in outstanding debt.



### **Basis for Denial**

**The Applicant Has Failed to Pay Taxes, Fines, Penalties, or Fees That are Related to the Applicant's Business That are Owed to the Criminal Court of the City of New York, the Commissioner of the State of the State Insurance Fund (New York) and the New York City Environmental Control Board.**

The commission may refuse to issue a license to an applicant "upon the failure of the applicant to pay any tax, fine, penalty, fee related to the applicant's business...for which judgment has been entered by a[n] ... administrative tribunal of competent jurisdiction..." See Admin. Code §16-509(a)(x); see also §16-509(c)(ii); see also §16-513(a)(iv).

As of the date of this Notice, the Applicant has failed to pay \$458,986.01 in fines ordered by the ECB. In addition, the Applicant failed to resolve judgments and liens in the amounts of \$127,416.30 owed to the Commissioner of the State Insurance Fund (New York) and \$1000.00 owed to the Criminal Court of the City of New York. On multiple occasions, the Commission's staff informed the Applicant that it owed numerous unsatisfied debts to governmental entities. Despite these warnings, the debts remain unsatisfied. For this independently sufficient reason, this Renewal Application is denied.

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

Despite repeated attempts by the Commission's staff, the Applicant has failed to provide proof of satisfaction or other resolution of the outstanding fines, judgments and liens owed to governmental entities.

The Applicant has "knowingly failed to provide the information" required by the Commission by failing to respond to the Commission's repeated requests for information and/or documentation. For this independently sufficient reason, this Renewal Application is denied.

Conclusion

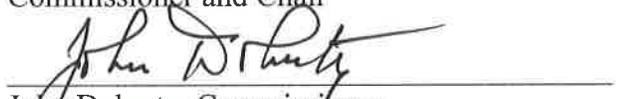
The Commission is vested with broad discretion to issue a license or refuse to grant an exemption from the license requirement and issue a registration in lieu of a license, to any applicant who it determines to be lacking in good character, honesty and integrity. The record as detailed above demonstrates that the Applicant falls short of that standard. Accordingly, based on the above independently sufficient reasons, the Commission denies the Applicant's exemption renewal application.

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

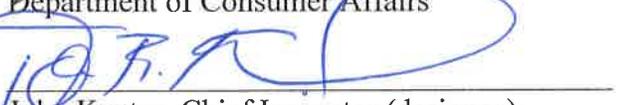
Dated: May 13, 2013

THE BUSINESS INTEGRITY COMMISSION

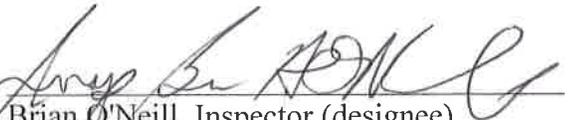
  
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Shari C. Hyman  
Commissioner and Chair

  
\_\_\_\_\_  
John Doherty, Commissioner  
Department of Sanitation

  
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Janet Lim, Assistant General Counsel (designee)  
Department of Consumer Affairs

  
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John Kantor, Chief Inspector (designee)  
Department of Investigation

  
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Kathleen Ahn, General Counsel (designee)  
Department of Small Business Services

