



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

**DECISION OF THE BUSINESS INTEGRITY COMMISSION DENYING THE APPLICATIONS OF CIRCLE RUBBISH REMOVAL INC. FOR RENEWAL OF ITS LICENSE TO OPERATE AS A TRADE WASTE BUSINESS**

Circle Rubbish Removal Inc. ("Circle" or "Applicant") has applied to the New York City Business Integrity Commission (formerly known as the Trade Waste Commission) ("Commission") for renewal of its license to operate a trade waste business pursuant to Local Law 42 of 1996. See Title 16-A of the New York City Administrative Code ("Admin. Code"), §§16-505(a), 16-508. Local Law 42, which created the Commission to license and regulate the commercial carting industry in New York City, 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 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 of Circle, the Commission denies its license renewal applications on the ground that this applicant lacks good character, honesty, and integrity for the following independent reasons:

- (1) The Applicant Failed to Disclose Material Key Employees and Thereby Obstructed the Commission's Investigation into the Applicant's Association with Convicted Racketeers and the Acquisition of the Hunts Point Market Contract
- (2) The Applicant's Testimony About the Hunts Point Market Contract was Materially Misleading and Unreliable and Cannot be Credited
- (3) The Applicant Paid Money to an Associate of Organized Crime for the Duration of the Hunts Point Contract

- (4) The Applicant Failed to Pay Taxes and Fees Related to Its Business for Which Judgments Have Been Entered

## 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). 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.

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 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. 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 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 (1<sup>st</sup> 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, 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); 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).

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

Circle was issued a trade waste license on May 21, 1999, with an effective date of May 1, 1999. The license was due to expire on April 30, 2001. See Admin. Code § 16-506(a)(licenses are valid for a period of two years).

On May 18, 2001, Circle filed with the Commission an application for renewal of its trade waste license for the period from May 1, 2001 to April 30, 2003. See First License Renewal Application. On May 21, 2003, Circle filed with the Commission an application for renewal of its trade waste license for the period from May 1, 2003 to April 30, 2005. See Second License Renewal Application. On March 17, 2005, Circle filed with the Commission an application for renewal of its trade waste license for the period from May 1, 2005 to April 30, 2007. See Third License Renewal Application. On April 30, 2007, Circle filed with the Commission an application for renewal of its trade waste license for the period from May 1, 2007 to April 30, 2009. See Fourth License Renewal Application. The four renewal applications are pending.

The sole principal and owner of Circle is Jerry Ricciardelli Jr. ("Ricciardelli"). Id. at 5. As part of its investigation of the Applicant and its principal, the staff deposed Ricciardelli on April 14, 2005. The deposition was recorded by a court reporter. See Transcript of the Deposition of Ricciardelli ("Deposition").



Among other things, the Commission's investigation focused on Circle's February 26, 2001 contract to pick up trade waste at the New York City Terminal Market ("Hunts Point Market" or "Cooperative"), a large public wholesale market in the Hunts Point section of the Bronx. In particular, the Commission sought to shed light on the circumstances under which Circle acquired this contract, the terms of the contract itself and Circle's actual performance under it. The Commission's interest in this matter was triggered by the January 14, 2004 guilty plea of Michael "Hippy" Zanfardino, described by law enforcement as an associate of the Genovese crime family. In his allocution, Zanfardino admitted extorting money and property from Ricciardelli and Circle.

The Hunts Point Market is a private cooperative of fruit and vegetable wholesalers that leases public land from the city for its operations. The Cooperative solicits bids from private companies to haul its waste as well as provide street sweeping operations. Prior to 2001, Waste Management, Inc. ("WM"), a large national waste hauler, handled the contract at the Cooperative. However, when its contract came up for renewal in 2001, WM significantly increased the price of its bid because it found that the cost of dumping the waste at a transfer station was greater than the fees it had been charging the Cooperative for picking the waste up, and so could not make a profit. See WM Letter and completed Request for Proposal, February 16, 2001 (incorporating "precompacted" waste rates).<sup>2</sup> Accordingly, WM submitted a bid of \$26 per cubic yard. Id. The Cooperative rejected WM's bid and awarded the contract to Circle, which had bid \$15 per cubic yard.

The Commission's inquiry produced evidence that Circle obtained the contract at the suggestion and with the advice of a man previously unknown to Ricciardelli, Wayne "Skip" Ross ("Ross"), a convicted felon who had worked at the Cooperative over ten years earlier and was subsequently hired by Circle to supervise its Hunts Point waste and street sweeping operation. One of Ricciardelli's employees, Steve Marcus ("Marcus"), introduced him to Ross. Marcus is a convicted racketeer whose employment with Circle had not been disclosed to the Commission. Inquiry into the terms of the contract and Circle's performance under it produced evidence – detailed below – of Circle's lack of good character, honesty, and integrity. Furthermore, Ricciardelli's misleading and unreliable deposition testimony concerning Circle's employees and its operations at the Cooperative reflect negatively on Circle's good character, honesty, and integrity.

On March 5, 2007, the staff issued a 17-page recommendation that Circle's renewal applications be denied. See Executive Staff's Recommendation to the Business Integrity Commission to Deny the Applications of Circle Rubbish Removal Inc. for Renewal of its License to Operate as a Trade Waste Business ("Recommendation"). The Recommendation was served on the Applicant on March 6, 2007, and the Applicant was granted ten business days to respond (March 20, 2007). See 66 RCNY §§1-14(f); 1-17(d). At the Applicant's request, the Applicant was granted an extension of time to respond until April 4, 2007. See BIC Letter to Joseph Giaimo, Esq. ("Counsel" or "Giaimo"), dated March 15, 2007; Letter from Giaimo, dated March 14, 2007. On March

---

<sup>2</sup> See former 17 RCNY §5-02(a)(2)(permitting trade waste removal companies to charge up to \$30.19 per cubic yard if the customer's waste was reduced by mechanical or artificial means before it was collected).

