



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
RENEWAL APPLICATION OF RAGS CONTRACTING CORP. FOR A
LICENSE TO OPERATE AS A TRADE WASTE BUSINESS**

Rags Contracting Corp. ("Rags" or "Applicant") applied to the New York City Business Integrity Commission, formerly the Trade Waste Commission ("Commission") for a 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. The Commission granted Rags' application and issued a Licensing Order with an effective date of October 1, 1998. Thereafter, Rags submitted two license renewal applications to the Commission and was permitted to operate pending the review of those applications.

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 Rags, the Commission finds, for the following independently sufficient reasons, that the Applicant lacks good character, honesty, and integrity, and denies its Application for license renewal:

- (1) The only disclosed principal of the Applicant, Bennett Ragusa, has been convicted for a recent series of criminal acts relating directly to the Applicant's fitness for licensure in the commercial carting industry;

- (2) Bennett Ragusa has committed racketeering activity in connection with the trade waste industry;
- (3) An undisclosed principal of the Applicant, Anthony Piccolo, has committed and been indicted for a recent series of criminal acts relating directly to the Applicant's fitness for licensure in the commercial carting industry;
- (4) The Applicant failed to provide truthful information through written submissions to the Commission and through Bennett Ragusa's testimony under oath before the Commission.

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 (1st Dep't 1999).

In sum, it is far too late in the day for anyone to question the existence of a powerful criminal cartel in the New York City carting industry. Its existence has been proven beyond a reasonable doubt. The proof at trial also established conclusively that the cartel which controlled the carting industry for decades through a rigorously enforced customer-allocation system was itself controlled by organized crime, whose presence in the industry was so pervasive and entrenched – extending to and emanating from all of the industry's trade associations, which counted among their collective membership virtually every carter – that it could not have escaped the notice of any carter. These criminal convictions confirm the judgment of the Mayor and the City Council in enacting Local Law 42, and creating the Commission, to address this pervasive problem.

B. Local Law 42

Upon the enactment of Local Law 42, the Commission assumed regulatory authority from the Department of Consumer Affairs (the "DCA") for the licensing of businesses that remove, collect, or dispose of trade waste. See Admin. Code § 16-503. The carting industry immediately challenged the new law, but the courts have consistently upheld Local Law 42 against repeated facial and as-applied constitutional challenges by New York City carters. See, e.g., Sanitation & Recycling Industry, Inc. v. City of New York, 928 F. Supp. 407 (S.D.N.Y. 1996), aff'd, 107 F.3d 985 (2d Cir. 1997); Universal Sanitation Corp. v. Trade Waste Comm'n, 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).

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

On or about September 3, 2002, Rags submitted its second Renewal Application for Trade Waste Removal License or Registration ("second renewal application") to the Commission. The Commission's staff has conducted an investigation of the Applicant, which included the deposition of its only disclosed principal, Bennett Ragusa. On February 17, 2004, the staff issued a 29-page recommendation that Rags' license renewal application be denied. On March 1, 2004, Rags submitted opposition papers, consisting of an unverified one-page letter in response to the staff's recommendation (unverified response).¹ The Commission has carefully considered both the staff's recommendation and the Applicant's unverified response. For the independently sufficient reasons set forth below, the Commission finds that Rags lacks good character, honesty, and integrity, and denies its license renewal applications.

In indicting Anthony Piccolo, Tony-Lynn Piccolo-Hyzdu, Phillip Fasulo, Bennett Ragusa, and others, a Queens County Grand Jury determined that there was probable cause to believe that a "criminal enterprise" operated and was conducted under various names, including Rags Contracting Corp. In light of this determination, it is first necessary to discuss the denial of the Piccolo Companies' license applications, the background of the criminal case brought against the individuals involved in the criminal enterprise, including Bennett Ragusa, and the history of Rags Contracting Corp.

A. The Denial of the Piccolo Companies' License Applications

By decision dated December 27, 2001, the Commission denied the license applications of sister companies Park Rubbish Removal Inc. ("Park") and Dynamic Rubbish Removal Inc. ("Dynamic") (collectively the "Piccolo companies"). Park and Dynamic were owned and operated by Anthony Piccolo ("Tony" or "Anthony") and his daughter Toni Lynn Piccolo-Hyzdu, ("Toni") with the assistance of Phillip Fasulo ("Fasulo" or "Phil") and others. The Commission for the following reasons denied the Piccolo companies' license applications:

- (1) The Piccolo companies, through their principal, Anthony Piccolo, improperly joined with other carting companies to target a company under federal trusteeship, and in doing so, engaged in both predatory pricing and efforts to prevent independent companies from entering the New York City market;

¹ Although both 17 RCNY Section 2-08(a) and the staff's recommendation state that any assertions of fact submitted in the Applicant's response must be made under oath, the Applicant's response failed to attach a *sworn* affidavit from its principal. See 17 RCNY Section 2-08(a); see also Recommendation at 29 (allowing the Applicant 10 business days to submit any assertions of fact "under oath" and any documentation that it wishes the Commission to consider). The unverified response from the Applicant attempts to render the status of Rags' renewal application as moot, and describes the application as "withdrawn, abandoned, surrendered, and relinquished."

