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

Date 8/16/02
Time 1305
Name RAESH SABAHEW
Signature Raesh Sabahew

DECISION OF THE BUSINESS INTEGRITY COMMISSION TO DENY THE APPLICATION OF P&F TRUCKING, INC. FOR A LICENCE TO OPERATE A TRADE WASTE BUSINESS

By an application dated August 30, 1996, P&F Trucking, Inc. ("P&F" or "the Applicant"), applied to the New York City Business Integrity Commission for a license to operate as a trade waste business pursuant to Local Law 42 of 1996. See Title 16-A of the New York City Administrative Code ("Admin. Code"), §16-508. Local Law 42, which created the Commission to license and regulate the trade waste removal industry in New York City, was enacted to address pervasive organized crime and other corruption in the commercial carting industry, to protect businesses using private carting services, and to increase competition in the industry and thereby reduce prices.

Local Law 42 authorizes the Commission to refuse to issue a license to any applicant, who it determines, in the exercise of its discretion, lacks good character, honesty, and integrity. See Admin. Code §16-509(a). The statute identifies a number of factors that, among others, the Commission may consider in making its determination. See *id.* §16-509(a)(i)-(x). These illustrative factors include the failure to provide truthful information to the Commission, certain civil or administrative findings of liability, and certain associations with organized crime figures. Based upon the record as to P&F, the Commission finds, for the following independently sufficient reasons, that this applicant lacks good character, honesty, and integrity, and denies its license application:

- (1) The Applicant made monthly "compensation" payments to a convicted carter in accordance with the rules of the "property rights" system of the mob cartel;
- (2) The Applicant made false statements on its license application to cover-up its compensation payments;
- (3) The Applicant refused to provide information required by the Commission in the course of its licensing investigation of the applicant.

I. BACKGROUND

A. The New York City Carting Industry

Virtually all of the more than 200,000 commercial business establishments in New York City contract with private carting companies to remove and dispose of their

refuse. Historically, those services have been provided by several hundred companies. Beginning in the late 1950's, and until only recently, the commercial carting industry in the City was operated as an organized crime-controlled cartel engaging in a pervasive pattern of racketeering and anti-competitive practices. The United States Court of Appeals for the Second Circuit has described that cartel as "a 'black hole' in New York City's economic life":

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

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

Extensive evidence presented at lengthy City Council hearings addressing the corruption that historically has plagued this industry revealed the nature of the cartel: an entrenched anti-competitive conspiracy carried out through customer-allocation agreements among carters, who sold to one another the exclusive right to service customers, and enforced by organized crime-connected racketeers, who mediated disputes among carters. See generally Peter Reuter, Racketeering in Legitimate Industries: A Study in the Economics of Intimidation (RAND Corp. 1987). After hearing the evidence, the City Council found:

- (1) "that the carting industry has been corruptly influenced by organized crime for more than four decades";
- (2) "that organized crime's corrupting influence over the industry has fostered and sustained a cartel in which carters do not compete for customers";
- (3) that to ensure carting companies' continuing unlawful advantages, "customers are compelled to enter into long-term contracts with onerous terms, including 'evergreen' clauses";
- (4) "that the anti-competitive effects of this cartel have resulted, with few exceptions, in the maximum [legal] rates . . . effectively being the only rate available to businesses";
- (5) "that businesses often pay substantially higher amounts than allowed under the maximum rate because carters improperly charge or overcharge for more waste than they actually remove";
- (6) "that organized crime's corrupting influence has resulted in numerous crimes and wrongful acts, including physical violence,

threats of violence, and property damage to both customers and competing carting firms”;

- (7) “that recent indictments have disclosed the pervasive nature of the problem, the structure of the cartel, and the corruption it furthers through the activities of individual carters and trade associations”;
- (8) “that unscrupulous businesses in the industry have taken advantage of the absence of an effective regulatory scheme to engage in fraudulent conduct”; and
- (9) “that a situation in which New York City businesses, both large and small, must pay a ‘mob tax’ in order to provide for removal of trade waste is harmful to the growth and prosperity of the local economy.”