15, 2007, the Commission's staff provided Counsel with copies of the documents relied upon in the Recommendation. See List of Non-Public Documents Relied Upon in the Denial Recommendation, dated March 15, 2007. On April 3, 2007, the Applicant submitted a response consisting of an 8-page affidavit from Jerry Ricciardelli, a 3-page affidavit from Wayne Ross and nine exhibits.<sup>3</sup> See Letter from Giaimo, dated April 3, 2007 ("Response").

The Commission has carefully considered both the staff's recommendation and the Applicant's response. For the following independently sufficient reasons, the Commission denies Circle's license renewal applications.

**A. The Applicant Failed to Disclose Material Key Employees and Thereby Obstructed the Commission's Investigation into the Applicant's Association with Convicted Racketeers and the Acquisition of the Hunts Point Market Contract**

Licensees are required to provide the Commission with notice of at least ten business days prior to the proposed addition of a new employee or agent who acts in a managerial capacity or who performs any of the following significant job functions: soliciting business (sales), collecting bills, evaluating trade waste streams, contacting customers on a regular basis, resolving complaints or having the authority to agree or refuse service to customers. See 17 RCNY §3-03; Appendix A. Such key employees or agents are required to be fingerprinted, to be photographed, to provide additional disclosures ("Employee Disclosure Form"), and to pay an investigative fee of \$350. See 17 RCNY §3-01(a). The information is required so that the Commission may conduct an investigation of the proposed employee or agent and render an opinion regarding the good character, honesty, and integrity of said employee or agent.

According to the Commission's records, the only person (principal, key employee or agent) disclosed by Circle since its initial license application in 1996 is its owner, Jerry Ricciardelli. Circle has never disclosed nor provided fingerprints, photographs or disclosure forms for any other principals, key employees or agents. In contrast, Ricciardelli testified at his 2005 deposition that he hired Steve Marcus ("Marcus") as a salesman for Circle in 2001 and that Marcus worked as a salesman for Circle from 2001 to 2005. See Ricciardelli Deposition ("Deposition") at 20-23. Ricciardelli failed to provide advance notification of the proposed addition of Marcus and failed to have Marcus submit fingerprints, photographs and a disclosure form to the Commission and failed to submit the required fee.<sup>4</sup> See Deposition at 70 (acknowledging the failure to file an employee disclosure form for Marcus).

A criminal history check of Marcus reveals that he was convicted of federal bank fraud on September 24, 1991, and was sentenced to eighteen months in prison. See

---

<sup>3</sup> Circle's response did not include an affidavit from Steve Marcus.

<sup>4</sup> Ricciardelli also failed to include Marcus as an employee in "Schedule C – Employees of Licensee" for each of Circle's three renewal applications. See First License Renewal Application at 7; Second License Renewal Application at 7; Third License Renewal Application at 7.

Marcus Criminal History printout. By failing to disclose Marcus to the Commission, Circle obstructed the Commission's investigation. Timely disclosure would have enabled the Commission to discover Marcus' criminal record and to act on such derogatory information.<sup>5</sup> Instead, Circle employed a convicted racketeer for several years, which, among other things, reflects negatively on its good character, honesty, and integrity.

In addition, Ricciardelli testified that he hired Wayne Ross to be a supervisor for Circle for its operations at the Hunts Point Market after being awarded the contract in February 2001. See Deposition at 27 (“[Ross] was to be a supervisor there. He’s going to take care of the whole operation” and get paid “\$8,000 a month, \$8,900 a month”). Ricciardelli further testified that Ross was a full-time employee, that he was on the Circle payroll and that he wrote checks to Ross. Id. at 28, 30.

Ricciardelli failed to provide advance notification of the proposed addition of Ross, failed to have Ross submit fingerprints, photographs and a disclosure form to the Commission and failed to pay the required fee.<sup>6</sup> A criminal history check of Ross revealed that on February 4, 2000, he was convicted of two felonies, Grand Larceny in the Third Degree and Insurance Fraud in the Third Degree, and sentenced to five years probation. See Ross Criminal History printout. By failing to disclose Ross to the Commission, Circle again obstructed the Commission's investigation. Timely disclosure would have enabled the Commission to discover Ross' criminal record and to act on such derogatory information. Instead, Circle employed another convicted racketeer for several years, which reflects negatively on its good character, honesty, and integrity.

Despite his deposition testimony that Marcus and Ross were employees of Circle, Ricciardelli concedes that some of his testimony was “inaccurate,” though he denies any “effort to mislead the Commission.” See Response at 2.<sup>7</sup> He admits that he “loosely

---

<sup>5</sup> The Commission later investigated Marcus in connection with the application of an unrelated company owned by his wife, Edcia Corp. (“Edcia”), for which he conducted the significant business operations. The Commission found that Edcia lacked good character, honesty, and integrity and denied Edcia's application based on Edcia's business associations with Theodore “Teddy” Persico, a member of organized crime and convicted racketeer, and Anthony O'Donnell, a convicted racketeer. See Decision of the Business Integrity Commission denying the exemption application of Edcia Corp. for a Registration to Operate as a Trade Waste Business, dated October 24, 2006.

<sup>6</sup> Ricciardelli also failed to include Ross as an employee in “Schedule C – Employees of Licensee” for each of Circle's three renewal applications. See First License Renewal Application at 7; Second License Renewal Application at 7; Third License Renewal Application at 7.