- (2) Anthony Piccolo was on the Board of the Kings County Trade Waste Association and knowingly failed to provide information and provided false information regarding his service on the Board;
- (3) The Piccolo companies failed to provide truthful information to the Commission in connection with their license applications; and
- (4) The Piccolo companies obstructed the Commission's investigations by repeatedly and knowingly failing to provide documents.

See Decision of the Trade Waste Commission to Deny the Applications of Park Rubbish Removal, Inc. and Dynamic Rubbish Removal, Inc. for Licenses to Operate as Trade Waste Businesses. The Applicant's unverified response does not specifically dispute any of this evidence.

B. Background of the Recent Criminal Case

Shortly after the Piccolo companies were denied trade waste licenses, the New York City Police Department, the Queens County District Attorney's Office and the Commission began to conduct an investigation into the illegal activities of several people and business entities, arising out of an extortion scheme in the garbage carting industry that ultimately led to organized crime.² See May 13, 2002 affidavit of Assistant District Attorney Catherine Kane in Support of an Amendment to Eavesdropping Warrant 060206 and Progress Report at 4. Among other things, the investigation established that sometime after their companies' license applications were denied, Anthony Piccolo, Toni Lynn Piccolo-Hyzdu, Phillip Fasulo, and others, silently moved their assets and took control of a once licensed carting company called J.B. & Sons Carting Co. ("JB & Sons"), "owned" by Thomas Sieja and Andrew Battaglia.³

On August 31, 1999, JB & Sons' trade waste license expired. Thereafter, on August 29, 2002, detectives assigned to the Commission observed a JB & Sons garbage truck engaging in unlicensed trade waste removal activity. As a result of the unlicensed activity, the driver (Harold Reister) of the JB & Sons truck was arrested and the JB & Sons truck was seized for unlicensed trade waste removal activity.⁴ JB & Sons' disclosed owner, Thomas Sieja, and JB & Sons' secret owners and operators, including Anthony Piccolo, Toni Piccolo-Hyzdu, Phillip Fasulo and others were thus made aware that J.B. & Sons could not continue to operate in New York City without a trade waste license.

² One of the targets of the investigation was Genaro "Gerry" Bruno. Law enforcement sources classify Bruno as an associate of the Gambino Organized Crime Family. In connection with the criminal scheme, Bruno was hired personally to threaten individuals with physical violence when they refused to make extortion payments.

³ JB & Sons was issued a trade waste license by the Commission with an effective date of September 1, 1997. When JB & Sons failed to submit a license renewal application to the Commission by August 21, 1999, its license expired.

⁴ This particular truck was registered to Dynamic Carting, one of the Piccolo companies that was denied licensure. See September 9, 2002 Affidavit of Detective Al Schwartz in support of the amendment of eavesdropping warrant EW #060206.A7.

By the time that JB & Sons was caught operating without a license, the Piccolos and their coconspirators had already started to plot and commit various crimes designed both to disguise their illegal ownership and control of JB & Sons, as well as to conceal the illegal operations and business practices of JB & Sons. Included in this plot was the filing of false and forged license applications with the Commission. On October 2, 2002, a new company, J.B. Carting Corp., ("JB Carting") "fronted" by Thomas Sieja submitted a fraudulent license application to the Commission.⁵

Throughout the course of the investigation, several telephone conversations were intercepted and recorded which established that, in addition to attempting to fraudulently obtain a license for JB Carting, a "back-up" plan was devised by the Piccolo's and others. The "back-up" plan was set up in case the Commission denied the application of JB Carting. The "back-up" plan was to acquire secretly another carting company, Rags Contracting Corp., and to use Rags Contracting Corp. to further the criminal enterprise. As described below, numerous crimes were committed when the "back-up" plan was carried out.⁶ The Applicant's unverified response does not specifically dispute any of this evidence.

