

82



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 LITOD PAPER STOCK CORP. FOR A
LICENSE TO OPERATE AS A TRADE WASTE BUSINESS**

By application submitted August 29, 1996, Litod Paper Stock Corp. ("Litod" 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, certain criminal convictions or pending criminal charges, certain civil or administrative findings of liability, and certain associations with organized crime figures. Based upon the record as to Litod, the Commission concludes for the following reasons that the applicant lacks good character, honesty, and integrity, and thus denies this license application:

- (1) the applicant and its principal, Daniel Todisco, recently pleaded guilty to racketeering and related crimes--to wit: attempted enterprise

corruption, a Class C felony, in violation of the New York state anti-racketeering statute; combination in restraint of trade and competition, in violation of the New York state antitrust provisions contained in the Donnelly Act, and criminal and civil contempt -- all in connection with their participation in the organized crime-dominated cartel that controlled the carting industry in New York City until the mid-1990's; and

- (2) the applicant, through its principal, has knowingly associated with members of organized crime.

I. BACKGROUND

A. The New York City Carting Industry

Virtually all of the 250,000 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 “also 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 of the 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. Those indicted 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. The evidence amassed at the City Council hearings giving rise to Local Law 42 comported with the charges in the indictment: evidence of enterprise corruption, attempted murder, arson, criminal antitrust violations, coercion, extortion, and numerous other crimes.

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 indictment, against thirteen individuals and eight companies, was 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.

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. 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 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. See People v. Angelo Ponte, V. Ponte & Sons, Indictment No. 5614/95 (Sup. Ct. N.Y. Cty.), Tr. of Plea (Jan. 27, 1997) (copy attached as Exhibit 1).

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. See People v. Vincent Vigliotti, Sr., Indictment No. 5614/95 (Sup. Ct. N.Y. Cty.), Tr. of Plea (Jan. 28, 1997) (copy attached as Exhibit 2).

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 (who owns Litod, the applicant here), pleaded guilty to attempted enterprise corruption, as did another Brooklyn carter, Dominick Vulpis. Brooklyn carter and KCTW secretary Raymond Polidori pleaded guilty to restraint of trade. These individual defendants agreed to pay fines ranging from \$250,000 to \$750,000 and to serve sentences ranging from probation to 4½ years in prison. The same day, Manhattan carters Henry Tamily and Joseph Virzi pleaded guilty to attempted enterprise corruption. All six defendants confirmed the existence of the criminal cartel and admitted to specific instances of their participation in it. See People v. Frank Allocca, Daniel Todisco, Dominick Vulpis, VA Sanitation Inc., Lyn-Val Associates, Inc., Litod Paper Stock Corp., Silk, Inc., Indictment No. 5614/95 (Sup. Ct. N.Y. Cty.), Tr. of Plea (Feb. 13, 1997) (copy attached as Exhibit 3).

Still more guilty pleas followed. On February 24, 1997, Michael D'Ambrosio, Robros Recycling Corp., and Vaparo, Inc. all pleaded guilty in allocutions before New York Supreme Court Justice Leslie Crocker-Snyder.

In sum, it is now far too late in the day for anyone to question the existence of a powerful criminal cartel in the New York City carting industry. Local Law 42 was enacted, and the Commission was created, 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 and registration of businesses that remove, collect, or dispose of trade waste. See Admin. Code §16-503. The carting industry quickly challenged the new law, but the courts have consistently upheld Local Law 42 against repeated facial and as-applied constitutional challenges by New York City carters. See, e.g., Sanitation & Recycling Industry, Inc. v. City of New York, 928 F. Supp. 407 (S.D.N.Y. 1996), aff'd, 107 F.3d 985 (2d Cir. 1997); Universal Sanitation Corp. v. Trade Waste Comm'n, No. 96 Civ. 6581 (S.D.N.Y. Oct. 16, 1996); Vigliotti Bros. Carting Co. v. Trade Waste Comm'n, No. 115993/96 (Sup. Ct. N.Y. Cty. Dec. 4, 1996); Fava v. City of New York, No. CV-97-0179 (E.D.N.Y. May 12, 1997).

Local Law 42 provides that "it 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 Commission," which license "shall be valid for a period of two years." 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). Similarly, after providing a licensee with notice and an opportunity to be heard, the Commission may revoke or suspend a license or registration. *Id.* §16-513(a). Although Local Law 42 became effective immediately, trade waste removal licenses previously issued by the DCA remain valid pending decision by the Commission on the license application. See Local Law 42, §14(iii)(1).