<sup>7</sup> In response, Ricciardelli requests the opportunity to sit for a second deposition to clear up any inconsistencies. See Response at 2. The Applicant's request is denied. The Commission notes that Ricciardelli testified at the beginning of his deposition that he understood that he was under oath, that any false or misleading statements could have negative legal ramifications both for his company and for him personally and that he was unaware of anything that would prevent him from answering questions truthfully. See Deposition at 8-10. Furthermore, Ricciardelli was given an opportunity at the conclusion of his deposition to “add, subtract or change, [or] fix” his testimony and he declined to do so. See Deposition at 79. Notably, Ricciardelli has asked for the opportunity to sit for a second deposition only after being served with the Recommendation and realizing its implications. However, the opportunity to address any alleged inconsistencies was in the Response itself; another deposition two years after the first is unnecessary and unlikely to assist the Commission's fact-finding. Moreover, the inconsistencies alleged by

used the term employee,” and that he “failed to think clearly and understand some of the questions before giving [his] response.” See Response at 2-3.<sup>8</sup> While previously acknowledging his failure to file a disclosure form for Marcus, Ricciardelli now claims that Marcus was not required to be disclosed. See Response at 2-3.<sup>9</sup> Ricciardelli now asserts that neither Marcus nor Ross was an employee of Circle, that neither received a salary, and that neither received a W-2 or 1099 tax statement. See Response at 2-5. Ricciardelli claims that Marcus and Ross were merely “independent contractors” paid by checks issued to their respective corporations and, as a result, disclosure was not required under Commission rules. Id.<sup>10</sup>

Even if the Commission were to accept Ricciardelli’s characterization of Ross as an independent contractor, he does not meet the definition under IRS standards. First, Circle agreed to pay Ross for expenses on top of a monthly payment of \$8,995.83 for his services. See Consulting Agreement, dated March 8, 2001 (providing for reimbursement by Circle for the expenses of DWR, including “entertainment, travel, and similar items”). Second, Ross provided a sworn affidavit that Ross’ expenses were in fact paid by Circle, including his car and insurance expenses. See Response at 10. During the duration of the Hunts Point contract (slightly more than 3 years), Circle paid DWR \$341,841.54 in salary and \$70,106.87 in expenses. See Response Exhibit D (cancelled checks issued by Circle to DWR and Ross). Although consultants usually absorb these types of expenses, Circle paid for them, demonstrating that Ross was actually an employee. See IRS Revenue Ruling 87-41 (factors used by the IRS to determine whether an employment relationship exists for federal employee tax purposes). In addition, eleven separate checks were issued by Circle to Wayne Ross, personally, not to DWR. See Response Exhibit D.<sup>11</sup> The evidence demonstrates that Ross was an employee of the Applicant, no matter what his ostensible payroll status at Circle may have been.

In any event, people who perform the designated job descriptions or act in a managerial capacity are subject to disclosure, whether they function as employees or agents of the company. See 17 RCNY §3-03; Appendix A. In response, Ross denies acting in any job capacity for which disclosure is required; he claims he “never solicited business on behalf of Circle,” “never sold or attempted to sell the services of Circle,” “never collected bills or attempted to collect bills on behalf of Circle,” “never evaluated Trade Waste Streams for any customer of circle,” “never had any regular contract with Circle Rubbish’s customers,” “never had authority to agree or refuse to service Circle Rubbish’s customers,” and “never had authority to resolve customer complaints.” See Response at 10. However, Ross’ sworn statement is patently false – the entire reason for

---

Ricciardelli are inconsistencies between his deposition and his sworn response, not inconsistencies in the deposition itself.

<sup>8</sup> The casual manner in which Ricciardelli minimizes the falsity of his sworn testimony before the Commission does not reflect well on his good character, honesty and integrity.

<sup>9</sup> See Footnote 3 *supra*.

<sup>10</sup> Ross’ corporation, “DWR Associates, Inc.” (“DWR”), was not incorporated until February 28, 2001, two days after Circle won the Hunts Point Contract. See NYS Department of State, Division of Corporations, Entity Information

<sup>11</sup> The checks issued to Ross personally were interspersed among those issued to Ross’ corporation, further undermining Ricciardelli’s argument that Ross was an independent contractor. See Response Exhibit D.

his relationship with Circle is the fact that he assisted Circle in soliciting the Hunts Point contract and his duties necessarily included supervising the garbage hauling from the Cooperative and its individual wholesalers – Circle’s “customers” under the contract. By his own affidavit, Ross concedes that the Cooperative is a customer: “he was a consultant solely for Circle Rubbish’s dealings at Hunts Point Market and had no connection to Circle Rubbish’s *other* customers.” See Response at 10 (italics added). Since Ross acted in a managerial capacity for Circle, he was required to be disclosed. In both his deposition testimony and his affidavit, Ricciardelli concedes Ross’ managerial capacity. See Deposition at 27 (“[Ross] was to be a supervisor there”); Response at 4 (indicating that Ross “supervised the operations at the market”).<sup>12</sup> By definition, Marcus’ duties as a salesman for Circle necessarily included “soliciting business on behalf of Circle,” thereby requiring his disclosure as well. See 17 RCNY §3-03; Appendix A (requiring disclosure for employees or agent who engage in the “solicitation of businesses”).