C. History of the Applicant

On or about May 7, 1998, Rags Contracting Corp. filed an Application for License as a Trade Waste Business ("license application") with the Commission. Bennett Ragusa was listed as the only principal of Rags on the license application. See Lic. App. at 22. Then, after reviewing the license application and other submissions, and after conducting an extensive background investigation, the Commission granted Rags' license application. See Licensing Order. The License issued to Rags by the Commission had an effective date of October 1, 1998, and expired on September 30, 2000.⁷

On or about September 13, 2000, Rags submitted its first Renewal Application for License or Registration as a Trade Waste Business ("first renewal application") to the

⁵ Thomas Sieja was listed as the only principal of JB Carting. In reality, Tony Piccolo, Toni-Lynn Piccolo, Philip Fasulo and others were in control of JB Carting and thus were considered to be principals of the company.

⁶ In connection to this criminal scheme, on September 23, 2003, Anthony Piccolo and Toni Piccolo pleaded guilty to enterprise corruption charges. On January 5, 2004, Queens Supreme Court Justice Roger Rosengarten sentenced Toni Piccolo to six months in prison, five years of probation, and forfeiture of any ownership rights she may have had in assets in forfeiture. On January 12, 2004, Justice Rosengarten sentenced Anthony Piccolo to two and three-quarters years to eight and one-quarter years in prison and directed him to pay over \$500,000 in cash and assets in forfeiture.

⁷ By agreeing and accepting the terms of the Licensing Order on behalf of Rags, Bennett Ragusa explicitly agreed that "the Applicant shall not knowingly associate with any member or associate of organized crime or any racketeer in any manner..., the Applicant shall not violate any law of the United States of America or the State of New York, including, but not limited to, the antitrust laws or other laws concerning unreasonable restraints of trade, the Applicant shall timely notify the Commission of any material changes in the information set forth in its Application or other submitted materials," and "the Applicant shall at all times provide truthful information to the Commission and shall be completely truthful and forthright in all of its dealings and communications with the Commission..." See Licensing Order. The failure of the Applicant to abide by these terms of the Licensing Order constitutes an additional independent basis for the Commission to conclude that the Applicant lacks good character, honesty and integrity.

Commission. Again, Bennett Ragusa was listed as the only principal of Rags on the first renewal application. See First Renewal App. at 5. Upon receipt of the first renewal application, the Commission allowed Rags to continue to operate, pursuant to the terms of the original Licensing Order, pending review of the first renewal application.

On or about September 3, 2002, Rags timely submitted its second Renewal Application for Trade Waste Removal License or Registration ("second renewal application") to the Commission. Again, Bennett Ragusa was listed as the only principal of Rags on the second renewal application. See Second Renewal App. at 5. On or about October 31, 2002, Rags submitted an Employee/Agent Disclosure Form ("disclosure form") for Phillip Anthony Fasulo Sr. ("Phil" or "Fasulo") to the Commission. According to the disclosure form, Fasulo was a "manager" for Rags.⁸

On November 13, 2002, Bennett Ragusa appeared at the offices of the Commission and gave testimony under oath in relation to Rags' renewal applications. See *infra*.

D. The Facts That Establish Bennett Ragusa's Criminal Activity

As described above, when the Piccolo companies were denied licenses, the Piccolo's first silently moved their assets to and took control of Sieja's company, JB & Sons, and later JB Carting. Since JB & Sons could no longer operate without a license, the Piccolo's and their coconspirators developed a back-up plan secretly to purchase or take over Rags and to keep Ragusa as an employee or a "front," just as they had done with Sieja. Piccolo and his coconspirators then continued to operate under the Rags name.

In accordance with the criminal scheme, on September 23, 2002, Ragusa filed the second renewal application with the Commission wherein he omitted any mention of the Piccolos, Fasulo, or any others as being principals or employees of his company.⁹ In the subsequent months, several intercepted and recorded telephone conversations revealed the extent of the scheme to commit the crimes of perjury, falsifying business records, the filing of false business records, combination in restraint of trade and other crimes in order to obtain a fraudulent trade waste license for the corrupt enterprise under the name of "Rags Contracting Corp." For instance, on September 25, 2002, a telephone conversation between Phillip Fasulo ("Phil") to Anthony Piccolo ("Tony") was intercepted and recorded:

Phil: Anything I should need to know about?

⁸ Ragusa's testimony under oath about his relationship with Fasulo and about Fasulo's role in the criminal enterprise was fraught with misleading statements, material omissions and outright lies. If the submission of Fasulo's disclosure form to the Commission was an attempt to legitimize Fasulo's position with Rags, that attempt failed. See *infra*.

⁹ In fact, the only employee disclosed was Leon Shaw, a driver. See Second Renewal App. at 7. Bennett Ragusa was disclosed as the only principal of the company. See Second Renewal App. at 5.

Tony: Eh. Except that Benny's [Ragusa's] an asshole.

Phil: Why? What happened now?

