



The City of New York
BUSINESS INTEGRITY COMMISSION
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**DECISION OF THE BUSINESS INTEGRITY COMMISSION DENYING
THE LICENSE RENEWAL APPLICATION OF ADVANCED RECYCLING
AND WASTE SERVICE, INC. TO OPERATE AS A TRADE WASTE BUSINESS**

I. Introduction

On March 2, 2018, Advanced Recycling and Waste Service, Inc. (the “Applicant” or “Advanced Recycling”) (BIC #488216) applied to the New York City Business Integrity Commission to renew for the first time its license to operate as a trade waste removal business in the City of New York (the “Renewal Application”).¹ Local Law 42 of 1996 authorizes the Commission to review and make determinations regarding the renewal of license applications. *See* Title 16-A, New York City Administrative Code (“Administrative Code” or “Admin. Code”) § 16-505(a).

On September 4, 2019, the Commission’s staff personally served the principal of Advanced Recycling with a Notice to the Applicant of the Grounds to Deny the License Renewal Application of Advanced Recycling and Waste Service, Inc. to Operate as a Trade Waste Business (the “Notice”). Advanced Recycling had 10 business days to respond, until September 19, 2019. *See* Title 17, Rules of the City of New York (“RCNY”) § 2-08(a). The Commission did not receive a response from Advanced Recycling.

The Commission has completed its review of the license renewal application, having considered both the Notice and Advanced Recycling’s failure to respond. Based on the record herein, the Commission denies Advanced Recycling’s license renewal application because the company lacks good character, honesty, and integrity based on the following ground:

The Applicant has been found liable in an administrative action that bears a direct relationship to the fitness of the Applicant to conduct a trade waste business, and has failed to pay fines that are directly related to the Applicant’s business.

II. Statutory Background and Framework

Every commercial business establishment in New York City must contract with a private carting company to remove and dispose of the waste it generates, known as trade waste. Historically, the private carting industry in the City was operated as a cartel controlled by organized crime. As evidenced by numerous criminal prosecutions, the industry was plagued by pervasive racketeering, anticompetitive practices and other corruption. *See, e.g., United States v. Int’l Brotherhood of Teamsters (Adelstein)*, 998 F.2d 120 (2d Cir. 1993); *People v. Ass’n of Trade*

¹ “Trade waste” or “waste” is defined in Title 16-A of the New York City Administrative Code § 16-501(f)(1).

Waste Removers of Greater New York Inc., Indictment No. 5614/95 (Sup. Ct. N.Y. Cty.); *United States v. Mario Gigante*, No. 96 Cr. 466 (S.D.N.Y.); *People v. Ass'n of Trade Waste Removers of Greater New York*, 701 N.Y.S.2d 12 (1st Dep't 1999). The construction and demolition debris removal sector of the City's carting industry specifically has also been the subject of significant successful racketeering prosecutions. See *United States v. Paccione*, 949 F.2d 1183, 1186-88 (2d Cir. 1991), *cert. denied*, 505 U.S. 1220 (1992); *United States v. Cafra*, No. 94 Cr. 380 (S.D.N.Y.); *United States v. Barbieri*, No. 94 Cr. 518 (S.D.N.Y.).

The Commission is charged with, among other things, combating the influence of organized crime and preventing its return to the City's private carting industry, including the construction and demolition debris removal industry. Instrumental to this core mission is the licensing scheme set forth in Local Law 42, which created the Commission and granted it the power and duty to license and regulate the trade waste removal industry in New York City. See Admin. Code § 16-505(a). This regulatory framework continues to be the primary means of ensuring that an industry once overrun by corruption remains free from organized crime and other criminality, and that commercial businesses that use private carters can be ensured of a fair, competitive market.

Pursuant to Local Law 42, a company "solely engaged in the removal of waste materials resulting from building demolition, construction, alteration or excavation," also known as construction and demolition debris, must apply to the Commission for an exemption from the licensing requirement. *Id.* If, upon review of an application, the Commission grants an exemption from the licensing requirement, it issues the applicant a class 2 registration. *Id.* at § 16-505(a)-(b). Before issuing such registration, the Commission must evaluate the "good character, honesty and integrity of the applicant." *Id.* at § 16-508(b); see also *id.* at § 16-504(a). An "applicant" for a license or registration means both the business entity and each principal thereof. *Id.* at § 16-501(a).