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. 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 for 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, 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

Applying the above criteria, among others, and for the reasons explained below, the Commission concludes that Litod lacks good character, honesty and integrity and, accordingly, in the exercise of its discretion, the Commission denies this license application.¹

On August 29, 1996, Litod Paper Stock Corp. Inc. submitted to the Commission an application to operate as a trade waste removal business. See License Application, certified by Daniel Todisco on August 27, 1996 ("Lic. App"). According to the application, Litod was a member of the KCTW from 1982 through 1996, and was represented there by Litod's president, Daniel J. Todisco. Lic. App. at 6-7. Todisco served as vice-president of the KCTW from 1991 through 1996 and, therefore, according to the applicant, Litod was exempt from association dues. *Id.* at 7, 11. Todisco is also the sole principal of another company, Silk, Inc., which shares office space with the applicant. As noted above, Litod, Silk, Todisco, and the KCTW, among numerous other defendants, were indicted in June 1995 in connection with the Manhattan District Attorney's prosecution of the organized crime-dominated cartel that has controlled and corrupted New York City's trade waste industry for decades. See Lic. App. at 13; People v. Ass'n of Trade Waste Removers of Greater New York Inc., et al., Indictment No. 5614/95 (Sup. Ct. N.Y. Cty.). Those charges,

¹ On August 9, 1996, the Commission denied Litod's application for a waiver of the provision in section 11 (iii) of Local Law 42 that "any contract entered into by a trade waste removal business...that has not received a license from the New York City Trade Waste Commission...shall be terminable on thirty days written notice." The Commission denied Litod's waiver application, among other reasons, because: (1) Litod had been indicted in connection with the Manhattan District Attorney's prosecution of the organized crime-dominated, anticompetitive carting cartel; (2) Litod's then-principal and president, Daniel Todisco, had also been indicted in that criminal case; (3) Silk, Inc., a Todisco-owned company, had also been indicted in that criminal case; (4) Litod belonged to and illicitly benefited from its membership in an indicted trade association, the KCTW, which the Manhattan District Attorney had charged was used to enforce illegal customer-allocation and price-fixing schemes; (5) Daniel Todisco actively participated in KCTW affairs as vice-president of that association from 1991 to 1996; (6) a New York State judge already had found a "substantial probability" that the Manhattan District Attorney would prevail on these charges and ordered the assets of Litod and other carters seized and placed in receivership; (7) Litod engaged in abusive contracting practices, including using standard contracts that featured several-year terms, excessive rates, and "evergreen" clauses; and (8) Litod failed to provide complete and accurate information in connection with its waiver application. See Commission's Decision Denying Waiver Application of Litod Paper Stock Corp., dated August 9, 1996. Since the Commission rendered that determination, Litod, Todisco, and the KCTW all have pleaded guilty to corruption charges, as discussed herein.

including enterprise corruption, grand larceny, coercion, and Donnelly Act violations, were pending when Litod submitted its license application. See Lic. App. at 13. As discussed below, the applicant and its principal have since entered into a plea agreement in satisfaction of the charges.

On May 16, 1997, the Commission's staff issued a recommendation that Litod's application for a trade waste removal license be denied, and a copy of that recommendation was served on Litod that day. Pursuant to the Commission's rules, Litod had ten business days in which to submit a written response. See 17 RCNY §2-08(a). Litod did not submit a response to the staff's recommendation. In rendering this decision, the Commission has considered, among other things, all of the materials submitted by Litod in connection with its license application.

A. The Applicant's Criminal Convictions

1. Attempted Enterprise Corruption

As noted above, Litod and its principal, Daniel Todisco, were indicted in June 1995 for Enterprise Corruption in connection with their roles in the organized crime-controlled cartel in the New York City carting industry. In February 1997, Todisco pleaded guilty to Attempted Enterprise Corruption, a class C felony. In his plea allocution, Todisco admitted that:

Carters in the City of New York, including [Todisco and Litod], operated by means of a "property rights" system, the purpose of which was to prevent meaningful competition in the carting industry. This system was enforced by a group known as the "cartel" composed of carters and their trade associations, including [Todisco and Litod]...

Exhibit 3 at 7,18. Todisco further admitted that he and Litod,

having knowledge of the existence of a criminal enterprise, the cartel, and of the nature of its activities, and being employed by and associated with the cartel, intentionally conducted and participated in the affairs of

the cartel by participating in a pattern of criminal activity.