Tony: Eh. He's [Ragusa's] using every excuse in the world not to get those trucks registered. Now he said something about not having the insurance. He cancelled the insurance because he don't know when boop, boop boop, boop. All he had to do is go down with the other insurance card, the one that he originally had last week, and it would've been okay.

Phil: Yeah.

Tony: And he's not happy with the \$75,000.00 a year. He said I don't know if I could do that. Seventy-five thousand don't seem like that much. You dick-head you ain't doing nothing for it. Fucken (unintelligible).

See October 17, 2002 Affidavit of Detective Al Schwartz in support of the extension of eavesdropping warrant at 30-31. In the above-transcribed conversation, Piccolo and Fasulo are discussing the state of affairs at Rags and the takeover of Rags. The "Benny" they are referring to is one Bennett Ragusa. Specifically, they voice their concerns that Ragusa needs to properly insure and register several of their trucks- - in Ragusa's name- - not theirs. Furthermore, Piccolo alludes to the deal to pay Ragusa \$75,000.00 per year to allow Rags Contracting to be taken over, and ultimately to perpetrate a fraud upon the Commission.

Then, on September 27, 2002, a telephone conversation from Toni Lynn Piccolo-Hyzdu ("Toni") to Anthony Piccolo ("Tony") that was intercepted and recorded revealed that Ragusa may have had some reservations about becoming a participant in this illegal scheme,¹⁰

Toni: Benny, Benny's ahhh, Benny's ahhh, he's scared.

Tony: The asshole [Ragusa] calls me up ahhh about a half an hour ago. He says Tony this is it. I had it. He [Ragusa] said [the] Trade-Waste [Commission] called me up and they want to know if I'm subcontracting the work okay. You're not allowed to subcontract and where do I fit in with Tommy [Sieja], J.B., so forth and so on. He says do me a favor he says call up your daughter and tell her that ahhh hook up with me cause I'm just going to give you guys the company. I'm out of this.

¹⁰ Although he may have had some reservations, as evidenced below, Ragusa put his reservations aside and continued to be an active participant in the illegal scheme.

Toni: I'm going to give you guys the company?

Tony: Right.

Toni: What do you mean give us the company?

Tony: He's giving you the company.

Tony: No. I'm dead serious. He says you run it [Rags Contracting]. You can take care of it. You do what you want with me he say's I cant take all of the stress.

Toni: They [the Commission] didn't call him.

Tony: I know they didn't call him.

Toni: What did they call him seven thirty this morning?

Tony: No. Seven thirty last night.

Toni: That's even more (unintelligible). They didn't call him.¹¹

Tony: No.

Toni: Oh, that's a good thing.

Tony: He's going to come over to you, you open up the bank account in the Fleet Bank. You do your paychecks at the Fleet Bank. You do it all.

Toni: Okay.

Tony: You got to get a salesman out there to sign up these customers under Rags and he's [Ragusa's] got to sign something saying that a

¹¹ Piccolo was correct in that the Commission's staff did not contact Ragusa. Rather, Ragusa contacted the Commission's staff in the last week of September 2002, to inquire if he could legally subcontract work from JB & Sons, whom he knew to be unlicensed. In response, the Commission's staff advised Ragusa that such an arrangement would be illegal because JB & Sons did not have a license. Then, on September 27, 2002, Ragusa again contacted the Commission's staff and requested to have a meeting because he had been [illegally] "subcontracting" for JB & Sons for approximately one week and that he wished to "set the record straight" and prove that he [Ragusa] is a "stand-up guy." When the Commission's staff contacted Ragusa on September 30, 2002, to schedule the meeting, Ragusa changed his mind about his request for a meeting and stated that he "pretty much solved things."

hundred percent of the company [Rags] belongs to you. Understand?

Toni: Um, hum.

Tony: And that there's repercussion after words in case he [Ragusa] decides to have a stupid attack.

Tony: Alright, and tell and ahhh and you have blank contracts?

Toni: Do I have blank contracts? Yes.

Tony: Okay. Get a whole bunch of blank contracts. We are going to send a sales force out there to sign everything under Rags.

See October 17, 2002 Affidavit of Detective Al Schwartz in support of the extension of eavesdropping warrant at 32-35. In this conversation, Anthony Piccolo clearly informs his daughter that "Benny" Ragusa has relinquished control of his company, "Rags," to them. Based on the evidence, it is clear that Piccolo took over Rags Contracting Corp. and converted his trade waste assets, such as customer accounts, into Rags' name, in order to operate under Benny Ragusa's and Rags' trade waste license, because he, his daughter, and others involved in the conspiracy could not obtain their own license(s).