Local Law 42, § 1.

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

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

More carting industry indictments followed. In June 1996, both the Manhattan District Attorney and the United States Attorney for the Southern District of New York obtained major indictments of New York metropolitan area carters. The state indictments, against thirteen individuals and eight companies, were (like their 1995 counterpart) based upon undercover operations, including electronic surveillance intercepts, which revealed a trade waste removal industry still rife with corruption and organized crime

influence. The federal indictment, against seven individuals and fourteen companies associated with the Genovese and Gambino organized crime families (including the brother and nephew of Genovese boss Vincent "Chin" Gigante), included charges of racketeering, extortion, arson, and bribery. See United States v. Mario Gigante et al., No. 96 Cr. 466 (S.D.N.Y.). In November 1996, the Manhattan District Attorney announced a third round of indictments in his continuing investigation of the industry, bringing the total number of defendants in the state prosecution to thirty-four individuals, thirty-four companies, and four trade waste associations.

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

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

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

On February 13, 1997, the KCTW pleaded guilty to criminal restraint of trade and agreed to pay a \$1 million fine, and four individuals who were officers of or otherwise closely associated with the KCTW, as well as their affiliated carting companies, pleaded guilty to corruption charges. The Brooklyn carters who were the KCTW's principal representatives -- president Frank Allocca and vice-president Daniel Todisco -- pleaded

guilty to attempted enterprise corruption, as did Brooklyn carter Dominick Vulpis; each of their defendant companies pleaded guilty to criminal restraint of trade. Brooklyn carter and KCTW secretary Raymond Polidori also pleaded guilty to criminal restraint of trade, as did two related companies controlled by Polidori. These individual defendants agreed to pay fines ranging from \$250,000 to \$750,000, to serve sentences ranging from probation to 4½ years in prison, and to be permanently barred from the City's carting industry. The same day, Manhattan carters Henry Tamilly and Joseph Virzi pleaded guilty to attempted enterprise corruption and agreed to similar sentences, fines, and prohibitions. All six defendants confirmed the existence of the criminal cartel and admitted to specific instances of their participation in it.

On February 24, 1997, defendants Michael D'Ambrosio, Robros Recycling Corp., and Vaparo, Inc. all pleaded guilty in allocutions before New York Supreme Court Justice Leslie Crocker Snyder. D'Ambrosio pleaded guilty to attempted enterprise corruption, and his companies pleaded to criminal antitrust violations.

On July 21, 1997, Philip Barretti, another lead defendant in the state prosecution and the former owner of the City's largest carting company, pleaded guilty to two counts of attempted enterprise corruption and agreed to a prison sentence of 4½ to 13½ years and to pay \$6 million in fines, restitution, and civil forfeitures. Frank Giovinco, former head of the WPA, pleaded guilty to attempted enterprise corruption and agreed to a prison sentence of 3½ to 10½ years. Carters Paul Mongelli and Louis Mongelli also pleaded guilty to attempted enterprise corruption, and agreed to prison sentences of four to twelve and 3⅓ to ten years, respectively. All four defendants agreed to be permanently barred from the City's carting industry. On the same day, Philip Barretti, Jr. and Mark Barretti pleaded guilty to an environmental felony and commercial bribery, respectively, and agreed to be sentenced to five years probation. The Barretti and Mongelli carting companies also pleaded guilty at the same time. A few days later, the WPA pleaded guilty to criminal restraint of trade.

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

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

verdicts on enterprise corruption charges – the most serious charges in the indictment – against all six of the remaining defendants, as well as guilty verdicts on a host of other criminal charges. On November 18, 1997, Francolino was sentenced to a prison term of ten to thirty years and fined \$900,000, and the GNYTW was fined \$9 million. On January 12, 1998, Malangone was sentenced to a prison term of five to fifteen years and fined \$200,000.