The Commission rejects Ricciardelli’s suggestion that paying Marcus and Ross through their corporations, rather than directly, insulates them from Commission scrutiny. The disclosure requirements of Local Law 42 apply to all employees or agents of a licensee who act either in a managerial capacity or in a job category specified in Schedule A. See Admin. Code §16-510(a)(i); 17 RCNY §3-01(a). In other words, anybody who works for a licensee in a significant capacity must be disclosed to the Commission, including independent contractors. The Commission need not resolve the contradiction between the two sworn statements by Ricciardelli: his deposition testimony that Marcus and Ross were company employees and his affidavit that Marcus and Ross were independent contractors. As a result of their job duties, disclosure is required under either scenario: Marcus and Ross should have been disclosed as key employees as per Ricciardelli’s deposition or should have been disclosed as agents as per Ricciardelli’s (and Ross’) affidavits. It would defeat the objective of Local Law 42 to allow companies to hire individuals associated with organized crime or otherwise lacking good character, honesty, and integrity as independent contractors and to avoid disclosure of such employees to the Commission merely as a result of their choice of the method of payment.

Interestingly, Ricciardelli’s response fails to acknowledge the serious criminal records of his employees/agents<sup>13</sup> and fails to state whether or not he was aware of their crimes before entering into business arrangements with convicted criminals. Nor does Ricciardelli even offer an opinion in hindsight that he would have acted differently had he known. Ricciardelli’s failure to acknowledge the integrity issues associated with his employment of two convicted felons does not rebut the reasonable inference that the

---

<sup>12</sup> In its response, the Applicant stated that DWR considered suing Circle for breach of the consulting agreement after the termination of the Hunts Point contract. See Response at 4-5. Even assuming DWR had actually sued Circle (rather than merely contemplating such action), the possibility of litigation is irrelevant to the question of disclosure and does not rebut the evidence that Ross acted as an agent of Circle.

<sup>13</sup> Since the affidavit from Ross submitted as part of Circle’s response is silent on the issue of his criminal record and Circle’s response does not include an affidavit from Marcus, the evidence regarding their criminal convictions is un rebutted.

Commission chooses to draw from his actions – namely, that Ricciardelli knowingly hired employees or agents who lack good character, honesty and integrity.

It takes no great leap of logic to infer that, had Ricciardelli disclosed his employment of Marcus and Ross as required by law, the Commission would quickly have discovered that they both had criminal convictions and that discovery would have prompted further inquiry into the circumstances and purposes of their hiring. That inquiry would have led the Commission to discover the peculiar circumstances surrounding Circle's acquisition of the Hunts Point Market contract. Given the involvement of an associate of organized crime,<sup>14</sup> it takes only a slightly greater inferential step to assume that Circle ultimately failed to disclose Marcus and Ross, at least in part, to shield the Hunts Point Market contract from scrutiny.

Circle failed to disclose two material key employee/agents and obstructed the Commission's investigation into the Applicant's association with convicted racketeers and its acquisition of the Hunts Point Market contract.<sup>15</sup> See 17 RCNY §3-03, §3-01(a). Accordingly, the Commission denies Circle's license renewal applications on this independently sufficient ground.

**B. The Applicant's Testimony About the Hunts Point Market Contract was Materially Misleading and Unreliable and Cannot be Credited**

There are two components to the Hunts Point Market Cooperative waste disposal contract: debris collected from common areas within the market ("sweepings") and commercial waste collected from individual businesses within the market. Under the contract, the sweepings could be dumped without charge at a New York City Department of Sanitation dump facility while the commercial waste had to be dumped at commercial rates at a private disposal site. See Deposition at 34. A bidder for waste removal services at the Hunts Point Market submits two prices: one for the sweepings and one for the commercial waste of individual businesses.

Circle's bid resulted from Steve Marcus introducing Ricciardelli to Wayne Ross, who told Ricciardelli that the tenure of the current contractor - Waste Management – was about to expire. See Deposition at 24. Ricciardelli had never met Ross and knew nothing about him other than that he had worked at the Cooperative more than a decade earlier. Id. at 25-26. Ricciardelli also knew nothing about the Hunts Point Market or how it

---

<sup>14</sup> See Section C *infra* (detailing evidence that Circle paid money to an associate of organized crime in order to obtain and keep the Hunts Point contract).

<sup>15</sup> Licensees are also required to provide to the Commission the names, job titles, social security numbers and addresses of all employees (including key employees) hired subsequent to the issuance of a license. See 17 RCNY §§2-02(a)(iii), 5-07. Nevertheless, Circle failed to comply with its disclosure requirements for its ordinary employees. According to the document submitted by Circle in its Response entitled "Worker's Compensation Recap," Circle listed thirty-four (34) employees for the year 2004 – nine (9) employees under the heading "Office and Clerical" and twenty-five (25) employees under the heading "Garbage Collection." See Response Exhibit B. According to the Commission's files, two (2) of the office/clerical employees and eleven (11) garbage collection employees were never disclosed to the Commission.

operated. Id. at 29-30 (“I would have went in there totally green.”). Nevertheless, without further investigation or hesitation, Ricciardelli decided to bid the contract. Id. at 24. In order to come up with a proper bid, Ricciardelli deferred completely to Ross’s judgment:

Q: How did you come up with the number for your bid? How did you decide what amount to put down?

A: Well, [Ross] knew more or less what the figures were before from working there, so he just increased it by the dumping, how much it cost to dump, how much was going to be generated.

Q: So, Skip [Ross] basically told you how much to bid. Is that fair to say?

A: Yes, more or less.

Id. at 25.

This level of deference to a total stranger and delegation of decision-making on an important business contract would be unusual even without the plea allocution of an associate of organized crime admitting to the extortion of Circle for the duration of the Hunts Point Contract.<sup>16</sup> Such deference makes more sense if one assumes that Circle’s involvement with the Hunts Point contract was not an ordinary business transaction but simply a way to generate money for the extortion payments, which is consistent with the facts.