On October 23, 2002, Fasulo contacted a person named William "Billy" Oberg by telephone. This conversation was intercepted and recorded. In the conversation, Fasulo summarized the problems associated with the take-over of JB & Sons/JB Carting and explained the back-up plan to take-over Rags:

Phil: I got the guy from JB [Thomas Sieja], you know when we, when we uh, when we bought JB.

Billy: Yeah.

Phil: The fucking guy [Thomas Sieja], if you look up stupid in the dictionary, this motherfucker is there. Believe me when I tell you, his picture's there. He's the most stupidest mother fucker in the world. His job was to do nothing. This mother-fucker never renewed his license the right way. You believe that? You know how hard it is to get a Trade Waste License, this mother fucker never renewed his license.

Phil: He [Thomas Sieja] never renewed the fucking license.

Billy: What a dick.

Phil: Yup, fucking asshole.

Billy: Unbelievable. So what's it called Rags now?

Phil: Yeah I got, I'm working with this guy Rags now.

See November 15, 2002 Affidavit of Detective Al Schwartz in support of the extension of eavesdropping warrant at 46. This conversation confirms the fact that JB & Sons failed to renew its license and that the Piccolo assets and Piccolo's control have been silently transferred to Rags Contracting Corp.

After Ragusa's deposition under oath before the Commission on November 13, 2002, the Commission requested certain business records from Rags, including a customer list which was to specify any customers that Rags currently services that were customers of either Dynamic, Park or JB. Consequently, on November 21, 2002, a telephone call from Anthony Piccolo to Toni about falsifying the above mentioned customer list was intercepted and recorded:

Toni: I'm stressing over this other thing [the customer list], I don't know what to do.

Tony: Tee, give... give him a list, okay?

Toni: Of what?

Tony: Of what? Okay, give him a list of old customers. Give him a list of... don't give him too many of Park uhh... and let him say, right?... that he [Ragusa] don't know which one's are Park and which one's are Dynamic. How the fuck he [Ragusa] suppose... all he knows - he's got the new customers.

Toni: Because... okay, that's fine and I can totally understand saying he [Ragusa] doesn't know which one is Park and which one is Dynamic. Truthfully, I'm going to say to him, you know what, you don't even need to touch on that.

Tony: Right.

Toni: Cause as far as you're concerned you don't know who was Park and who was Dynamic.

Tony: Right.

Toni: But now, what I'm saying is... is that they [the Commission] want to know what customers brought over from JB to Rags.

Tony: So how many are there?

Toni: It depends on what you want to tell them [the Commission].

Tony: Depends on what I tell them [the Commission], that's it. Don't tell them [the Commission] that much.

Toni: Don't tell them that much?

Tony: No, because you don't have to justify the dump because they [the Commission] didn't even ask for the Goddamn dump bill.

Toni: Yeah, but the thing is though that they see the dump tickets.

Tony: Who does?

Toni: [The] Trade Waste [Commission].

See December 12, 2002 Affidavit of Detective Al Schwartz in support of the extension of eavesdropping warrant at 32-33. This conversation demonstrates that Anthony Piccolo and Toni Lynn Piccolo-Hyzdu conspired to falsify documents that would later be submitted to the Commission by Ragusa. Then, on November 22, 2002, Ragusa called Piccolo to inquire about the customer list that Piccolo and Toni Lynn Piccolo-Hyzdu were falsifying:

Benny: Alright let me see when I'm around there. Ahhh... How about this customer list? This lawyer's [Joseph Schettino¹²] pissed off.

Tony: Ahhh... You'll have it Monday afternoon. I want to work on it with Toni, so don't sweat it.

Benny: Monday afternoon's no good he said. If he don't have it first thing in the morning, he can't do it.

Tony: What does he want to do, Mo? I got to get together with Toni on that and I ain't going back to the office on top of this.

Benny: Well, that's what he told me cause it's... it's Thanksgiving weekend and he's got to do some things he said.

¹² Joseph Schettino represented Rags and Ragusa at the deposition before the Commission. Accordingly, the Commission requested documents from Rags through Schettino. Evidently, Schettino then requested the documents from Ragusa, who then transmitted the need for the documents to the Piccolos.

Tony: Thanksgiving weekend is next weekend. I'll have it by Monday afternoon. Do you want me to call him?¹³

See December 12, 2002 Affidavit of Detective Al Schwartz in support of the extension of eavesdropping warrant at 34. Then, on November 25, 2002, Piccolo called Fasulo by telephone and discussed the customer list that was falsified and submitted to the Commission by Ragusa:

Phil: Everything's good. How'd you make out with the wig [Ragusa], alright?

Tony: Yeah, he's [Ragusa is] a fucken cry baby. Fucken drives me nuts this fucken banana.