The Administrative Code provides an illustrative list of relevant factors for the Commission to consider in making a decision on an application for a license or registration:

1. failure by such applicant to provide truthful information in connection with the application;
2. a pending indictment or criminal action against such applicant for a crime which under this subdivision would provide a basis for the refusal of such license, or a pending civil or administrative action to which such applicant is a party and which directly relates to the fitness to conduct the business or perform the work for which the license is sought, in which cases the commission may defer consideration of an application until a decision has been reached by the court or administrative tribunal before which such action is pending;
3. conviction of such applicant for a crime which, considering the factors set forth in section seven hundred fifty-three of the correction law, would provide a basis under such law for the refusal of such license;

4. a finding of liability in a civil or administrative action that bears a direct relationship to the fitness of the applicant to conduct the business for which the license is sought;
5. commission of a racketeering activity or knowing association with a person who has been convicted of a racketeering activity, including but not limited to the offenses listed in subdivision one of section nineteen hundred sixty-one of the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. § 1961 *et seq.*) or of an offense listed in subdivision one of section 460.10 of the penal law, as such statutes may be amended from time to time, or the equivalent offense under the laws of any other jurisdiction;
6. association with any member or associate of an organized crime group as identified by a federal, state or city law enforcement or investigative agency when the applicant knew or should have known of the organized crime associations of such person;
7. having been a principal in a predecessor trade waste business as such term is defined in subdivision a of section 16-508 of this chapter where the commission would be authorized to deny a license to such predecessor business pursuant to this subdivision;
8. current membership in a trade association where such membership would be prohibited to a licensee pursuant to subdivision j of section 16-520 of this chapter unless the commission has determined, pursuant to such subdivision, that such association does not operate in a manner inconsistent with the purposes of this chapter;
9. the holding of a position in a trade association where membership or the holding of such position would be prohibited to a licensee pursuant to subdivision j of section 16-520 of this chapter;
10. failure to pay any tax, fine, penalty, or fee related to the applicant's business for which liability has been admitted by the person liable therefor, or for which judgment has been entered by a court or administrative tribunal of competent jurisdiction.

Id. at § 16-509(a)(i)-(x). *See also id.* at § 16-504(a).

The Commission also may refuse to issue a license or registration to any applicant who has “knowingly failed to provide information or documentation required by the Commission . . . or who has otherwise failed to demonstrate eligibility for a license.” *Id.* at § 16-509(b). *See also Elite Demolition Contracting Corp. v. The City of New York*, 125 A.D.3d 576 (1st Dep’t 2015); *Breeze Carting Corp. v. The City of New York*, 52 A.D.3d 424 (1st Dep’t 2008); *Attonito v. Maldonado*, 3 A.D.3d 415 (1st Dep’t) (Commission may deny an application for an exemption

“where the applicant fails to provide the necessary information, or knowingly provides false information”); leave denied 2 N.Y.3d 705 (N.Y. 2004). *See also* Admin. Code § 16-509(a)(i) (failure to provide truthful information in connection with application as a consideration for denial). In addition, the Commission may refuse to issue a license or registration to an applicant that “has been determined to have committed any of the acts which would be a basis for the suspension or revocation of a license.” *Id.* at § 16-509(c). *See also id.* at § 16-504(a). Finally, the Commission may refuse to issue a license or registration to any applicant where the applicant or its principals have previously had their license or registration revoked. *Id.* at § 16-509(d); *see also id.* at § 16-504(a).

An applicant for a private carting license (including a registration for hauling construction and demolition debris) has no entitlement to and no property interest in a license or registration, and the Commission is vested with broad discretion to grant or deny a license or registration application. *Sanitation & Recycling Indus., Inc.*, 107 F.3d 985, 995 (2d Cir. 1997); *see also Daxor Corp. v. New York Dep’t of Health*, 90 N.Y.2d 89, 98-100 (N.Y. 1997).

III. Statement of Facts

On August 19, 2015, Advanced Recycling applied for a license to operate a trade waste business. *See* Advanced Recycling and Waste Service, Inc. Application for a Trade Waste Removal License (the “Original Application”). The Original Application disclosed Mohammad Raja as its only principal. *See* Original Application at 20. On March 1, 2016, the Commission granted Advanced Recycling a trade waste removal license, valid for the two-year period ending February 28, 2018. *See* License Order issued to Advanced Recycling, effective March 1, 2016. On March 2, 2018, the Applicant filed its first license renewal application (the “Instant Application”). *See* Advanced Recycling and Waste Service, Inc. Renewal Application for a License or Registration as a Trade Waste Business.

On December 1, 2017, the Commission issued Notice of Violation TWC-215254 to the Applicant, for failing to file its 2016 financial statements, in violation of 17 RCNY §§ 5-03(e) and (f). *See* Notice of Violation TWC-215254. The Notice of Violation informed the Applicant that a hearing would be held on February 22, 2018. *See* Notice of Violation for TWC-215254 at 1. On the scheduled hearing date, a representative of Advanced Recycling appeared at the Office of Administrative Trials and Hearings (“OATH”) and requested that the hearing be adjourned. *See* Report and Recommendation at 1. The matter was adjourned to March 22, 2018 at 9:30am. *See id.* The Applicant failed to appear for the March 22, 2018 hearing. *See id.* On March 26, 2018, OATH Administrative Law Judge (“ALJ”) John B. Spooner issued a Report and Recommendation on the Notice of Violation. In the Report and Recommendation, ALJ Spooner noted that a hearing was originally scheduled for an earlier date and that a representative for Advanced Recycling appeared and requested an adjournment. On the adjourned date, “the [Business Integrity Commission] appeared but [Advanced Recycling] did not, despite having consented to the adjourned date.” *See* Report and Recommendation at 1.