After Circle obtained the contract in February 2001 and hired Wayne Ross to manage the operation,<sup>17</sup> Circle immediately contracted a small portion of the trade waste hauling to unlicensed truckers, all of whom Ross selected.<sup>18</sup> Id. at 40. Despite employing and paying them, Ricciardelli could not identify any of these trucking companies. Id. at 40. During 2001-2002, Circle made substantial payments to Avagnano Trucking (\$44,200) and CS&Q Trucking (\$32,000). See Chien Report at 1. Neither company was licensed by the Commission to haul trade waste. Id.

---

<sup>16</sup> See Section C *infra* (detailing evidence that Circle paid money to an associate of organized crime in order to obtain and keep the Hunts Point contract).

<sup>17</sup> Ross’s hiring also highlights another problem with the degree of Ricciardelli’s deference to Ross. Ricciardelli testified that he promised Ross a job if Circle was successful in obtaining the Hunts Point contract. See Deposition at 25 (“Well, if we put this thing together, [Skip] would have a job.”). In telling Ricciardelli what to bid on the contract, Ross’s interest is in winning the bid – thus assuring himself a job – without regard to the longer term profitability of Circle as a whole. Ricciardelli, who presumably was interested in the business beyond the Hunts Point contract, was delegating his judgment to Ross, whose relation to Circle was that of a job applicant to a prospective employer and who arguably would have been motivated more by Circle winning the contract than insuring its profitability under the contract. Again, it is difficult to understand or defend Ricciardelli’s decisions as examples of sound business judgment.

<sup>18</sup> Circle disposed of the “sweepings” at the Department of Sanitation facility and the commercial waste at local transfer stations. See Deposition at 39. On occasion, Circle – via Ross – subcontracted tractor-trailer owners to transport large quantities of fruit and vegetable waste to a compost facility near Albany, New York. Id. A review of Circle’s 2001-2002 bank records reveals payments totaling \$45,000 to Capital Compost in Menands, New York. See Chien Report at 1.

Ricciardelli believed that Waste Management was bidding \$30 per cubic yard to collect the commercial waste, but claimed he was unaware whether or not the contract was profitable for Waste Management. See Deposition at 32-33. Despite being aware that Waste Management had significantly increased its collection price, Ricciardelli placed a bid of only \$15 per cubic yard for the commercial waste with a flat fee of \$72,000 per month for the sweepings. Id. at 26. According to his testimony, Ricciardelli's bids reflected his belief that the valuable part of the contract was the sweepings rather than the waste portion, demonstrating his belief from the outset that the waste portion of the contract would not be profitable. Id. at 33. At the same time, Ricciardelli acknowledged the widespread problem of wholesalers dumping their waste into the common areas, yet claimed that this problem actually *cost* him money. Id. at 35-38. That could only be true if the waste hauling part of the operation was profitable. It is also hard to understand how the diversion of waste from an area in which disposal cost Ricciardelli money into an area in which Ricciardelli could dispose of the waste for free could cause him to lose money. An analysis of the ratio of free dumping to paid dumping during Circle's tenure compared to Waste Management's tenure indicates a sharp increase in free dumping once Circle took over the contract, suggesting that Circle knowingly, if not intentionally, allowed the so-called "problem" to continue in order to avoid private dumping fees. See Email from Cecilia Chien, BIC Director of Audit, dated December 12, 2003.

Despite Ricciardelli's testimony that Circle dumped the commercial waste at city transfer stations in the area near the Hunts Point Market (frequently using Metropolitan),<sup>19</sup> BIC's analysis of Circle's bank records showed a complete absence of payments to Metropolitan or any other city transfer stations for the first ten months of the contract in 2001 and only two small isolated payments to Bronx transfer stations in 2002.<sup>20</sup> See Report of Cecilia Chien, BIC Director of Audit, dated October 14, 2004 ("Chien Report") at 1.

In response, Circle attaches hundreds of cancelled checks and a few pages of account summaries to identify all the transfer stations it used. See Response at 5-6, Exhibit F. While Circle provided 168 pages of cancelled checks, it failed to provide any explanation of the significance of the attachments. The staff's examination of the exhibits reveals that the majority of the documents are irrelevant to the issues presented in the recommendation. Notably, the date range of the checks is from 2000 to 2004, far exceeding the probative period of 2001-2002. In addition, the checks are written to several different types of entities – transfer stations, recycling facilities, organic composting plants and construction and demolition debris facilities – located in many areas beyond the Bronx, including Brooklyn and New Jersey. None of the documents contradicts the staff's assertion that Circle failed to pay to dispose of the majority of the

---

<sup>19</sup> See Deposition at 34-35.

<sup>20</sup> During that two-year period, Circle made only two payments for garbage disposal (\$2,741.13 on May 16, 2002 and \$7,594.02 on May 22, 2002) to the BFI transfer station in the Bronx. The only other transfer station payments during that period were three small payments to the BFI transfer station in Brooklyn for construction debris. See Emails from Cecilia Chien, BIC Director of Audit, dated February 21, 2007 and February 22, 2007.



waste generated by the Market during 2001-2002. The only transfer station identified by Ricciardelli as the recipient of Market generated waste – Metropolitan – was not issued a single check by Circle until the year 2003. Id.<sup>21</sup>

In addition to undermining Ricciardelli's testimony about Circle's dumping, BIC's analysis of Circle's bank records from 1999 to 2002<sup>22</sup> showed suspicious payments. While Circle never made any payments to Marcus personally, Circle started paying a company controlled by Marcus – Specchio Carting – shortly after winning the Hunts Point Market contract. See Deposition at 45, 47. After making payments to Specchio Carting for approximately one year, Circle started paying a different entity controlled by Marcus – DAS Disposal.<sup>23</sup> The payments to Specchio Carting and DAS Disposal in 2001 and 2002 totaled over half a million dollars (\$502,728). In his deposition, Ricciardelli had no explanation for such large payments to Marcus' companies; he estimated that he only paid him a "couple hundred thousand" dollars. Id. at 52. Ricciardelli claimed that Marcus was employed on a commission basis, but he had difficulty articulating the basis for computing Marcus' commission: for work outside of the Hunts Point Market, Marcus received \$30 for each container hauled, but for the Market, Ricciardelli guessed "off the top of [his] head" that Marcus received 20% of the tonnage hauled from the wholesalers. Id. at 50. Since Marcus' commission did not include the sweeping contract<sup>24</sup> and Ricciardelli testified that he bid without expecting to