Phil: Why? You gave him the customer list?

Tony: Yeah.

Phil: How many stops?

Tony: A hundred that he had. A hundred and twenty that you got him. So that's two twenty.

Phil: Aw, that's plenty.

Tony: Yeah.

Phil: Right. Yep. Alright, let's see what happens.

See December 12, 2002 Affidavit of Detective Al Schwartz in support of the extension of eavesdropping warrant at 35. The above conversations clearly demonstrate that Ragusa and others, including an undisclosed principal, conspired to create and forge and file false business records- the customer list- with the Commission. On November 27, 2002, Rags' attorney filed that list with the Commission. Bennett Ragusa certified that the list was complete and accurate. However, the criminal investigation revealed that this list was incomplete and inaccurate. See infra.¹⁴

Although the Applicant's unverified response makes the general assertion that the conclusions detailed in the staff's recommendation are "incorrect," and that the analysis

¹³ Another demonstration of Piccolo's control of Ragusa and of Rags is evidenced by Piccolo's offer to discuss the matter with Schettino.

¹⁴ For example, several stops such as Brookdale Hospital were omitted from the list. As Anthony Piccolo directed, a "list of old customers," with not "too many of Park[s]" customers were included in the list submitted to the Commission.

in the staff's recommendation is "flawed" and mostly "irrelevant," the Commission finds that the Applicant failed to specifically respond to any of the evidence about Bennett Ragusa's participation in the criminal scheme. Accordingly, the Commission finds that Bennett Ragusa committed criminal activities that had a direct relation to the trade waste industry.¹⁵

E. Anthony Piccolo Is An Undisclosed Principal of Rags Contracting Corp.

Although Ragusa identified himself as the only principal of Rags Contracting Corp. on the license application and at his deposition under oath, the evidence establishes that Anthony Piccolo also is a principal of Rags as that term is defined in Local Law 42. The law defines "principal" to include any person "participating directly or indirectly in the control" of the business entity. See Admin. Code §16-501(d). Anthony Piccolo's role in Rags' business plainly fits that description.

Based on all of the recorded conversations outlined above, it is clear that Anthony Piccolo controls Rags through the directions he gives to Toni Piccolo-Hyzdu, Phil Fasulo and others. Indeed, in indicting Piccolo for enterprise corruption, money laundering in the second degree, grand larceny in the second degree, attempted grand larceny in the second degree, coercion in the first degree, attempted coercion in the first degree, commercial bribing in the first degree, grand larceny in the third degree, falsifying business records in the first degree, offering a false instrument for filing in the first degree, perjury in the first degree, insurance fraud in the third degree, restraint of trade, and conspiracy in the sixth degree, the grand jury found probable cause to believe that he was the person who secretly owned Rags. See Indictment No. 12/2003 People v. Piccolo, et. al. The totality of this evidence amply supports the conclusion that Anthony Piccolo participated directly or indirectly in the control of Rags and thus is a principal of Rags.

Again, although the Applicant's unverified response makes the general assertion that the conclusions detailed in the staff's recommendation are "incorrect," and that the analysis in the staff's recommendation is "flawed" and mostly "irrelevant," the Commission finds that the Applicant failed to specifically respond to any of the evidence about Anthony Piccolo being an undisclosed principal of the Applicant. Accordingly, the Commission finds that Anthony Piccolo was an undisclosed principal of the Applicant.

¹⁵ Indeed, Bennett Ragusa was convicted for these criminal activities. See *infra*.

III. GROUNDS FOR LICENSE DENIAL

1. **The only disclosed principal of the Applicant, Bennett Ragusa, has been convicted for a recent series of criminal acts relating directly to the Applicant's fitness for licensure in the commercial carting industry**

As described above, Rags, with Ragusa as its only disclosed principal was taken over by Anthony Piccolo, who was debarred from the trade waste industry in New York City by virtue of the Commission's denial of Piccolo's license applications.¹⁶ In allowing Piccolo to take over his company, Bennett Ragusa was indicted for several crimes, including perjury in the first degree, falsifying business records in the first degree, offering a false instrument for filing in the first degree, and combination in restraint of trade. Then, on June 16, 2003, Ragusa appeared before Judge Roger Rosengarten of the Queens County Supreme Court and pleaded guilty to the crimes of falsifying business records in the first degree, a class E felony, and pleaded guilty to the crime of making a false written statement, a class A misdemeanor.¹⁷

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.

¹⁶ In denying the license applications of the Piccolo companies, the Commission determined that Anthony Piccolo lacked the requisite honesty, integrity and good character to participate in the trade waste industry.

