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THE CITY OF NEW YORK
TRADE WASTE COMMISSION
253 BROADWAY, 10TH FLOOR
NEW YORK, NEW YORK 10007

**DECISION OF THE TRADE WASTE COMMISSION DENYING
THE APPLICATION OF POLIDORI CARTING CO. FOR A
LICENSE TO OPERATE AS A TRADE WASTE BUSINESS**

Polidori Carting Co. ("Polidori" or the "Applicant") has applied to the New York City Trade Waste Commission (the "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"), §§ 16-505(a), 16-508. Local Law 42, which created the Commission to license and regulate the commercial carting industry in the City of New York, was enacted to address pervasive organized crime and other corruption in the industry, to protect businesses using private carting services, and to increase competition in the industry and thereby reduce prices.

Local Law 42 authorizes the Commission to refuse to issue a license to any applicant who it determines, in the exercise of its discretion, lacks good character, honesty, and integrity. See Admin. Code §16-509(a). The law identifies a number of factors that, among others, the Commission may consider in making its determination. See id. §16-509(a)(i)-(x). These illustrative factors include the commission of racketeering acts and knowing association with convicted racketeers. See id. § 16-509(a)(v). Based upon the record as to the Applicant, the Commission finds that Polidori lacks good character, honesty, and integrity, and denies its license application, for the following independently sufficient reasons:

- (1)the Applicant committed racketeering acts by accepting unlawful payments arranged by the mob-controlled carting cartel as compensation for the loss of a customer to another carting company; and
- (2)the Applicant has associated with a convicted racketeer in connection with the carting industry.

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 anticompetitive practices. The United States Court of Appeals for the Second Circuit has described that cartel as "a 'black hole' in New York City's economic life":

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

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

Extensive evidence presented at lengthy City Council hearings addressing the corruption that historically has plagued this industry revealed the nature of the cartel: an entrenched anticompetitive 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). The Applicant was a member of the KCTW from 1975, when the company was formed, until 1996. See Lic. App. at 5, 8. As the Second Circuit found, regardless of whatever limited legitimate purposes these trade associations might have served, they “operate[d] in illegal ways” by “enforc[ing] the cartel’s anticompetitive dominance of the waste collection industry.” SRI, 107 F.3d at 999. Indeed, the “defining aim” of these trade associations, “obvious to all involved,” was “to further an illegal anticompetitive scheme.” Id.

The 1986 [New York State] Assembly report stated that no carting firm in New York City “can operate without the approval of organized crime.” Hence, even th[o]se carters not accused of wrongdoing are aware of the . . . associational rules regarding property rights in their customers’ locations. The association members—comprising the vast majority of carters—recognize the trade associations as the *fora* to resolve disputes regarding customers. It is that complicity which evinces a [member] carter’s intent to further the trade association’s illegal purposes.

Id.

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 associations.

The accuracy of the sweeping charges in the indictments has been repeatedly confirmed by a series of guilty pleas and jury verdicts. On October 23, 1996, defendant John Vitale pleaded guilty to a state antitrust violation for his participation in the anticompetitive criminal cartel. In his allocution, Vitale, a principal of the carting company Vibro, Inc., acknowledged that he turned to the trade associations, and specifically to Genovese capo Alphonse Malangone and Gambino soldier Joseph Francolino, to obtain their assistance in preventing 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. Two carting companies and a waste 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, the brother of the Applicant's owner, 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 Tamily and Joseph Virzi pleaded guilty to attempted enterprise corruption and agreed to similar sentences, fines, and prohibitions. All six defendants confirmed the existence of the criminal cartel and admitted to specific instances of their participation in it.

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

On July 21, 1997, Philip Barretti, another lead defendant in the state prosecution and the former owner of 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.

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, 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).

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). The Applicant 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:

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;

Admin. Code §16-509(a)(v).