---

<sup>21</sup> The analysis of these cancelled checks raises additional questions about Circle's integrity – fourteen of the checks written during the first four months of the Hunts Point contract (totaling just over \$100,000) were made payable to Circle's bank (Summit Bank, later known as Fleet Bank) and cashed by Ricciardelli. While the memo line on the check stated "Waste Management of New York," it is an open question as to the ultimate destination of the money. Given the other evidence of suspicious financing and ties to organized crime (as well as the failure of the Applicant to provide an explanation of its own exhibit), the Commission is within its discretion to find that this is further evidence of Circle's lack of good character, honesty and integrity.

<sup>22</sup> The Commission requested that Circle provide bank records and financial documents from 1999 to 2002. Circle provided documents for the years 1999 and 2000, but never provided records for 2001 and 2002. Those documents were later obtained from the bank directly via subpoena. See Chien Report at 1.

<sup>23</sup> The two companies are actually incorporated in the name of Marcus' spouse, Debra Specchio. Specchio testified before the Commission as the principal of another applicant, Edcia Corp., which was recently found by the Commission to lack good character, honesty and integrity. See Decision of the Business Integrity Commission Denying the Exemption Application of Edcia Corp. for a Registration to Operate as a Trade Waste Business, dated October 24, 2006. At her deposition, Specchio demonstrated her ignorance about her purported involvement in her companies. While conceding that she is the owner of Specchio Carting and that the company is in her name, she asserted that she "had nothing to do with [it]." See Specchio Deposition at 15. She also claimed that she had nothing to do with DAS. Id. at 17. While she testified under oath that she received no salary from either company (id. at 18), cancelled checks reveal that she received payments from both companies from January 2001 to May 2003 totaling \$288,538. See Report of Cecilia Chien, BIC Director of Audit, dated October 14, 2004. Notably, Specchio stated that she "never questioned [her] husband" and that she "knows nothing about the checks." See Specchio Deposition at 20, 23, 25. Specchio was given an opportunity to respond to this evidence, but chose not to, thereby leaving it rebutted. See Edcia's Response to the Staff's Recommendation that the Business Integrity Commission Deny the Exemption Application of Edcia Corp. for a Registration to Operate as a Trade Waste Business. Furthermore, Circle did not include an affidavit from Marcus as part of its Response, again leaving the evidence rebutted.

<sup>24</sup> Ricciardelli testified at his deposition that Marcus was paid a percentage of the fees collected from the wholesaler's garbage, but was not paid anything for the sweep. See Deposition at 50. However, Circle's own checking account records indicate that Specchio/DAS were issued checks in years 2001 and 2002 for

make money on the garbage portion in order to obtain the lucrative sweeping contract, it is not unreasonable to explain the significant payments to Marcus as a means to funnel money to organized crime.<sup>25</sup> These unexplained payments are at least consistent with such extortion and are not contested in Circle's response, leaving the evidence undisputed.

Taken as a whole, the peculiarities of Circle's business practices regarding the Hunts Point contract cannot be explained as a rational (if questionable) exercise of ordinary business judgment. When placed alongside the admission of an associate of organized crime that he extorted money from Circle on this contract,<sup>26</sup> it becomes reasonable to infer that such extortion took place and that Ricciardelli was less than forthcoming at his deposition. While the Commission cannot identify precisely every place where Ricciardelli failed to tell the truth, the account he provided at his deposition simply strains credulity to the breaking point. The Commission need not completely unravel the facts regarding this matter in order to determine that Ricciardelli's account was not credible.

The failure of the Applicant to provide truthful information to the Commission constitutes an additional independent basis for the conclusion that the Applicant lacks good character, honesty and integrity and that its license renewal applications should be denied. See Admin. Code §16-509(a)(i).

**C. The Applicant Paid Money to an Associate of Organized Crime for the Duration of the Hunts Point Contract**

The suspicious circumstances surrounding the Applicant's bid for the Hunts Point Market contract are corroborated by evidence that the Applicant paid money to an associate of organized crime, in direct violation of the restrictions in Local Law 42. Such activity reflects adversely on the Applicant's fitness to hold a trade waste license. See Admin. Code §16-509(a)(vi)(prohibiting association with any member or associate of an organized crime group as identified by a law enforcement agency when the applicant knew or should have known of the organized crime associations of such person).

On April 3, 2003, Michael "Hippy" Zanfardino ("Zanfardino"), an associate of the Genovese crime family, was arrested for several crimes, including attempted murder and extortion. On January 13, 2004, Zanfardino pleaded guilty to a pattern of racketeering activity in furtherance of the Genovese family enterprise from 2001 to 2003, specifically including the extortion of money and property from Ricciardelli and Circle through the wrongful use of actual and threatened force. On May 11, 2004, Zanfardino

---

varying amounts for "consulting" and for "garbage & sweep," while for 2003 DAS was issued 14 checks in the identical amount of \$7,166 from the "Sweep Account." See Response Exhibit A. Ricciardelli's false testimony is another independently sufficient ground upon which to deny Circle's application.