On January 21, 1998, Patrick Pecoraro pleaded guilty to attempted enterprise corruption and agreed to serve a prison sentence of one to three years, to pay a \$1 million fine, and to be barred permanently from the City's carting industry. On the same day, the QCTW pleaded guilty to a criminal antitrust violation and agreed to forfeit all of its assets. Numerous other guilty pleas followed. On December 21, 1999, all of the guilty verdicts were affirmed on appeal. See People v. GNYTW, 701 N.Y.S.2d 12 (1st Dep't 1999).

In sum, it is far too late in the day for anyone to question the existence of a powerful criminal cartel in the New York City carting industry. Its existence has been proven beyond a reasonable doubt. The proof at trial also established conclusively that the cartel which controlled the carting industry for decades through a rigorously enforced customer-allocation system was itself controlled by organized crime, whose presence in the industry was so pervasive and entrenched – extending to and emanating from all of the industry's trade associations, which counted among their collective membership virtually every carter – that it could not have escaped the notice of any carter. These criminal convictions confirm the judgment of the Mayor and the City Council in enacting Local Law 42, and creating the Commission, to address this pervasive problem.¹

B. Local Law 42

Upon the enactment of Local Law 42, the Commission assumed regulatory authority from the Department of Consumer Affairs (the "DCA") for the licensing of businesses that remove, collect, or dispose of trade waste. See Admin. Code § 16-503. The carting industry immediately challenged the new law, but the courts have consistently upheld Local Law 42 against repeated facial and as-applied constitutional challenges by New York City carters. See, e.g., Sanitation & Recycling Industry, Inc. v. City of New York, 928 F. Supp. 407 (S.D.N.Y. 1996), aff'd, 107 F.3d 985 (2d Cir. 1997); Universal Sanitation Corp. v. Trade Waste Comm'n, 940 F. Supp. 656 (S.D.N.Y. 1996); Vigliotti Bros. Carting Co. v. Trade Waste Comm'n, No. 115993/96 (Sup. Ct. N.Y. Cty. Dec. 4, 1996); Fava v. City of New York, No. CV-97-0179 (E.D.N.Y. May 12, 1997);

¹ In its response to the Commission staff's recommendation, P&F claims that this factual summary of the recent history of government efforts to reform the New York City carting industry "obviously places a 'black cloud' on the private carting industry," and claims that "P&F and its owner Mary T. Sabatelli were never involved in any of said prosecutions." Response to Executive Staff's Recommendation to the Trade Waste Commission to Deny the Application of P&F Trucking, Inc., For a License to Operate a Trade Waste Business ("Response") at 2. To the contrary, the source of the "black cloud" on the carting industry is that industry's historic and well-documented affiliation with organized crime, not this Commission's recitation of that history. Furthermore, while it is true that the Applicant was not indicted, the discovery of its compensation payments to Dominick Vulpis and their concealment as bogus "consulting" payments to Lyn-Val Associates arose directly from the investigation that led to the Manhattan's DA's 1995 case.

Imperial Sanitation Corp. v. City of New York, No. 97 CV 682 (E.D.N.Y. June 23, 1997); PJC Sanitation Services, Inc. v. City of New York, No. 97-CV-364 (E.D.N.Y. July 7, 1997).

Local Law 42 provides that “[i]t shall be unlawful for any person to operate a business for the purpose of the collection of trade waste . . . without having first obtained a license therefor from the [C]ommission.” Admin. Code §16-505(a). After providing a license applicant with notice and an opportunity to be heard, the Commission may “refuse to issue a license to an applicant who lacks good character, honesty and integrity.” Id. §16-509(a). Although Local Law 42 became effective immediately, carting licenses previously issued by the DCA remained valid pending decision by the Commission on timely filed license applications. See Local Law 42, §14(iii)(a). P&F holds a DCA license and timely submitted a license application to the Commission.