¹⁷ The Applicant failed to notify the Commission regarding this arrest and conviction as required by 16 RCNY § 2-05(a)(1) and Admin. Code §16-508(c). See infra.

- (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 the above factors, the Commission should find that, notwithstanding the public policy of the State of New York to encourage licensure of persons convicted of crimes, the crimes committed by Ragusa are antithetical to the very purpose of Local Law 42, which is to root out organized crime and other corruption from the trade waste industry. Ragusa was 46 years old in 2002, and his criminal conduct cannot be described as a "youthful indiscretion." Moreover, the convictions are recent and are for activity directly related to the waste hauling industry. In addition, the underlying investigation produced ample proof of the Applicant's blatant disregard for the law and the Commission's regulations. Finally, the public interest in eliminating the entrenched corruption that has plagued the New York City carting industry for decades is clear. Public confidence in the integrity of the carting industry would be undermined if those who have violated the law and subverted the application process received licenses from the Commission. Ragusa's guilty pleas to falsifying business records in the first degree and to making a punishable false written statement both related to matters pending before the Commission and compel the conclusion that the Applicant lacks good character, honesty, and integrity.

The Applicant's unverified response to the staff's recommendation weakly and vaguely attempts to contest this point, claiming that the staff's "conclusion is incorrect and its analysis is flawed; much of it is irrelevant to Rags. Rags will respond to the substance of that recommendation in the event that there is ever a live controversy in the future and the allegations in the recommendation are then raised." In its unverified response, the Applicant does not even attempt to contest any of the evidence on this point. It is clear that the Applicant's principal, Bennett Ragusa was convicted for a series of criminal acts that directly relate to the trade waste industry. The Commission denies this application based on this independent ground.

2. Bennett Ragusa has committed racketeering activity in connection with the trade waste industry

Indeed, Ragusa's crimes are serious enough to constitute "racketeering activity" within the meaning of Local Law 42.¹⁸ Where the Commission finds that an applicant has committed a racketeering activity as defined in the statute, licensure may be denied. Admin. Code § 16-509(v). Violations of the Donnelly Act (the state antitrust statute

¹⁸ Admin. Code § 16-509(v) allows the Commission to consider "the commission of a racketeering activity..." in refusing to issue a license to an applicant. A conviction for racketeering activity is not required. Nevertheless, Ragusa has been convicted of a predicate felony under the Organized Crime Control Act.

modeled on section 1 of the Sherman Act, 15 U.S.C. §1), see N.Y. Penal Law §460.10(1)(b),¹⁹ falsifying business records in the first degree, offering a false instrument for filing in the first degree and perjury in the first degree are each predicate felonies for enterprise corruption prosecutions under the Organized Crime Control Act. See N.Y. Penal Law §460.10(1)(a) (listing, inter alia, Penal Law §175.10, Penal Law §175.35, and Penal Law §210.15). As such, the crimes constitute “racketeering activity” under Local Law 42. See Admin. Code §16-509(a)(v) (referring, inter alia, to predicate felonies listed in Penal Law §460.10(a)). The commission of a racketeering activity is another ground by which the Commission may deny a license application.

The Applicant’s unverified response does not specifically contest any of the evidence here either. Yet it is clear to the Commission that Bennett Ragusa did commit racketeering activity in connection to the trade waste industry. Accordingly, Rags’ license renewal application is denied on this independently sufficient ground as well.

3. An undisclosed principal of the Applicant, Anthony Piccolo, has committed and been indicted for a recent series of criminal acts relating directly to the Applicant’s fitness for licensure in the commercial carting industry

As described above, Anthony Piccolo is an undisclosed principal of the Applicant. In his capacity as a hidden principal of the Applicant, Piccolo committed numerous criminal acts and coordinated the criminal acts of others. These actions resulted in a Queens County Grand Jury’s indictment of Piccolo for the crimes of enterprise corruption, money laundering in the second degree, grand larceny in the second degree, attempted grand larceny in the second degree, coercion in the first degree, attempted coercion in the first degree, commercial bribing in the first degree, grand larceny in the third degree, falsifying business records in the first degree, offering a false instrument for filing in the first degree, perjury in the first degree, insurance fraud in the third degree, restraint of trade, and conspiracy in the sixth degree.

Once again, the Applicant’s unverified response does not specifically address the evidence on this point. The Commission finds that Piccolo committed a series of criminal acts in his attempts to secretly maintain his holdings in the New York City commercial carting industry under the guise of Rags. This criminal behavior compels the conclusion that the Applicant lacks good character, honesty and integrity. Accordingly, the Commission denies Rags’ application to renew its license based on this independently sufficient ground.