<sup>25</sup> *See* Section C *infra* (detailing evidence that Circle paid money to an associate of organized crime in order to obtain and keep the Hunts Point contract).

<sup>26</sup> *See* Section C *infra*.

was sentenced to 15 years imprisonment.<sup>27</sup> See Information, *United States of America v. Michael Zanfardino*, 03 CR 398 (GBD)(SDNY); United States Attorney's Office (SDNY) Press Releases, dated January 13, 2004 and May 11, 2004; Zanfardino Plea Transcript, *United States of America v. Michael Zanfardino*, 03 CR 398 (GBD)(SDNY).

Not surprisingly, Circle's contract with the Hunts Point Market was terminated after Zanfardino's allocution revealed it to be the product of illegal activity. Ricciardelli testified that he lost the contract in June of 2004. See Deposition at 28. Also not surprisingly, Ross and Marcus ceased working for Circle around the same time period. See Deposition at 28.

In his deposition and response, Ricciardelli admitted meeting Zanfardino on more than one occasion, but claimed such meetings were limited to two lunches over a six-month period and that Zanfardino was simply one of a number of people at the table. See Deposition at 56-57, 59; Response at 6. Ricciardelli's connection to Zanfardino and the relevance of their association are further corroborated by his admission that the introduction took place through Marcus. Id.

Ricciardelli claimed he never paid Zanfardino money to get or keep Circle's contract, but could not provide any explanation regarding Zanfardino's plea admission that he had extorted money from Ricciardelli. See Response at 6; Deposition at 41, 61-62 ("I was shocked. I couldn't believe it."). However, Ricciardelli left open the possibility that Marcus could have made the payments to Zanfardino. Id. at 61 ("I was shocked, I was shocked. Unless Steve – whatever he did with the money, I don't know. But they never got money out of me."); Id. at 63 ("Well, I knew nothing about that. Like I said, I paid Steve Marcus and maybe Steve Marcus, those two, had it in cahoots. I don't know about it."). In his response, Ricciardelli denies that Circle made extortion payments to Zanfardino and claims that he "unequivocally" made similar denials at his deposition. See Response at 6. However, Ricciardelli's testimony that left open the possibility that Marcus made the payments on Circle's behalf was anything but unequivocal. See Deposition at 61, 63.<sup>28</sup> Ricciardelli's only explanation is that Zanfardino's allocution was an "unsubstantiated lie" and that he was a career criminal who would say anything for a lesser sentence. See Response at 6.<sup>29</sup> It seems highly unlikely that Zanfardino would lie in his plea allocution about committing five separate acts of racketeering activity (two separate attempted murders, two separate conspiracies to extort two different Bronx nightclubs and the conspiracy to extort Circle) in order to obtain the significant prison sentence of fifteen years. It is even less credible to believe that Ricciardelli is the subject of an unfortunate coincidence that Zanfardino truthfully admitted his role in the

---

<sup>27</sup> Zanfardino's prior criminal history consisted of an August 1989 felony conviction for Assault in the Second Degree (for which he was sentenced to 1.5 to 3 years in prison); an October 1987 felony conviction for Attempted Criminal Possession of a Weapon in the Third Degree (for which he was sentenced to 5 years probation) and a November 1985 misdemeanor conviction for Assault in the Third Degree (for which he was sentenced to a conditional discharge). See Criminal History Report for Zanfardino.

<sup>28</sup> Ricciardelli's claim that he was never confronted at his deposition with the extortion is belied by the deposition transcript. See Response at 7; Deposition at 61, 63.

<sup>29</sup> Circle's response does not include an affidavit from Marcus disputing the allegation that he made payments to Zanfardino, thereby leaving the evidence un rebutted.

attempted murders and the nightclub extortion conspiracies (which already subjected him to significant prison sentences), but lied about the single crime in which Circle was implicated.

Ricciardelli testified that he was “shocked” when he read about Zanfardino’s plea allocution in the newspapers in January 2004. See Deposition at 61-62.<sup>30</sup> However, despite Ricciardelli’s shock at reading news reports that stated that Circle paid money to an associate of organized crime, he never reached out to the Commission – the regulatory body charged with eradicating the influence of organized crime from the trade waste industry and the agency which issued Circle its trade waste license. Clearly, he was not concerned about widely publicized evidence that put his trade waste license in jeopardy. See Admin. Code §16-508(c)(requiring licensees to notify the Commission regarding material changes in the information submitted on the application for a license); 17 RCNY 1-06(a)(1)(requiring license applicants to disclose contacts with members and associates of organized crime); Admin. Code §16-509(a)(vi)(authorizing denial of a trade waste license for association with an associate of organized crime who has been identified as such by law enforcement). Nor was Ricciardelli worried about violating the conditions of his trade waste license. See Licensing Order of Circle at 3 (“The Applicant shall not knowingly associate with any member or associate of organized crime or any racketeer in any manner”); Licensing Order of Circle at 5 (“The Applicant shall disclose to the Commission any violation of any law known to the Applicant and relating to the trade waste removal business in New York City”). Moreover, Ricciardelli was not only aware of the allegations in the newspapers, he knew that he had had personal contact with Zanfardino, having dined on more than one occasion with the associate of organized crime who claimed responsibility for the extortion. Ricciardelli was obligated by statute and by the conditions of Circle’s license to notify the Commission regarding his contacts with a person who, at the very least, was reportedly connected to organized crime. It is unacceptable that Ricciardelli remained silent on this subject until his deposition, which was more than a year later. Even apart from his lawful obligations to come forward, it is reasonable for the Commission to assume an innocent man would want to rebut the so-called false allegations to the appropriate regulatory authority. Ricciardelli’s failure to contact the Commission is consistent with his failure to disclose Ross and Marcus<sup>31</sup> and suggests a calculated risk by Ricciardelli to try to hide the entire transaction from Commission scrutiny. Ricciardelli’s decision to wait until confronted at his deposition to mention his contacts with an associate of organized crime calls into question his protestations of innocence and his claims of ignorance and reflects poorly on his good character, honesty and integrity. Based on the totality of the record before the Commission, the credibility of Zanfardino’s plea allocution outweighs Ricciardelli’s self-serving denials and failure to notify the Commission.