II. DISCUSSION

Polidori filed an application for a trade waste removal license with the Commission on August 30, 1996. The Commission's staff conducted an investigation of the Applicant, which included the deposition of its principal, Michael V. Polidori. On July 11, 2000, the staff issued a 17-page recommendation that Polidori's license application be denied. Although afforded an opportunity to respond to the recommendation in writing, see 17 RCNY § 2-08(a), the Applicant did not submit any response to the Commission. The Commission has carefully considered the staff's recommendation. For the reasons explained below, the Commission finds that the Applicant lacks good character, honesty, and integrity, and denies its license application.

A. The Applicant Committed Racketeering Acts by Accepting Illegal Payments Arranged by the Mob-Controlled Cartel as Compensation for the Loss of a Customer to Another Carting Company

Michael Polidori has been the Applicant's sole owner since the company was formed in 1975. Lic. App. at 5, 25. As noted above, the Applicant belonged to the KCTW since the company's inception, finally resigning in 1996 (well after the KCTW's indictment in mid-1995). See id. at 8. Michael Polidori represented the Applicant's interests at the KCTW. Id. at 9. The Applicant paid the KCTW \$6,900 in membership dues and \$12,000 in "legal fees" during its last five years of membership alone. Id. at 13.

As recounted above, in early 1997, the KCTW pleaded guilty to criminal restraint of trade and agreed to pay a \$1 million fine. In addition, three of the KCTW's officers – president Frank Allocca, vice-president Daniel Todisco, and secretary Raymond Polidori, Michael Polidori's brother – pleaded guilty to enterprise corruption or criminal antitrust charges. In their allocutions, they confirmed the existence of the criminal cartel in the City's carting industry and admitted to specific instances of their participation in it.

The Manhattan District Attorney's investigation yielded a compelling body of evidence, confirmed by the plea allocutions of the KCTW's officers and others, demonstrating how the organized crime-controlled cartel worked. Part of the investigation involved an undercover detective posing as "Dan Benedetto" of Chambers Paper Fibres Corp. ("Chambers"), a carting company that cooperated in the investigation. See Search Warrant Affidavit of Det. Joseph Lentini, sworn to June 5, 1995 ("Lentini Aff."), ¶¶ 9-12. The detective's undercover role gave him an insider's view of the cartel and its operating rules:

The cartel abides by a single commandment: thou shalt not compete. This means simply that no carter shall compete against another carter for the business of a customer. A

customer or a building “belongs” to the carter who services it; no other carter may attempt to “take” that customer by offering a lower price or better service or by any other means, without suffering the consequences. Often, the consequences are economic, designed to eliminate the benefit of obtaining a customer through free and open competition. These economic consequences include requiring the offending carter to “compensate” the prior carter by giving him a customer of equal value or by making a money payment as high as 40 times the monthly revenue from the customer.

Id. ¶ 3. The trade association officers were quite familiar with these rules. See, e.g., id. ¶ 19 (KCTW president Frank Allocca), ¶ 35 (WPA head Frank Giovinco).

In 1992, Chambers was servicing a number of locations in the City of the Fayva retail shoe store chain. Several carting companies, including the Applicant, had previously serviced certain Fayva locations (or “stops”) that Chambers had begun to service. In January 1993, KCTW president Frank Allocca met with the undercover detective and demanded that Chambers return the Fayva stops to those carters. See Lentini Aff. ¶ 16. In February 1993, Allocca and KCTW secretary Raymond Polidori, claiming to be speaking “for the industry in Brooklyn,” repeated the demand to the undercover detective. Id. ¶ 17. Polidori warned, “[F]or every action, there’s a reaction.” Id. Allocca suggested that Chambers join the KCTW as a way of resolving such disputes. See id.

In April 1993, at a meeting also attended by Raymond Polidori and KCTW vice-president Daniel Todisco, Allocca explained the rules of KCTW membership to the undercover detective. Lentini Aff. ¶ 19. Allocca stated that if a member claimed that another member had “taken” a customer, then the association would help resolve the complaint. Id. If Chambers joined, other KCTW members could make claims against it for any customers it had “taken” within the previous five years. Id. Chambers joined the KCTW, paying dues as of September 1993. See id. ¶ 55.