As the United States Court of Appeals has definitively ruled, an applicant for a carting license under Local Law 42 has no entitlement to and no property interest in a license, and the Commission is vested with broad discretion to grant or deny a license application. SRI, 107 F.3d at 995; see also Daxor Corp. v. New York Dep’t of Health, 90 N.Y.2d 89, 98-100, 681 N.E.2d 356, 659 N.Y.S.2d 189 (1997). In determining whether to issue a license to an applicant, the Commission may consider, among other things, the following matters, if applicable:

- (i) failure by such applicant to provide truthful information in connection with the application;
- (ii) a pending indictment or criminal action against such applicant for a crime which under this subdivision would provide a basis for the refusal of such license, or a pending civil or administrative action to which such applicant is a party and which directly relates to the fitness to conduct the business or perform the work for which the license is sought, in which cases the commission may defer consideration of an application until a decision has been reached by the court or administrative tribunal before which such action is pending;
- (iii) conviction of such applicant for a crime which, considering the factors set forth in section seven hundred fifty-three of the correction law, would provide a basis under such law for the refusal of such license;
- (iv) a finding of liability in a civil or administrative action that bears a direct relationship to the fitness of the applicant to conduct the business for which the license is sought;
- (v) commission of a racketeering activity or knowing association with a person who has been convicted of a racketeering activity,

including but not limited to the offenses listed in subdivision one of section nineteen hundred sixty-one of the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. § 1961 *et seq.*) or of an offense listed in subdivision one of section 460.10 of the penal law, as such statutes may be amended from time to time, or the equivalent offense under the laws of any other jurisdiction;

- (vi) association with any member or associate of an organized crime group as identified by a federal, state or city law enforcement or investigative agency when the applicant knew or should have known of the organized crime associations of such person;
- (vii) having been a principal in a predecessor trade waste business as such term is defined in subdivision a of section 16-508 of this chapter where the commission would be authorized to deny a license to such predecessor business pursuant to this subdivision;
- (viii) current membership in a trade association where such membership would be prohibited to a licensee pursuant to subdivision j of section 16-520 of this chapter unless the commission has determined, pursuant to such subdivision, that such association does not operate in a manner inconsistent with the purposes of this chapter;
- (ix) the holding of a position in a trade association where membership or the holding of such position would be prohibited to a licensee pursuant to subdivision j of section 16-520 of this chapter;
- (x) failure to pay any tax, fine, penalty, or fee related to the applicant's business for which liability has been admitted by the person liable therefor, or for which judgment has been entered by a court or administrative tribunal of competent jurisdiction.

Admin. Code § 16-509(a)(i)-(x).

II. DISCUSSION

A. The Applicants

The applicant business started in 1931 as "Long Island Carting." Philip Sabatelli owned Long Island Carting. Philip Sabatelli was Mary Sabatelli's husband and Ralph Sabatelli's father. Philip and his brother, Frank, ran the business until Philip bought the final two shares from Frank. The business was incorporated as P&F Trucking, Inc. on September 26, 1960. The applicant is located at 60-02 30th Avenue, Woodside, New York. The applicant business provides waste removal services throughout the five boroughs of New York City.

Philip Sabatelli died on May 9, 1980.² When Philip Sabatelli died, ownership of the applicant business was passed to his wife, Mary Sabatelli. Since 1980, P&F has been managed by Mary Sabatelli, her brother John, her son Ralph Sabatelli,³ Bernard (Ben) Perini and Francis (Frank) Ferguson. MS Dep. at 41-42. Ferguson resigned from his position with P&F on or about September 15, 1997.⁴ Perini resigned from P&F on or about December 30, 1997 (approximately ten days before Mary Sabatelli's deposition with the Commission).⁵ Perini's resignation came as the result of a request from Mary Sabatelli.⁶ However, Perini maintained his position as the general manager at the principal's other business interests, namely Sabco Leasing, OBHA Realty and Classy Lady Enterprises. Sabco Leasing has many of the same employees as P&F.⁷

