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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 H.J. McGRAW & SONS, INC. FOR A LICENSE TO OPERATE AS A TRADE WASTE BUSINESS

By application submitted on August 29, 1996, H.J. McGraw & Sons, Inc. ("McGraw" or the "Applicant") applied to the New York City Trade Waste Commission for a license to operate as a trade waste business pursuant to Local Law 42 of 1996. See Title 16-A of the New York City Administrative Code ("Admin. Code"), § 16-508. Local Law 42, which created the Commission to license and regulate the trade waste removal industry in New York City, was enacted to address pervasive organized crime and other corruption in the commercial carting industry, to protect businesses using private carting services, and to increase competition in the industry and thereby reduce prices.

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

(1) the Applicant illegally dumped solid waste and committed other unlawful acts in connection with its operations in New Jersey;

(2) the Applicant failed to cooperate with the Commission's investigation of its license application by repeatedly failing to provide requested documents and other information;

(3) the Applicant filed a false and misleading license application with the Commission by failing to disclose administrative violations; and

(4) the Applicant has numerous outstanding tax liabilities.

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. For the past forty years, and until only recently, the private 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 recently 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 testimonial and documentary evidence adduced during lengthy City Council hearings addressing the corruption that historically has plagued this industry revealed the nature of the cartel: an entrenched anti-

competitive conspiracy carried out through customer-allocation agreements among carters, who sold to one another the exclusive right to service customers, and enforced by organized crime-connected racketeers, who mediated disputes among carters. See generally Peter Reuter, Racketeering in Legitimate Industries: A Study in the Economics of Intimidation (RAND Corp. 1987). After hearing the evidence, the City Council found:

(1) "that the carting industry has been corruptly influenced by organized crime for more than four decades";

(2) "that organized crime's corrupting influence over the industry has fostered and sustained a cartel in which carters do not compete for customers";

(3) that to ensure carting companies' continuing unlawful advantages, "customers are compelled to enter into long-term contracts with onerous terms, including 'evergreen' clauses";

(4) "that the anti-competitive effects of this cartel have resulted, with few exceptions, in the maximum [legal] rates . . . 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 have been 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 in illegal ways" by "enforc[ing] the cartel's anticompetitive dominance of the waste collection industry." SRI, 107 F.3d at 999.

> [T]angential legitimate purposes pursued by a trade association whose *defining aim, obvious to all involved,* is *to further an illegal anticompetitive scheme* will not shield the association from government action taken to root out the illegal activity.

Id. (emphasis added).

The Second Circuit has roundly dismissed carting companies' rote denials of knowledge of the role their trade associations played in enforcing the cartel's criminal "property rights" system:

> The [New York State Legislature's] 1986 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 "evergreen" contracts and the other 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 carter's intent to further the trade association's illegal purposes.*

SRI, 107 F.3d at 999 (emphasis added).

In June 1995, all four trade associations, together with seventeen individuals and twenty-three carting companies, were indicted 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.

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 corporations 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 recent 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 a competitor from bidding on a "Vibro-owned" building, 200 Madison Avenue in Manhattan.

On January 27, 1997, Angelo Ponte, a lead defendant in the state prosecution and the owner of what was once one of New York 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 New York City 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 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 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 New York City 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 New York City 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, Sr., another lead defendant in the state prosecution and the former owner of New York 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 New York City carting industry. On the same day, Philip Barretti, Jr. and Mark Barretti pleaded guilty to a Class E 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 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 New York City carting industry. On the same day, the QCTW pleaded guilty to a criminal antitrust violation and agreed to forfeit all of its assets.

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

As the United States Court of Appeals has definitively ruled, an applicant for a trade waste removal 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, 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

On September 2, 1998, the Commission served upon McGraw a 15-page recommendation by the staff that its license application be denied. Pursuant to the Commission's rules, the Applicant was given ten business days, or until September 17, 1998, to submit any written response to the

recommendation. See 17 RCNY § 2-08(a). McGraw did not submit any response to the staff's recommendation.

For the independently sufficient reasons set forth below, the Commission finds that the Applicant lacks good character, honesty, and integrity and, therefore, denies its license application.

A. McGraw engaged in illegal dumping and other violations of law.

In 1997, the Applicant was charged by the Hudson County Improvement Authority and the Hudson Regional Health Commission with numerous violations of New Jersey law in connection with its operation of an unpermitted solid waste facility at 61-69 Bishop Street, Jersey City, New Jersey, which is the location of McGraw's principal office and its garage. See Lic. App. at 1.

Specifically, McGraw was charged with, among other things, operating a solid waste facility without a permit, delivering and depositing solid waste at an unapproved facility, storing solid waste in excess of twenty-four hours, operating an open dump, and unlawfully collecting and disposing of solid waste. See Hudson County Improvement Authority et ano. v. H.J. McGraw & Sons, Inc., No. HUD-L-6341-97 (N.J. Super. Ct., Law Div., Hudson Cty.).