In early June 1994, the undercover detective met with Allocca and Todisco at the KCTW, where they agreed that Chambers would pay the previous Fayva carters a multiple of 30 times the monthly gross revenue from the Fayva stops. Lentini Aff. ¶¶ 68-69. (This multiple was increased to 40:1 a few weeks later. Id. ¶¶ 69, 74.) Allocca told the undercover detective that Chambers could make two monthly payments of 10% each and pay the balance later. Id. ¶ 69. Allocca also imposed the condition that if any of the Fayva stores vacated the premises, the stop would revert to the carter that serviced it previously. Id. At another meeting at the KCTW later that month, Allocca gave the undercover detective a list of nine carters that had previously serviced fifteen Fayva stores before they were serviced by Chambers. Id. ¶ 74. Allocca said that Chambers must pay \$12,800 per store to those carters, for a total of \$192,000 for all fifteen stores. Id. Four days later, on June 28, the undercover detective paid the first installment on the Fayva stops by handing an envelope containing checks totaling \$18,000 to Allocca in a stairwell at the GNYTW. Id. ¶ 77.

On August 4, 1994, at a meeting at a diner, Allocca and Todisco informed the undercover detective of additional claims against Chambers being made by other KCTW members that had serviced Fayva stores. Lentini Aff. ¶ 83. On August 11, the undercover detective made a second round of Fayva payments to Todisco on a Manhattan street corner. Id. ¶ 84. One of the eleven checks he gave to Todisco was payable to "M. Polidori" in the amount of \$2,400 and was deposited into an account in the Applicant's name. Id.

In September 1994, the undercover detective told Allocca that Chambers could make only half of the scheduled Fayva payments and asked whether Chambers could "refinance" the obligation by stretching the payments out over eighteen months. See Lentini Aff. ¶¶ 96-97. Allocca told the undercover detective to bring him checks for Todisco, Raymond and Michael Polidori, and himself – thus evidencing the favored treatment that the Applicant received due to its principal's relationship with a KCTW officer. See id. ¶ 96. Later that day, September 21, the undercover detective met with Allocca and Todisco at the KCTW and gave Allocca four Fayva checks, one each for companies controlled by Allocca, Todisco, and Raymond and Michael Polidori. Id. One of the checks was payable to "M. Polidori" in the amount of \$1,200 and was deposited into an account in the Applicant's name. Id.

In October 1994, at a meeting at a Manhattan restaurant, Gambino soldier and GNYTW business agent Joseph Francolino (who described himself as "the fucking boss") introduced the undercover detective to Genovese capo Alphonse Malangone (who Francolino said "runs Brooklyn" as, in Malangone's words, the KCTW's "administrator"). See Lentini Aff. ¶¶ 100, 102, 104. Malangone later granted Chambers' request for refinancing. Id. ¶¶ 110-11.

On November 30, 1994, the undercover detective met with Allocca and Malangone at the KCTW and gave Allocca three Fayva checks, including one in the amount of \$1,200 payable to "M. Polidori," which was deposited into an account in the Applicant's name. Lentini Aff. ¶¶ 119, 121. Similar \$1,200 Fayva checks for Polidori were mailed by Chambers to Allocca at the KCTW (and subsequently deposited by the Applicant) on January 25, February 17, March 24, and May 12, 1995. Id. ¶ 128 & Ex. 3 at 22-23, 25-26. Thus, at the time of the June 1995 indictment, Polidori had received at least \$9,600 in cartel compensation payments.