P&F Trucking, Inc. was a member of the Queens County Trade Waste Association ("QCTWA") from January, 1979 until its resignation in January, 1996.⁸ This association was used to enforce the unlawful customer allocation scheme that Local Law 42 was specifically designed to redress. The applicant obtained illicit benefits as a member of the association during the period that the indicted association played a central role in enforcing the organized crime dominated illegal customer allocation and price-fixing schemes. The applicant paid \$45,000.00 in dues to the QCTWA.⁹ The applicant's only explanation for its membership was that it attended meetings that were "industry wide" and that it did not take an active management role in that association.¹⁰

B. GROUNDS FOR LICENSE DENIAL

1. The applicant made monthly "compensation" payments to a convicted carter in accordance with the rules of the "property rights" system of the mob cartel.

The linchpin of the New York City carting industry's criminal cartel is the "property rights" system, a customer-allocation scheme under which carters, instead of competing with each other for customers, compensate one another for the transfer of customers, or "stops," thereby acquiring the exclusive right to service those stops. Such compensation payments among putative competitors, which effectuate an industry-wide agreement to restrain trade, are illegal. Indeed, they were part of the foundation of illegal acts on which the recent successful prosecution of carting industry figures for enterprise

² Mary Sabatelli ("MS") Dep. at 17.

³ The Response claims that Ralph Sabatelli "cooperated" with a federal prosecution involving Matthew Ianiello's involvement in the carting industry, and that the staff failed to mention this. Response at 2. While Sabatelli testified at the trial - which ended in acquittal - he did so under subpoena. Ralph Sabatelli Dep. at 25.

⁴ See September 15, 1997 Perini letter.

⁵ See December 30, 1997 Perini letter.

⁶ MS at 58-59.

⁷ MS at 60.

⁸ See Lic. App. at 6.

⁹ Id. at 11.

¹⁰ Id. at 97.

corruption was constructed. This applicant actively participated in the criminal cartel's property rights system by making illegal compensation payments to another carter, Dominick Vulpis ("Vulpis"), which were disguised as "consulting" payments to Lyn-Val, Inc. ("Lyn-Val").

On June 8, 1990, Angelo Pacione, Anthony Vulpis, Rosedale Carting, Inc. ("Rosedale") and several others were found guilty of several RICO offenses and other fraud charges. The defendants were ordered to pay the United States \$22 million within 90 days, and Rosedale was placed under a receivership. The receiver was charged with attempting to satisfy the \$22 million judgment by, among other things, selling the assets of Rosedale to interested purchasers. In early 1991, however, several private New York City carting companies began to raid Rosedale's stops. These companies were not engaging in healthy competition with Rosedale. Indeed, in 1991, the United States charged that Michael Vulpis, the father of Anthony and Dominick Vulpis, was orchestrating some of these actions to defeat the receivership. Federal District Judge Constance Baker Motley agreed, cited Michael Vulpis for contempt, and sentenced him to six months in jail.

On February 13, 1997, Dominick Vulpis pleaded guilty to two counts of Combination in Restraint of Trade and Competition, one count of Falsification of Business Records, and one count of Attempted Enterprise Corruption. During his allocution, Vulpis admitted the existence of the cartel and the property rights system, enforced by customer allocation schemes, coordinated economic activities by cartel members, and economic retaliation against those who broke the cartel's rules. Vulpis also admitted that these practices facilitated his criminal diversion of funds relating to stops formerly owned by Rosedale. See People v. Frank Allocca, Daniel Todisco, Dominick Vulpis, VA Sanitation Inc., Lyn-Val Associates, Inc., Litod Paper Stock Corp., Silk Inc., Indictment No. 5614/95 (Sup. Ct. N.Y. Cty.) ("People v. Allocca"), Tr. of Plea, page 29 (Feb. 13, 1997).