¹⁹ The Donnelly Act declares “[e]very contract, agreement, arrangement or combination whereby . . . competition or the free exercise of any activity in the conduct of any business, trade or commerce in or the furnishing of any service in this state is or may be restrained . . . to be against public policy, illegal and void,” and provides that anyone who “shall make or attempt to make or enter into any such contract, agreement, arrangement or combination or who within this state shall do any act pursuant thereto, or in, toward or for the consummation thereof . . . is guilty of a class E felony.” N.Y. Gen. Bus. Law §§340(1), 341. Certain such arrangements are per se unlawful, without regard to motive or justification; these include price fixing, customer allocation, and bid rigging.

4. **The Applicant failed to provide truthful information through written submissions to the Commission and through Bennett Ragusa's testimony under oath before the Commission**

Failure by a license applicant to provide truthful information in connection with its license application is an adequate independent basis upon which the Commission may rely in denying the application. See Admin. Code §16-509(a)(i).

In the original license application, the first renewal application, and in the second renewal application, Rags listed Bennett Ragusa as the only principal of the company. In addition, at his deposition under oath, Ragusa testified that he was the only principal Rags ever had. Among other things, Ragusa failed to disclose the fact that he was not the only principal of Rags, if one at all. In addition, Ragusa testified falsely under oath before the Commission on November 13, 2002 when he stated that he did not even know Anthony Piccolo.²⁰

Q: Have you ever met Anthony Piccolo?

A: No.

See Ragusa Deposition Transcript ("Dep. Tr.") at 31. As demonstrated above, Ragusa's testimony is false. Indeed, Ragusa has met, has spoken with, has done business with, and has conspired to commit crimes with Anthony Piccolo. Based on the evidence, Anthony Piccolo is a principal of Rags Contracting Corp. The identity of a carting company's principals is obviously of material significance to the Commission, and Rags' criminal misrepresentations on the subject warrant denial of its license renewal application – particularly since its undisclosed principal is also under indictment for several crimes connected to the trade waste industry.

In addition, as described above, Ragusa submitted false and misleading documents to the Commission, including a license renewal application and a customer list. The license renewal application failed to disclose the fact that Anthony Piccolo and others were principals of Rags Contracting Corp.²¹ The customer list submitted to the Commission was incomplete and inaccurate. See supra.²²

²⁰ Count one of the indictment against Bennett Ragusa is for perjury in the first degree, to wit: Ragusa "testified falsely during a sworn deposition at the Business Integrity Commission held on November 13, 2002, by stating that he did not know Tony Piccolo, when this false statement was material to the action, proceeding or matter in which it was made." See Indictment No. 329/2003.

²¹ Count two of the indictment against Bennett Ragusa is for falsifying business records in the first degree, to wit: Ragusa "omitted to make a true entry in the business records of an enterprise, to wit, the Rags Contracting Corp. license renewal application, in violation of a duty to do so which he knew to be imposed on him by law or by the nature of his position, with the further intent to commit another crime or to aid or conceal the commission thereof, to wit, unlicensed carting." See Id.

²² Count three of the indictment against Bennett Ragusa is for falsifying business records in the first degree, to wit, Ragusa "omitted to make a true entry in the business records of an enterprise, to wit, the Rags Contracting Corp. customer list, in violation of a duty to do so which he knew to be imposed on him by law or by the nature of his position, with the further intent to commit another crime or to aid or conceal the commission thereof, to wit, unlicensed carting." Count four of the indictment against Bennett Ragusa is for

The unverified response does not specifically refute the evidence on this point either. The failure of the Applicant to provide truthful information to the Commission is another independent basis to conclude that the Applicant lacks good character, honesty and integrity. Thus, the Commission denies the Applicant's license renewal application based on this independent ground as well.

IV. 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 Rags falls far short of that standard. For the independently sufficient reasons discussed above, the Commission hereby denies Rags' license renewal application.

This license denial decision is effective fourteen days from the date hereof. The Applicant shall not service any customers, or otherwise operate a trade waste removal business in the City of New York, after the expiration of the fourteen-day period.

offering a false instrument in the first degree, to wit, Ragusa, "knowing that a written instrument, to wit the Rags Contracting Corp. license renewal application, contains a false statement or false information and with the intent to defraud the state or any political subdivision, public authority or public benefit corporation of the state, to wit, the Business Integrity Commission, offered or presented it to a public office, public servant, public authority or public benefit corporation, to wit, the Business Integrity Commission, with the knowledge or belief that it would be filed with, registered, recorded or otherwise become part of the records of such public office, public servant, public authority or public benefit corporation." See Id.

Dated: March 23, 2004

THE BUSINESS INTEGRITY COMMISSION

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Acting Chairman and First Deputy Commissioner

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Department of Consumer Affairs

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