As discussed above, the indictment named as defendants numerous carting industry participants, including KCTW president Frank Allocca, KCTW vice-president Daniel Todisco, KCTW secretary Raymond Polidori, and the KCTW itself. Count 1 of the indictment, which described these and the other defendants as part of a cartel constituting a criminal enterprise, charged all of the defendants with the crime of enterprise corruption, in violation of Penal Law § 460.20(1)(a). See People v. GNYTW, et al., Indictment No. 5614/95 (Sup. Ct. N.Y. Cty.), at 2-69.

In February 1997, Allocca and Todisco each pleaded guilty to the crime of attempted enterprise corruption, a felony. See People v. Allocca, et al., Indictment No. 5614/95 (Sup. Ct. N.Y. Cty.), Tr. of Plea (Feb. 13, 1997), at 7-21. In their allocutions, Allocca and Todisco admitted that they committed the crimes alleged in Pattern Acts 1, 38, and 44 supporting Count 1 of the indictment. Pattern Act 38 related specifically to Allocca's and Todisco's role in obtaining compensation payments from Chambers for carters that had previously serviced the Fayva shoe store chain, in violation of sections 340 and 341 of the General Business Law, which prohibit combinations in restraint of trade and competition. See id. at 9-12. Allocca and Todisco admitted that they and Raymond Polidori demanded such payments, totaling \$192,000, on behalf of fifteen KCTW member carters.

Id. at 10-11, 19. Later that day, Raymond Polidori pleaded guilty to Count 39 of the indictment, which charged the felony of combination in restraint of trade and competition in connection with the Fayva compensation payments. See People v. Polidori, et al., Indictment No. 5614/95 (Sup. Ct. N.Y. Cty.), Tr. of Plea (Feb. 13, 1997), at 3-8. Thus, the KCTW's ranking officers pleaded guilty to felonies arising out of the same cartel compensation scheme from which the Applicant benefited.

The Applicant itself admits that it received \$10,800 in compensation payments for the loss to Chambers of the "recycling portion" of two Fayva stops in Brooklyn. See Lic. App. at 9-10. According to Polidori: "Settlement was made through Frank Alloc[c]a and Daniel Todisco of [the KCTW,] who negotiated on behalf of various carters who held contracts that were violated by Chambers." Id. at 10. However, this description is somewhat misleading. Michael Polidori testified that the Applicant's "contract" with Fayva was "probably oral," and thus in all likelihood terminable at will. See Transcript of Deposition of Michael Polidori on September 17, 1999 ("Tr."), at 25-26. Indeed, the Applicant never even contemplated suing Chambers. Id. at 40. It is thus apparent that the "settlement" referred to by Polidori was of a claim for compensation under the cartel's own anticompetitive and illegal rules, not a claim based upon any legal right.

The Applicant's dependence on the KCTW to press its claim confirms its illicit nature. Michael Polidori learned of the loss of the Applicant's Fayva accounts to Chambers when Fayva notified him that another carter would be picking up its cardboard waste. See Tr. at 28-29. Polidori never complained to Chambers about this, but apparently did tell other carters. See id. at 29-30. Soon afterward, Allocca and Todisco told him that Polidori would be "reimbursed" by Chambers for the loss of Fayva's recyclables. Id. at 36-37. Allocca and Todisco negotiated the compensation amount with Chambers on Polidori's behalf. Id. at 35-36. That was part of their job as KCTW officers. See id. at 38-39. Polidori thought that the compensation arrangement they worked out was fair. Id. at 40.

The foregoing makes clear that Polidori knowingly received anticompetitive cartel compensation payments brokered by a mob-controlled trade association. The Applicant's own account demonstrates the

workings and power of the cartel to enforce the property-rights system. Polidori happily played by the cartel's rules, illicitly benefiting from its membership in the KCTW and its close relationship to the KCTW's leadership.

The Commission may refuse to issue a license to an applicant that has committed a racketeering act, including any predicate crime listed in New York's Organized Crime Control Act. See Admin. Code § 16-509(a)(v); N.Y. Penal Law § 460.10(1). Among those crimes are felonies under Article 22 of the General Business Law. See Penal Law § 460.10(1)(b). Among those felonies is combination in restraint of trade and competition, in violation of section 340 of the General Business Law. See N.Y. Gen. Bus. Law § 341.