Specifically, Vulpis admitted that he approached a rival carter that was providing services to the Ferdinand Gutman Company ("Gutman"), a stop that Rosedale had previously serviced. Vulpis and cartel-leader Frank Allocca demanded that the rival carter return the stop because Rosedale once serviced Gutman and had the right under cartel rules to service it in perpetuity. Vulpis and Allocca demanded that the rival carter compensate Vulpis for the Rosedale stop by paying him \$320,000. Vulpis sought to conceal the payments he obtained by making them falsely appear as payments for consulting services. The rival carter was issued fraudulent invoices from Lyn-Val and told to make checks payable to Lyn-Val. See People v. Allocca, Tr. of Plea page 24 (Feb. 13, 1997).

The Rosedale receiver reviewed four boxes of documents seized by the Manhattan District Attorney from Lyn-Val. According to the receiver, the documents reveal an elaborate operation, controlled by Vulpis, to track and receive payments for former Rosedale stops that other carting companies were servicing and to launder those payments as consulting fees. The receiver estimated that Vulpis received approximately

\$4 million in this manner. The receiver concluded that Vulpis was monitoring 366 stops spread over 43 carting companies and that Vulpis planned to take action to recover the value of most, if not all, of the former Rosedale stops that he believed he owned under the cartel system. According to the receiver, Vulpis received large payments on a regular basis from private carting companies from mid-1993 through July 1995. Vulpis would provide the carters with Lyn-Val invoices and would be compensated with checks made payable to "Lyn-Val" on a monthly or weekly basis. See People v. Allocca, Tr. of Plea pages 25 to 27 (Feb. 13, 1997).

The Commission has copies of eleven checks from P&F written to Lyn-Val Associates for "consulting services." See Exhibit "F," Deposition of Ralph Sabatelli, January 13, 1998.¹¹ These checks total \$12,000.00. Ralph Sabatelli signed the checks on behalf of P&F. The Commission also has twenty-four statements from Lyn-Val Associates to P&F for "consulting services". See Exhibit "G," Deposition of Ralph Sabatelli, January 3, 1998.¹² The statements total \$26,000.00. Included is a statement for

¹¹ The check number, date and amount of payment are as follows:

#1542	5/5/93	\$2000.00
#1614	10/22/93	\$1000.00
#2440	6/27/94	\$1000.00
#2494	7/8/94	\$1000.00
#2660	9/7/94	\$1000.00
#2878	11/8/94	\$1000.00
#2966	12/6/94	\$1000.00
#3058	1/10/95	\$1000.00
#3152	2/8/95	\$1000.00
#3221	3/6/95	\$1000.00
#3329	4/3/95	\$1000.00

¹² The date, amount of payment due, notations and check numbers are as follows:

6/30/93	\$1000.00		
7/31/93	\$2000.00	Pd 8/4/95	Check # 1309
8/31/93	\$1000.00	Pd 10/5/93	Check # 1542
9/30/93	\$1000.00	Pd 10/5/93	Check # 1542
10/31/93	\$1000.00	Pd 10/22/93	Check # 1614
11/30/93	\$1000.00	Pd	Check # 1747
12/31/93	\$1000.00	Pd	Check # 1763
2/28/94	\$1000.00	Pd 2/25/94	Check # 2030
3/31/94	\$1000.00	Pd	Check # 2146
4/30/94	\$1000.00	Pd 4/29/94	Check # 2249
5/31/94	\$1000.00	Pd 5/15/94	Check # 2331
6/30/94	\$1000.00	Pd	Check # 2440
7/31/94	\$1000.00	Pd	Check # 2444
8/31/94	\$1000.00	Pd	Check # 2578
9/30/94	\$1000.00	Pd	Check # 2660
10/31/94	\$1000.00	Pd	Check # 2755
11/30/94	\$1000.00	Pd	Check # 2878
12/31/94	\$1000.00	Pd	Check # 2966
1/31/95	\$1000.00	Pd	Check # 3058
2/28/95	\$1000.00	Pd 2/8/95	Check # 3152
3/31/95	\$1000.00	Pd 3/16/95	Check # 3221
4/30/95	\$1000.00	Pd 4/3/95	Check # 3329
5/31/95	\$1000.00	Pd	Check # 3413