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

## APPENDIX A



<u>Creditor</u>	<u>Violation Number</u>	<u>Amount</u>
NYC Environmental Control Board	0166656270	\$ 250.00
NYC Environmental Control Board	0155579050	\$5,000.00
NYC Environmental Control Board	0140865955	\$2,250.00
NYC Environmental Control Board	0140865964	\$ 750.00
NYC Environmental Control Board	000182776P	\$1,300.00
NYC Environmental Control Board	040630559X	\$ 100.00
NYC Environmental Control Board	040630560N	\$ 300.00
NYC Environmental Control Board	034582472M	\$ 500.00
NYC Environmental Control Board	050039770X	\$3,900.00
NYC Environmental Control Board	034627013J	\$1,000.00
NYC Environmental Control Board	034627011X	\$1,500.00
NYC Environmental Control Board	034627008P	\$ 800.00
NYC Environmental Control Board	034627009R	\$1,300.00
NYC Environmental Control Board	050039962K	\$9,750.00
NYC Environmental Control Board	050039964Y	\$9,750.00
NYC Environmental Control Board	034620746P	\$1,500.00
NYC Environmental Control Board	034635881J	\$2,500.00
NYC Environmental Control Board	0162012144	\$1,200.00
NYC Environmental Control Board	050040025Y	\$6,500.00
NYC Environmental Control Board	034565027J	\$2,500.00
NYC Environmental Control Board	0155579050	\$5,000.00
NYC Environmental Control Board	0162012135	\$2,250.00
NYC Environmental Control Board	034644029Z	\$ 250.00
NYC Environmental Control Board	034644031H	\$ 500.00
NYC Environmental Control Board	000252391P	\$3,920.00
NYC Environmental Control Board	000187244R	\$3,640.00
NYC Environmental Control Board	000252823J	\$1,820.00
NYC Environmental Control Board	034644030X	\$ 250.00
NYC Environmental Control Board	034690679H	\$2,400.00
NYC Environmental Control Board	034690678X	\$1,200.00
NYC Environmental Control Board	0162131669	\$2,250.00
NYC Environmental Control Board	034690038H	\$2,400.00
NYC Environmental Control Board	034690049N	\$ 500.00
NYC Environmental Control Board	0162370506	\$3,600.00
NYC Environmental Control Board	034706053J	\$ 415.00
NYC Environmental Control Board	034689554X	\$2,400.00
NYC Environmental Control Board	034714604R	\$12,000.00
NYC Environmental Control Board	050040375Y	\$15,600.00
NYC Environmental Control Board	034750193J	\$2,400.00
NYC Environmental Control Board	034759582Y	\$1,600.00
NYC Environmental Control Board	000260999N	\$ 572.00
NYC Environmental Control Board	0168696029	\$1,200.00
NYC Environmental Control Board	0169538610	\$3,600.00



NYC Environmental Control Board	0169538629	\$1,200.00
NYC Environmental Control Board	0169538638	\$3,600.00
NYC Environmental Control Board	0169538647	\$1,200.00
NYC Environmental Control Board	0169533980	\$5,000.00
NYC Environmental Control Board	0169557850	\$ 750.00
NYC Environmental Control Board	0169558400	\$1,200.00
NYC Environmental Control Board	0169563900	\$2,850.00
NYC Environmental Control Board	0169565918	\$3,600.00
NYC Environmental Control Board	034790434H	\$ 800.00
NYC Environmental Control Board	034799979Z	\$1,200.00
NYC Environmental Control Board	034802480Y	\$6,000.00
NYC Environmental Control Board	0176256237	\$2,400.00
NYC Environmental Control Board	0176256246	\$5,000.00
NYC Environmental Control Board	0168705049	\$1,200.00
NYC Environmental Control Board	0168707505	\$1,200.00
NYC Environmental Control Board	0169585269	\$5,000.00
NYC Environmental Control Board	0169585516	\$1,200.00
NYC Environmental Control Board	0170214010	\$3,600.00
NYC Environmental Control Board	034826809R	\$8,000.00
NYC Environmental Control Board	034826810Y	\$5,000.00
NYC Environmental Control Board	0176536571	\$2,400.00
NYC Environmental Control Board	0169533990	\$5,000.00
NYC Environmental Control Board	0170192083	\$3,600.00
NYC Environmental Control Board	0170199251	\$5,000.00
NYC Environmental Control Board	0176270656	\$ 750.00
NYC Environmental Control Board	0176532795	\$2,250.00
NYC Environmental Control Board	0176532804	\$5,000.00
NYC Environmental Control Board	0176532813	\$2,250.00
NYC Environmental Control Board	0176256035	\$1,200.00
NYC Environmental Control Board	0176256053	\$2,250.00
NYC Environmental Control Board	0176256062	\$5,000.00
NYC Environmental Control Board	0176256071	\$5,000.00
NYC Environmental Control Board	0176262873	\$1,200.00
NYC Environmental Control Board	034786066L	\$5,000.00
NYC Environmental Control Board	0176256154	\$2,250.00
NYC Environmental Control Board	0176256172	\$2,400.00
NYC Environmental Control Board	0176256181	\$1,200.00
NYC Environmental Control Board	0176256190	\$5,000.00
NYC Environmental Control Board	0176256228	\$5,000.00
NYC Environmental Control Board	0176506853	\$2,250.00
NYC Environmental Control Board	0177207416	\$2,250.00
NYC Environmental Control Board	0177207425	\$2,250.00
NYC Environmental Control Board	0177241076	\$5,000.00
NYC Environmental Control Board	0177241085	\$5,000.00