On December 16, 1997, McGraw agreed to entry of a consent judgment resolving the charges against the company. McGraw agreed (i) to surrender to the state all licenses which had allowed the Applicant to transport, dispose of, or otherwise handle solid waste or to conduct recycling activities in New Jersey; (ii) not to operate any recycling business or use any property in New Jersey for the purpose of operating a solid waste facility in the state; (iii) never to reapply to the state for permission to transport, dispose of, or otherwise handle solid waste and/or recyclable materials in New Jersey; and (iv) to forfeit three trucks and twelve containers. See Consent Judgment at 3-4.

Thus, less than one year ago, while its license application was pending before the Commission, McGraw agreed to be barred from the waste removal industry in New Jersey and to forfeit assets, rather than face numerous charges of unlawful activity in connection with its waste removal

business. McGraw did not contest those charges, and the severe sanctions to which it consented demonstrate the merit of the charges. The consent judgment is in essence an admission by McGraw that it engaged in unlawful activity in its business serious enough to warrant a debarment. McGraw's unlawful acts plainly bear a direct relationship to its fitness to conduct the business for which it seeks a license from the Commission and, therefore, also warrant denial of its license application. See Admin. Code §16-509(a)(iv).

B. The Applicant failed to cooperate with the Commission's investigation by repeatedly failing to provide requested documents and other information.

As part of the Commission's investigation of McGraw's license application, the staff took the depositions of James McGraw (the Applicant's president) and his wife, Ellen McGraw, on May 21, 1997. At that time, the staff orally requested the production of certain documents and information.

By letter to the Applicant dated June 3, 1997, the staff confirmed its oral request in writing. The letter requested, among other things, certain financial information and financial statements, as well as copies of any payment plans involving the Applicant and the Internal Revenue Service or other tax authorities.[1]

By a second letter to the Applicant, also dated June 3, 1997, the staff requested that the Applicant provide details concerning its tax liabilities and deficiencies, including any steps it had taken to remedy non-compliance with the tax laws. The letter also requested relevant documents and an explanation concerning the suspension of the driver's license of James McGraw, Jr., the Applicant's vice-president. The letter further requested explanations of judgments against the Applicant obtained by certain companies. Finally, the letter requested an explanation of two DCA violations which had been issued against the applicant in 1990 and 1992 but had not been disclosed in its license application. A response to the staff's letter (which noted that the information sought was material to the

[1] New York City tax authorities, the New York and New Jersey state tax authorities, and the IRS all have unsatisfied judgments against the Applicant.

Commission's consideration of McGraw's license application) was requested by June 9, 1997.

By letter to the Commission dated June 4, 1997, McGraw's counsel for IRS matters, Neal E. Brunson, Esq., acknowledged receipt of the staff's letter requests, but provided no information responding to them. In fact, the requested information was never provided to the staff.

By letter to the Applicant dated December 8, 1997, the staff requested copies of all papers with which McGraw had been served by the Hudson County Improvement Authority in connection with a lawsuit against the Applicant or its president. The letter also requested copies of any charging instruments in any criminal prosecution against the Applicant or its president. The letter (which again noted the materiality of the information requested) required a response by December 15, 1997. No response to this letter was ever received by the staff.

The information and documentation requested by the staff – concerning, among other things, the financial condition, liabilities, debts, and disclosures of McGraw and its principals – plainly was material to the Commission's consideration of McGraw's license application. The Applicant, however, ignored these requests, and its knowing failure to provide the information and documentation requested provides an additional basis for denial of this license application. See Admin. Code §16-509(b).

C. The Applicant filed a false and misleading document with the Commission by failing to disclose administrative violations on its license application.

The application disclosed only one DCA violation, for failure to timely file a financial statement. See Lic. App. at 13 and 32. The application did not disclose that McGraw had been found liable for two additional administrative violations. The first, issued in 1990, was for illegal dumping and resulted in a $1,000 fine. The second violation, issued in 1992, was for failure to place the DCA license number on printed matter (such as invoices) and resulted in a $100 fine.

The Applicant's failure to provide truthful information in connection with its license application constitutes another independent ground for license denial. See Admin. Code §16-509 (a)(i).

D. The Applicant has numerous outstanding tax liabilities.

The Applicant failed to file its federal and New York state tax returns for the years 1994 and 1995 by their due dates, and failed to file corporate tax returns with New York state and with New York City for the years 1993, 1994, and 1995. Lic. App. at 19-20. As of April 1996, McGraw owed the IRS more than $45,000. Id. at 37. As of December 1995, McGraw owed the state of New Jersey approximately $50,000 in unpaid taxes. Id. at 38. According to a Dun & Bradstreet report, the Internal Revenue Service, the New York State Tax Commission, and the New York City Department of Finance all have unsatisfied judgments against the Applicant.