every month from June 1993 to June 1995. Ralph Sabatelli admitted that he did see the statements before he issued the checks to Lyn-Val. However, Ralph Sabatelli denied that he knew about any consulting services performed. Ralph Sabatelli's claim of ignorance must be discounted, as each and every statement from Lyn-Val states "consulting services." Moreover, and more compelling, each and every check written to Lyn-Val Associates and signed by Ralph Sabatelli states "consulting fee" or "consulting services."

Mary Sabatelli claimed that she never heard of Lyn-Val until her attorney showed her check stubs and statements before her deposition.¹³ Although she testified that she contacts her son or Ben Perini everyday to "see what's going on" with the business, she also claimed ignorance as to P&F's business practices, especially those relating to payments to Lyn-Val.¹⁴ In short, the applicant has utterly failed to offer any explanation for the statements and checks to and from Lyn-Val Associates.

2. The applicant made false statements on its license application to cover-up its compensation payments.

To conceal the fact that P&F made "compensation" payments to a convicted carter in accordance with the rules of the "property rights" system of the mob cartel, Mary and Ralph Sabatelli submitted false and incomplete statements to the commission about payments to other carters. Their false and incomplete statements were plainly material, and there can be no serious question that they were intentional as well. On August 30, 1996, the applicant submitted an application for a waste removal license to the Commission. In Part II, question 2, the applicant admitted that it did sell, purchase or otherwise acquire or lose routes or customer locations. However, the applicant only listed "Waste Management of NY (Allied Sanitation)" as the party to the sale, purchase, acquisition or loss.

Nowhere in its application did the applicant disclose that it made illegal compensation payments to another carter, Dominick Vulpis which were disguised as "consulting" payments to Lyn-Val, Inc.

Furthermore, Mary Sabatelli and Ralph Sabatelli filled out questionnaires in relation to their depositions with the Commission. On these questionnaires, the Sabatelli's denied having knowledge about paying for the services of a consultant.¹⁵ Mary Sabatelli did not answer the question, "Have you or any business that you are or have been affiliated with ever paid any money or other thing of value to any other carting

6/30/95	\$1000.00	Pd	Check # 3503
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¹³ MS Dep. at 62.

¹⁴ MS Dep. at 47-50.

¹⁵ See Questions 70 and 71, Mary Sabatelli Questionnaire, at 12, and Questions 70 and 71, Ralph Sabatelli Questionnaire at 12.

company?"¹⁶ Ralph Sabatelli denied that he or any business that he is or has been affiliated with ever paid money to another carting company.¹⁷

Apart from a general denial, the response fails to contest any of the essential facts of the Applicant's bogus consulting payments to Lyn-Val, other than to blame them on Ben Perini, who Ms. Sabatelli inexplicably asked to resign 10 days before her deposition "on the advice of counsel." However that may be, the facts of the payments to Lyn-Val are not seriously called into question by anything in the Response.

3. The applicant refused to provide information required by the Commission in the course of its licensing investigation of the applicant.

Mary Sabatelli appeared before the Commission on January 9, 1998 for a deposition. At this time, she refused to provide information required by the Commission when she decided not to answer direct questions regarding the name and address of the institutions where she maintains her personal checking and savings accounts.

Q.: "Question 30 on Exhibit "A" asks that you give the full name and address of institutions where you have personal checking accounts including the approximate current balance. You wrote N/A meaning not applicable?"

A.: "Yes."