By agreeing to receive and accepting multiple payments from Chambers in compensation for the loss of part of the revenue from two Fayva stops, the Applicant engaged in a combination in restraint of trade and competition, and thereby engaged in racketeering activity within the meaning of Local Law 42. Frank Allocca, Daniel Todisco, and Raymond Polidori all pleaded guilty to felonies based upon the Fayva compensation scheme. The Applicant has admitted accepting these payments from another carter ostensibly in competition with it. This type of compensation arrangement epitomized the anticompetitive cartel's modus operandi. These facts plainly support a finding that Polidori lacks good character, honesty, and integrity, and the denial of its license application.

B. The Applicant Has Knowingly Associated with a Convicted Racketeer in Connection with the Carting Industry

Local Law 42 expressly authorizes the Commission to consider a license applicant's knowing association with a person who has been convicted of racketeering activity in determining whether the applicant lacks good character, honesty, and integrity and, therefore, should be refused a license. See Admin. Code §16-509(a)(v). In this case, the Applicant's business association with Raymond Polidori provides an independent ground for denial of its license application.

The Applicant's garage is located at 924 60th Street in Brooklyn. Lic. App. at 1. This property is owned by Dior Realty, which in turn is co-owned by Michael Polidori and his brother, Raymond Polidori. Id. at 51;

Tr. at 12-13, 16. Another Dior Realty property, at 925 61st Street in Brooklyn, has been rented by Polidori as a garage to another carter. Lic. App. at 51; Tr. at 18-19. In addition, Polidori's business certificate lists its address as 6410 8th Avenue in Brooklyn, yet another Dior Realty property. Lic. App. at 4, 51.

As noted above, in February 1997, Raymond Polidori pleaded guilty to combination in restraint of trade and competition, a felony which is a racketeering act within the meaning of Local Law 42. The Applicant, through Michael Polidori, undoubtedly was aware of Raymond Polidori's indictment and subsequent plea, and yet has continued to have business dealings with him through his company, Dior Realty, in connection with the carting industry. Accordingly, the Applicant's continuing business associations with Raymond Polidori constitute an additional ground upon which to deny this license application.


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 Applicant's racketeering acts and continuing business association with a convicted racketeer, the Commission denies this license application.

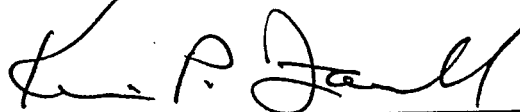
This license denial decision is effective fourteen days from the date hereof. In order that Polidori's customers may make other carting arrangements without an interruption in service, the Applicant is directed (i) to continue servicing its customers for the next fourteen days in accordance with their existing contractual arrangements, unless advised to the contrary by those customers, and (ii) to send a copy of the attached notice to each of its customers by first-class U.S. Mail by no later than August 14, 2000. The Applicant shall not service any customers, or otherwise operate as a trade waste removal business in the City of New York, after the expiration of the fourteen-day period.

Dated: August 11, 2000

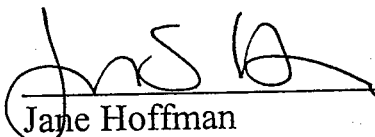
THE TRADE WASTE COMMISSION



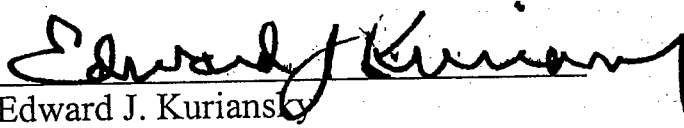
Edward T. Ferguson, III
Chairman



Kevin P. Farrell
Sanitation Commissioner



Jane Hoffman
Consumer Affairs Commissioner



Edward J. Kuriansky
Investigation Commissioner

Deborah R. Weeks
Business Services Commissioner