As a result, ALJ Spooner recommended a penalty of \$10,000. *See id.* at 3. On April 6, 2018, the Chair of the Commission accepted the recommendation and imposed a civil penalty of \$10,000. *See* April 6, 2018 letter from Noah D. Genel to the Applicant. On or about May 16, 2019, the Commission reminded the Applicant that it must resolve the abovementioned

administrative violation. *See* May 16, 2019 letter from the Commission to the Applicant. The Applicant was warned that its failure to resolve the administrative violation would adversely affect its licensing status. *See id.* Then, on or about June 5, 2019, the Commission again reminded the Applicant that it must resolve the abovementioned administrative violation. *See* June 5, 2019 letter from the Commission to the Applicant. Again, the Applicant was warned that its failure to resolve the administrative violation would adversely affect its licensing status. *See id.* As of the date of this Decision, the Applicant has neither moved to vacate this default, nor paid the \$10,000 penalty.²

IV. Basis for Denial

The Applicant has been found liable in an administrative action that bears a direct relationship to the fitness of the Applicant to conduct a trade waste business, and has failed to pay fines that are directly related to the Applicant’s business.

The Commission may refuse to issue a license to an applicant who lacks good character, honesty and integrity. *See* Admin. Code § 16-509(a). One factor the Commission may consider in making this determination is whether there is “a finding of liability in an administrative action that bears a direct relationship to the fitness of the Applicant to conduct the business for which the license is sought.” *See* Admin. Code § 16-509(a)(iv); *see also* § 16-509(c)(iii); 16-513(a)(i). The Commission may also refuse to issue a license to an Applicant “upon the failure of the Applicant to pay any tax, fine, penalty, fee related to the Applicant’s business... for which judgment has been entered by a[n]... administrative tribunal of competent jurisdiction...” *See* Admin. Code § 16-509(a)(x).

Here, the Applicant violated the rules of the Business Integrity Commission and disregarded the consequences, despite being warned of the outcome. In April 2018, an ALJ for OATH found the Applicant liable in an administrative action that bears a direct relationship to the Applicant’s ability to conduct business in compliance with Local Law 42 in the New York City trade waste industry. The administrative violation has resulted in total fines and penalties of \$10,000, which is owed to the Commission, and which the Applicant has failed to pay or address in any manner.

Notably, the Applicant appeared on the originally-scheduled hearing date for the administrative violation to request an adjournment of the hearing for approximately one month. The ALJ granted this request. Yet, despite making the request, the Applicant failed to appear on the rescheduled hearing date and has provided no reason for doing so. And after being found in default, the Applicant has failed to respond in any way – it has not paid the \$10,000; nor has it sought to vacate the default. The Applicant has not disputed this point. Accordingly, the Commission denies Advanced Recycling’s application on this ground.

V. Conclusion

The Commission is vested with broad discretion to refuse to issue a license to any applicant that it determines lacks good character, honesty, and integrity. Based upon the foregoing ground,

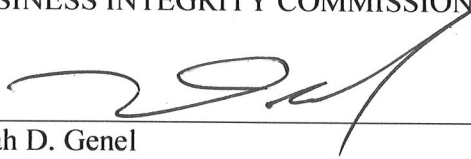
² Principal Raja also has an outstanding New York State Tax Lien, Warrant ID Number E-045732799-W001-5, in the amount of \$5,692.34, which was filed on September 1, 2017, and has yet to be resolved.

which the Commission is expressly authorized to consider under Local Law 42, the Commission denies Advanced Recycling's license renewal application.


This denial decision is effective in 14 business days. Advanced Recycling may not operate as a trade waste business in the City of New York after November 8, 2019.

Dated: October 21, 2019

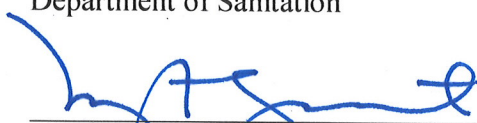
THE NEW YORK CITY
BUSINESS INTEGRITY COMMISSION



Noah D. Genel
Commissioner and Chair



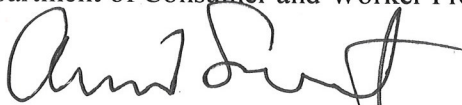
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