Q.: "Okay, what does that mean?"

A.: "That means that I felt I don't wish to tell you."

Q.: "Okay so you are refusing to answer question 30?"

A.: "Yes."

Q.: "Question 31 states 'give the full names and addresses of the institutions where you have your personal savings accounts or certificates of deposit.' Are you refusing to answer that question?"

A.: "Yes."

Q.: "Question 32 says have you ever used any of the accounts identified in response to questions 30 and 31 in connection with any activity in the trade waste industry? That is unanswered. Are you refusing to answer that question?"

¹⁶ See Question 72, Mary Sabatelli Questionnaire, at 12.

¹⁷ See Question 72, Ralph Sabatelli Questionnaire, at 12.

Counsel: "Well she hasn't answered the other two previous questions. She can't answer the third."

Q.: "Okay. So you are refusing to answer questions 30, 31 and 32?"

A.: "Yes."¹⁸

Mary Sabatelli also refused to provide full and complete information about Ben Perini's resignation from P&F on December 30, 1997 less than two weeks prior to Mary Sabatelli's deposition.¹⁹

Mary Sabatelli's refusal to cooperate with the Commission and answer direct questions about Perini's resignation and her personal bank accounts lead the Commission to believe that the Applicant conducted business with known associates of organized crime and attempted to conceal this fact from the commission. Mary Sabatelli's refusal to cooperate during her deposition in refusing to testify about the resignation of Perini and about her personal bank accounts are material to the application before the Commission for a trade waste license.

In its response to the Commission staff's recommendation, the Applicant complains generally about the Commission's deposition of Mary Sabatelli, and its methods of inquiring whether Ms. Sabatelli had any contact with, knowledge of, or other associations with a number of persons. (Response at 3-8). The staff did not recommend a denial based upon any of this testimony and the Commission does not rely on it. Accordingly, P&F's complaints do not address this basis for the decision. P&F also claims in conclusory fashion that Mary Sabatelli provided full and complete answers and cooperated fully with the Commission. This is simply false. The staff identified two important points (her finances and her decision to seek the resignation of Ben Perini) upon which Mary Sabatelli refused to provide information or provided inadequate information. About the first point, the Response is silent, as indeed it must be. It is Ms. Sabatelli's refusal, and not her testimony, that was "forthright and clear." See Response at 5 ("Mary Sabatelli's answers were forthright and clear"). It is therefore uncontested that Ms. Sabatelli refused to provide material information. About the resignation of Perini, Mary Sabatelli stated that she asked him to leave based on the advice of counsel and would not say more about the reasons she sought his resignation. MS Dep. at 55-56.

Accordingly, P&F's application is denied on this additional adequate and independent ground.

¹⁸ MS Dep. at 36-38.

¹⁹ See MS Dep. at 55-60.


III. CONCLUSION

The Commission is vested with broad discretion to refuse to issue a license to any applicant that it determines lacks good character, honesty and integrity. Based upon the foregoing independent grounds, including the applicant's "compensation" payments to a convicted carter, the applicant's false statements on its license application, and the applicant's refusal to provide information to the Commission, all of which the Commission is expressly authorized to consider under Local Law 42, the Commission denies this license application.

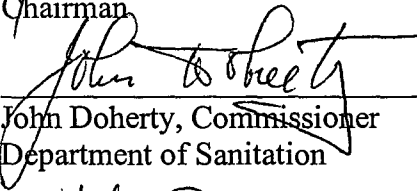
This license denial decision is effective fourteen days from the date hereof. In order that the Applicant's customers may make other carting arrangements without an interruption in service, P&F is directed to continue servicing its customers for the next fourteen days in accordance with its normal contractual arrangements. P&F shall not service any customers, or otherwise operate as a trade waste removal business in New York City, after the expiration of the fourteen-day period.

Date: August 15, 2002


THE BUSINESS INTEGRITY COMMISSION



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