Id. at 14, 18. Todisco further admitted that he and others, including the applicant:

banded together in the cartel in order to restrain competition in the private carting industry throughout the City of New York, and to keep carters' prices and profits artificially high to [sic] through implementation of the property rights system. This system was enforced by the carters' trade associations through a number of methods, including price fixing, customer allocation and concerted economic retaliation against carters who broke the cartel's rules.

Id. at 16, 18. Finally, Todisco admitted that he and Litod, "using the association structure, participated in a pattern of criminal activity with intent to participate in and advance the interests of the cartel." Id. at 16-17, 18.

2. Combination in Restraint of Trade and Competition

In February 1997, Litod and Todisco (as well as an affiliated company, Silk, Inc.) each pleaded guilty to Combination in Restraint of Trade and Competition, a Class E felony, in violation of sections 340 and 341 of the New York General Business Law. See Exhibit 3 at 18-19, 41-44. In his plea allocution, Todisco, individually and on behalf of Litod, admitted (in addition to the admissions recounted above) that he knowingly and intentionally "restrain[ed] competition for customers in the private carting industry throughout the City of New York by means of price fixing and customer allocation." Id. at 9, 18. Specifically, Todisco admitted that, after a rival carter solicited and began to serve certain locations in the City that previously had been serviced by the defendants, he and other defendant members of the cartel demanded that the rival carter "compensate" the defendants by paying them specified amounts, totaling \$512,000. See id. at 10-13, 18.

3. Criminal and Civil Contempt

After the June 1995 indictment against the cartel, the Manhattan District Attorney sought and obtained a court order freezing the assets of the defendant companies, including Litod. Thereafter, prosecutors charged that, at a time when Litod's assets were restrained from transfer, Todisco, without judicial authorization, unlawfully diverted more than \$123,000 of the company's assets to himself through salary increases, a work-performance bonus, and the siphoning of payments to Litod from its customers. See Lic. App., Exh. I. Todisco pleaded guilty to three misdemeanor charges of civil and criminal contempt, was required to repay \$123,556 in diverted funds and was sentenced to thirty days in jail at the Bronx House of Detention.

In making licensing determinations, the Commission is expressly authorized to consider prior convictions of the applicant (or any of its principals) for crimes which, in light of the factors set forth in section 753 of the Correction Law, would provide a basis under that statute for refusing to issue a license. See Admin. Code §16-509(a)(iii); see also id. §16-501(a). Those factors are:

- (a) The public policy of this state, as expressed in [the Correction Law], to encourage the licensure . . . of persons previously convicted of one or more criminal offenses.
- (b) The specific duties and responsibilities necessarily related to the license . . . sought.
- (c) The bearing, if any, the criminal offense or offenses for which the person was previously convicted will have on his fitness or ability to perform one or more such duties and responsibilities.
- (d) The time which has elapsed since the occurrence of the criminal offense or offenses.
- (e) The age of the person at the time of occurrence of the criminal offense or offenses.
- (f) The seriousness of the offense or offenses.

(g) Any information produced by the person, or produced on his behalf, in regard to his rehabilitation and good conduct.

(h) The legitimate interest of the public agency . . . in protecting property, and the safety and welfare of specific individuals or the general public.

N.Y. Correct. Law §753 (1).

Applying these factors, the Commission finds that, notwithstanding the public policy of the state of New York to encourage licensure of persons convicted of crimes, the crimes committed by Litod and Todisco are so recent, so serious, and so closely related to both the purposes for which the applicant seeks a license, and the duties and responsibilities associated with such licensure, as to compel the conclusion that Litod and Todisco lack good character, honesty, and integrity. Litod and Todisco by their own admission participated in the criminal cartel that corrupted the carting industry in New York City for decades. They are, quite simply, unworthy of licensure in that same industry again. Accordingly, in an exercise of its discretion, and in the legitimate interest of protecting the property, safety, and welfare of the general public, the Commission denies this license application.

B. Commission of Racketeering Activity

Local Law 42 expressly authorizes the Commission to consider a license applicant's commission of a racketeering activity in determining whether the applicant lacks good character, honesty, and integrity and, therefore, should be refused a license. See Admin. Code §16-509(a)(v). The guilty plea of its principal, Daniel Todisco, to attempted enterprise corruption compels the conclusion that Litod, through Todisco, engaged in racketeering activity. Thus, the Commission refuses to issue a license to Litod on this ground as well.