The Applicant's proffered justifications for its failure to file tax returns ("lost track of it," according to Ellen McGraw) and to pay its taxes ("business reversal," according to the license application at 20) are plainly insufficient.

The Applicant's outstanding tax liabilities provide another independent basis for license denial. See Admin. Code §16-509(a)(x).

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 history of illegal dumping and other unlawful activity in the waste removal industry, its knowing failure to cooperate with the Commission's investigation, its false and misleading license application, and its large outstanding tax liabilities, all of which the Commission is authorized to consider under Local Law 42, the Commission denies this license application.

This license denial decision is effective fourteen days from the date hereof. In order that McGraw's customers may make other carting arrangements without an interruption in service, McGraw is directed (i) to continue servicing its customers for the next fourteen days in accordance with its existing contractual arrangements, 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 October 5, 1998. McGraw shall not service any customers, or otherwise

operate as a trade waste removal business in New York City, after the expiration of the fourteen-day period.

Dated: October 2, 1998

THE TRADE WASTE COMMISSION

Edward T. Ferguson, III

Edward J. Kuriansky
Investigation Commissioner

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Jules Polonetsky
Consumer Affairs Commissioner

Deborah R. Weeks
Acting Business Services Commissioner

Michael Carpinello
Acting Sanitation Commissioner

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

October 5, 1998

NOTICE TO CUSTOMERS OF H.J. McGRAW & SONS INC. REGARDING TERMINATION OF CARTING SERVICE

Dear Carting Customer:

The New York City Trade Waste Commission, which regulates private carting companies in the City, has denied the application of H.J. McGraw & Sons Inc. ("H.J. McGraw") for a license to collect trade waste. **As of October 16, 1998, H.J. McGraw will no longer be legally permitted to collect waste from businesses in New York City. If H.J. McGraw is collecting your waste, you will have to select another carting company to provide you with that service by October 16, 1998.**

The Commission has directed H.J. McGraw to continue providing service to its customers through October 16, 1998. **If your service is interrupted before October 16, call the Commission at 212-676-6275.**

There are approximately 250 carting companies that are legally permitted to collect waste from businesses in New York City. There are several ways that you can find out which ones are willing to service customers in your neighborhood:

- **Find out which company is servicing your neighbor**. A carting company cannot, without a business justification satisfactory to the Commission, refuse to service you if it already has another customer that is located within 10 blocks of your business. You can find out which carting companies service your area by looking at the **carting stickers** that many businesses display on their store-fronts.

- **Consult public directories, such as the Yellow Pages.**

- **Call the Commission at 212-676-6275.**

To assist you further, we have given all 200 plus carting companies in New York City a list of all of H.J. McGraw's customers, including yourself.

The carting industry is changing for the better and **prices have been falling over the past two years**. Customers that shop around have been able to cut their carting bills by a third, and often by a half or more. You should use this opportunity to get the best rates and service by **soliciting bids from at least four carting companies** before signing a carting contract.

You have many rights under Local Law 42 of 1996, which Mayor Rudolph W. Giuliani signed in 1996 to address the corruption and anticompetitive practices that have long plagued the commercial waste industry in New York City, including:

- The right to be offered a contract by your carting company. A **form carting contract** that has been approved by the Commission is enclosed for your convenience.

- The right to be charged a reasonable rate for waste removal services. The City sets the maximum rates that carting companies can charge. The City last year reduced the maximum rates for the removal of trade waste to **$12.20 per loose cubic yard** and $30.19 per pre-compacted cubic yard. Most businesses dispose of loose waste; only businesses that have trash-compactors dispose of pre-compacted waste. Under the new rule, businesses that dispose of loose trash in bags filled to 80% of capacity (as many businesses do) may not be legally charged more than:

  $2.66 for each **55** gallon bag of trash
  $2.42 for each **50** gallon bag of trash
  $2.17 for each **45** gallon bag of trash
  $1.93 for each **40** gallon bag of trash
  $1.59 for each **33** gallon bag of trash
  $1.45 for each **30** gallon bag of trash

- The new rates are only **maximum** rates. Customers are encouraged to "shop around" and get bids from four or more carting companies to find a good price. Businesses should be able to get rates below $10.00 per loose cubic yard and $25.00 per pre-compacted cubic yard. You may also want to insist upon the right to terminate your contract with the carter on thirty days' notice. (There is no requirement that you give the same right to the carting company.)

If you have any questions or complaints about commercial waste hauling in New York City, call the Commission at 212-676-6275.

Edward T. Ferguson, III
Chair and Executive Director