---

<sup>30</sup> In his response, Ricciardelli claims he was not given an opportunity to review the plea transcript until after the denial recommendation was served. See Response at 6. However, Ricciardelli fails to state how the timing of the disclosure prejudiced him, since the news reports at the time of the plea, which Ricciardelli concedes that he had read, contained the facts discussed during the deposition.

<sup>31</sup> *See* Section A *supra*.

Association with an associate of organized crime who has been identified as such by law enforcement is grounds for denial of a trade waste license. See Admin. Code §16-509(a)(vi). This constitutes a sufficiently independent ground for denial of Circle's license renewal applications.

**D. The Applicant Failed to Pay Taxes and Fees Related to Its Business for Which Judgments Have Been Entered**

"[T]he failure to pay any tax, fine, penalty or fee related to the applicant's business for which ... judgment has been entered by a court or administrative tribunal of competent jurisdiction" reflects adversely on an applicant's integrity. See NYC Admin. Code §16-509(a)(x).

According to a judgment and lien search on December 28, 2006, several outstanding judgments totaling \$229,014.48 have been docketed against Circle:

- New York State Tax Commission, filed 5/19/05, \$35,366<sup>32</sup>
- State of New Jersey Tax Lien, filed 9/25/06, \$6,475.53<sup>33</sup>
- Union County Bureau of Environmental Health Enforcement, filed 10/15/04, \$174,000
- Hudson County Improvement Authority, filed 9/4/03, \$3,054
- Hudson County Improvement Authority, filed 9/15/03, \$3,129
- Hudson County Improvement Authority, filed 3/2/04, \$3,169
- Hudson County Improvement Authority, filed 9/26/03, \$1,271.95
- Hudson County Improvement Authority, filed 7/2/02, \$2,549

See Lexis Judgment and Lien Filing Search Results.

In response, Circle claims that the outstanding judgments have been "paid, settled, resolved, dismissed or are currently being resolved." See Response at 7. While Circle provided documentation that the NYS Tax Commission judgment is currently being paid subject to a payment plan (*see infra* Footnote 32), the documentation provided by Circle does not support its contention regarding the remaining judgments.<sup>34</sup>

<sup>32</sup> In response, Circle provided documentation that this judgment is subject to a payment plan and is in the process of being paid via automatic bank account withdrawals. See Response at 7, Exhibit G. While the judgment has not yet been paid in full and a satisfaction has not yet been issued, the Commission does not deny Circle's application based on this open judgment.

<sup>33</sup> In response, Circle provided a letter from an accountant to the NJ Department of Labor in October 2006 regarding a balance due of \$7,125.64. See Response at 7-8, Exhibit H. Given that the letter is to a different agency regarding a balance of a different amount, the documentation provided by the Applicant is irrelevant to the issues cited in the denial recommendation.

<sup>34</sup> In response, Circle provided numerous documents purporting to show that the Union County and Hudson County judgments have been either resolved or in the process of being resolved. See Response at 8, Exhibit I. It appears that many of the documents are copies of the actual judgments, not satisfactions of those judgments. In addition, the Applicant enclosed copies of correspondence from Circle to Union County providing details or explanations regarding violations issued to it and an accounting report referencing payments to Hudson County and Union County. However, the documentation submitted cannot be correlated to any of the judgments cited, either by amount, filing date or docket number, and the Applicant has provided no explanation in its response to interpret its submitted Exhibits other than the

The Applicant's failure to satisfy its business debts that have been reduced to judgment demonstrates that the Applicant lacks good character, honesty and integrity. See NYC Admin. Code §16-509(a)(x). Based on this sufficient independent ground, the Commission denies the Applicant's renewal applications.

### 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. The evidence recounted above demonstrates convincingly that Circle falls far short of that standard.

It is of grave concern to the Commission that the Applicant made payments to organized crime and obstructed the Commission's investigation by failing to disclose key employees and providing misleading and unreliable deposition testimony. For the independently sufficient reasons discussed above, the Commission denies Circle's license renewal applications.

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, the Applicants are directed (i) to continue servicing their customers for the next fourteen days in accordance with their existing contractual arrangements, unless advised to the contrary by those customers, and (ii) to immediately notify each of their customers of such by first-class U.S. mail.

---

blanket statement that they prove the judgments are in the process of being resolved. Given that the documents do not indicate that the judgments have been satisfied in full or are the subject of payment plans, the Commission rejects the Applicant's purported offer of proof and denies its applications on this independently sufficient ground.

Circle Rubbish Removal Inc. 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: New York, New York  
May 8, 2007

THE BUSINESS INTEGRITY COMMISSION



Thomas McCormack  
Chair



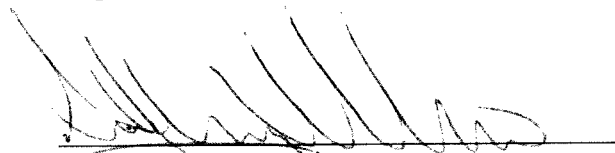
John Doherty, Commissioner  
Department of Sanitation



Rose Gill Hearn, Commissioner  
Department of Investigation



Jonathan Mintz, Commissioner  
Department of Consumer Affairs



Anthony Dell'Olio, General Counsel (designee)  
Department of Small Business Services



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