C. Association with a Member or Associate of an Organized Crime Group

In rendering its decision on an applicant's fitness for a trade waste license, the Commission is further authorized by statute to consider the applicant's association with any member or associate of an organized crime group, as identified by a federal, state or city law enforcement or investigative agency, where the applicant knew or should have known that the person was associated with organized crime. See Admin. Code § 16-509(a)(vi). In rejecting a constitutional challenge to this provision by certain carters and their trade association, the Second Circuit confirmed that a carter's "knowing associations, having a connection to the carting business," with organized crime figures may properly be considered by the Commission in its licensing determinations, in order to further its "compelling interest in combating crime, corruption and racketeering—evils that eat away at the body politic." SRI, 107 F.3d at 998.

In pleading guilty to attempted enterprise corruption and to criminal antitrust violations, Litod and Todisco admitted their association with and participation in "the cartel," a criminal enterprise that enforced the carting industry's illegal "property rights" system. See Exhibit 3 at 7-8, 18. Other members of the cartel (and co-defendants) included Genovese organized crime family capo Alphonse "Ally Shades" Malangone and Genovese associate and KCTW president Frank Allocca. As noted above, Todisco was vice president of the KCTW from 1991 to 1996 and acted as one of the association's primary representatives, together with Malangone and Allocca. See Affidavit of Detective Joseph Lentini in Support of Applications for Search Warrants, sworn to June 1995, ¶¶ 7, 61, 69 (copy attached as Exhibit 4). Thus, Todisco and Litod were not passive members of the KCTW but, rather, closely allied participants in the criminal activities of which that association has since been convicted.² Todisco and Litod knew of, participated in, and advanced the interests of the criminal cartel by acting with co-defendant Allocca to advance the interests of co-defendant and Genovese capo Malangone, the "business agent" for the KCTW. Todisco's active participation in the KCTW's activities further demonstrates his close association with those individuals. The totality of circumstances present here amply supports the conclusion that Todisco

² In its waiver application, Litod asserted that Todisco resigned from the KCTW on June 26, 1996. Independent observations by Trade Waste Commission investigators nonetheless demonstrated his continuing involvement. On Wednesday, July 17, 1996, Todisco was observed at the KCTW, located at 6313 Bay Parkway, Brooklyn, New York, with Genovese capo Malangone. Wednesday is known to be the day of the week on which the KCTW held meetings.

knew that Malangone and Allocca were organized crime figures. Accordingly, the Commission concludes that Litod and Todisco knowingly associated with organized crime figures and denies the license application on this ground as well.

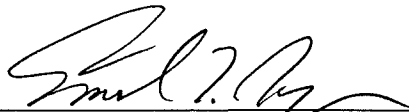
III. CONCLUSION

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 Litod's criminal convictions, racketeering activities, and knowing association with organized crime figures, all of which the Commission is expressly authorized to consider under Local Law 42, the Commission denies this license application.

This license denial decision is effective fourteen days from the date hereof. In order that Litod's customers may make other carting arrangements without an interruption in service, Litod 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 June 9, 1997. Litod 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.

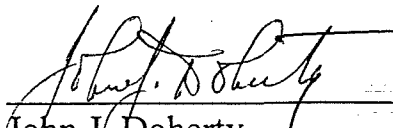
Dated: New York, New York
June 6, 1997

THE TRADE WASTE COMMISSION

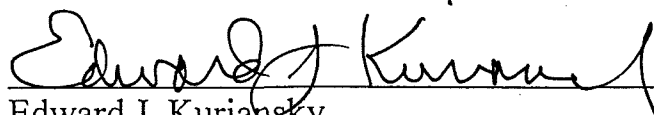


Edward T. Ferguson, III
Chairman


Earl Andrews, Jr.
Commissioner



John J. Doherty
Commissioner
Department of Sanitation



Edward J. Kuriansky
Commissioner
Department of Investigation



Jose Maldonado
Commissioner
Department of Consumer Affairs



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

June 6, 1997

**NOTICE TO CUSTOMERS OF LITOD PAPER STOCK CORP.
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 Litod Paper Stock Corp. ("Litod") for a license to collect trade waste. **As of June 21, 1997, Litod will no longer be legally permitted to collect waste from businesses in New York City. If Litod is collecting your waste, you will have to select another carting company to provide you with that service by June 21, 1997.**

The Commission has directed Litod to continue providing service to its customers through June 20, 1997. **If your service is interrupted before June 21, call the Commission at 212-676-6275.**

There are more than 300 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.**

The carting industry is changing for the better and **prices have been falling for more than a year**. 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 last year to address the organized crime corruption and anti-competitive 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 recently 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.

If you have any questions or complaints about commercial waste hauling in New York City, call the Commission at 212-676-6300.


Edward T. Ferguson, III
Chair and Executive Director