NYC Environmental Control Board	0176506835	\$5,000.00
NYC Environmental Control Board	0176506844	\$2,400.00
NYC Environmental Control Board	0176506862	\$5,000.00
NYC Environmental Control Board	0177207407	\$5,000.00
NYC Environmental Control Board	0177241121	\$5,000.00
NYC Environmental Control Board	0177241130	\$5,000.00
NYC Environmental Control Board	0177241159	\$5,000.00
NYC Environmental Control Board	034819942K	\$ 400.00
NYC Environmental Control Board	0176572963	\$1,200.00
NYC Environmental Control Board	0176256163	\$5,000.00
NYC Environmental Control Board	0177241195	\$5,000.00
NYC Environmental Control Board	0177241204	\$5,000.00
NYC Environmental Control Board	0177241094	\$2,250.00
NYC Environmental Control Board	0177241168	\$5,000.00
NYC Environmental Control Board	034850487N	\$ 800.00
NYC Environmental Control Board	0177193455	\$ 750.00
NYC Environmental Control Board	0177042021	\$1,200.00
NYC Environmental Control Board	0177042030	\$ 250.00
NYC Environmental Control Board	0177384341	\$ 750.00
NYC Environmental Control Board	0177385414	\$ 800.00
NYC Environmental Control Board	0177429176	\$ 750.00
NYC Environmental Control Board	034867697M	\$ 150.00
NYC Environmental Control Board	0178748507	\$1,200.00
NYC Environmental Control Board	0176820390	\$ 250.00
NYC Environmental Control Board	0176820436	\$ 250.00
NYC Environmental Control Board	0178825296	\$2,250.00
NYC Environmental Control Board	0178833775	\$5,000.00
NYC Environmental Control Board	034826241N	\$ 585.01
NYC Environmental Control Board	0178871799	\$5,000.00
NYC Environmental Control Board	0178878040	\$2,250.00
NYC Environmental Control Board	0176820445	\$ 50.00
NYC Environmental Control Board	0179056177	\$5,000.00
NYC Environmental Control Board	034890595R	\$ 250.00
NYC Environmental Control Board	034890594P	\$ 250.00
NYC Environmental Control Board	034890592L	\$ 400.00
NYC Environmental Control Board	034908003R	\$1,000.00
NYC Environmental Control Board	034902276P	\$ 1,200.00
NYC Environmental Control Board	034902278Z	\$ 400.00
NYC Environmental Control Board	034902277R	\$1,200.00
NYC Environmental Control Board	0178824939	\$1,000.00
NYC Environmental Control Board	034918269N	\$1,600.00
NYC Environmental Control Board	034918270K	\$2,400.00
NYC Environmental Control Board	034911359P	\$2,500.00
NYC Environmental Control Board	034911357L	\$4,000.00



NYC Environmental Control Board	0177376376	\$1,000.00
NYC Environmental Control Board	050043201H	\$8,450.00
NYC Environmental Control Board	034918268L	\$1,600.00
NYC Environmental Control Board	034918271M	\$2,400.00
NYC Environmental Control Board	0177376495	\$1,000.00
NYC Environmental Control Board	0179513950	\$ 750.00
NYC Environmental Control Board	034890593N	\$ 400.00
NYC Environmental Control Board	0177720850	\$ 300.00
NYC Environmental Control Board	0180096520	\$1,000.00
NYC Environmental Control Board	0175081996	\$ 300.00
NYC Environmental Control Board	0180452003	\$1,000.00
NYC Environmental Control Board	0180721063	\$ 780.00
NYC Environmental Control Board	000182236Y	\$3,380.00
NYC Environmental Control Board	034790746R	\$2,400.00
NYC Environmental Control Board	034790709H	\$ 400.00
NYC Environmental Control Board	034790711R	\$2,400.00
NYC Environmental Control Board	034790715Y	\$1,600.00
NYC Environmental Control Board	034859542H	\$ 800.00
NYC Environmental Control Board	000183764M	\$ 104.00
NYC Environmental Control Board	034689560M	\$8,000.00
NYC Environmental Control Board	0168681820	\$1,200.00

See ECB Database Search Results dated April 1, 2013. As of the date of this Notice, the abovementioned ECB violations remain open and unpaid.