



The City of New York
BUSINESS INTEGRITY COMMISSION
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**DECISION OF THE BUSINESS INTEGRITY COMMISSION DENYING THE
REGISTRATION RENEWAL APPLICATION OF SALVATORE VICARI
D/B/A SAL GENERAL CONTRACTOR TO OPERATE AS A
TRADE WASTE BUSINESS**

Introduction

On February 8, 2018, Salvatore Vicari D/B/A Sal General Contractor (BIC #488534) (the “Applicant” or “Sal General Contractor”) applied to the New York City Business Integrity Commission to renew an exemption from licensing requirements and a registration to operate a trade waste business “solely engaged in the removal of waste materials resulting from building demolition, construction, alteration or excavation” (the “2018 Renewal Application”).¹ Local Law 42 of 1996 authorizes the Commission to review and make determinations on such exemption applications. *See* Title 16-A, New York City Administrative Code § 16-505(a).

After a review of a trade waste registration renewal application, if the Commission grants the renewal of the exemption from the Commission’s trade waste licensing requirements, the applicant will be issued a registration renewal. *See id.* at § 16-505(a)-(b). The Commission’s review of an initial exemption application or an application to renew such an exemption focuses on determining whether the applicant possesses business integrity, *i.e.*, good character, honesty and integrity. *See* Title 17, Rules of the City of New York (“RCNY”) § 1-09 (prohibiting numerous types of conduct reflecting lack of business integrity, including violations of law, knowing association with organized crime figures, false or misleading statements to the Commission, and deceptive trade practices); Admin. Code § 16-504(a) (empowering the Commission to issue and establish standards for issuance, suspension, and revocation of licenses and registrations); Admin. Code § 16-509(a) (authorizing the Commission to refuse to issue licenses or registrations to applicants lacking “good character, honesty and integrity”).

On January 14, 2020, the Commission’s staff issued and personally served the Applicant with a seven-page Notice of the Grounds to Recommend that the Registration Renewal Application of Salvatore Vicari D/B/A Sal General Contractor to Operate as a Trade Waste Business be denied (the “Notice”). The Applicant was given 10 business days to respond, until January 30, 2020. *See* 17, RCNY § 2-08(a). The Commission did not receive a response from the Applicant.

The Commission has reviewed the 2018 Registration Renewal Application, having considered both the Notice and the Applicant’s failure to respond. Based on the record herein, the

¹ “Trade waste” or “waste” is defined at Admin. Code § 16-501(f)(1) and includes “construction and demolition debris.”

Commission denies Salvatore Vicari D/B/A Sal General Contractor's 2018 Registration Renewal Application because the Applicant lacks good character, honesty, and integrity based on the following two independently sufficient grounds:

- 1. The Applicant has failed to pay taxes, fines, penalties, or fees that are related to the Applicant's business for which judgment has been entered by a court or administrative tribunal of competent jurisdiction; and**
- 2. The Applicant has knowingly failed to provide information and/or documentation required by the Commission.**

Background and Framework

Every commercial business establishment in New York City must contract with a private carting company to remove and dispose of the waste it generates, known as trade waste. Historically, the private carting industry in the City was operated as a cartel controlled by organized crime. As evidenced by numerous criminal prosecutions, the industry was plagued by pervasive racketeering, anticompetitive practices and other corruption. *See, e.g., United States v. Int'l Brotherhood of Teamsters (Adelstein)*, 998 F.2d 120 (2d Cir. 1993); *People v. Ass'n of Trade Waste Removers of Greater New York Inc.*, Indictment No. 5614/95 (Sup. Ct. N.Y. Cty.); *United States v. Mario Gigante*, No. 96 Cr. 466 (S.D.N.Y.); *People v. Ass'n of Trade Waste Removers of Greater New York*, 701 N.Y.S.2d 12 (1st Dep't 1999). The construction and demolition debris removal sector of the City's carting industry specifically has also been the subject of significant successful racketeering prosecutions. *See United States v. Paccione*, 949 F.2d 1183, 1186-88 (2d Cir. 1991), *cert. denied*, 505 U.S. 1220 (1992); *United States v. Cafra*, No. 94 Cr. 380 (S.D.N.Y.); *United States v. Barbieri*, No. 94 Cr. 518 (S.D.N.Y.).

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

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

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

1. failure by such applicant to provide truthful information in connection with the application;
2. a pending indictment or criminal action against such applicant for a crime which under this subdivision would provide a basis for the refusal of such license, or a pending civil or administrative action to which such applicant is a party and which directly relates to the fitness to conduct the business or perform the work for which the license is sought, in which cases the commission may defer consideration of an application until a decision has been reached by the court or administrative tribunal before which such action is pending;
3. conviction of such applicant for a crime which, considering the factors set forth in section seven hundred fifty-three of the correction law, would provide a basis under such law for the refusal of such license;
4. a finding of liability in a civil or administrative action that bears a direct relationship to the fitness of the applicant to conduct the business for which the license is sought;
5. commission of a racketeering activity or knowing association with a person who has been convicted of a racketeering activity, including but not limited to the offenses listed in subdivision one of section nineteen hundred sixty-one of the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. § 1961 *et seq.*) or of an offense listed in subdivision one of section 460.10 of the penal law, as such statutes may be amended from time to time, or the equivalent offense under the laws of any other jurisdiction;
6. association with any member or associate of an organized crime group as identified by a federal, state or city law enforcement or investigative agency when the applicant knew or should have known of the organized crime associations of such person;
7. having been a principal in a predecessor trade waste business as such term is defined in subdivision a of section 16-508 of this chapter where the commission would be authorized to deny a license to such predecessor business pursuant to this subdivision;
8. current membership in a trade association where such membership would be prohibited to a licensee pursuant to subdivision j of section 16-520 of this chapter unless the

commission has determined, pursuant to such subdivision, that such association does not operate in a manner inconsistent with the purposes of this chapter;

9. the holding of a position in a trade association where membership or the holding of such position would be prohibited to a licensee pursuant to subdivision j of section 16-520 of this chapter;

10. failure to pay any tax, fine, penalty, or fee related to the applicant's business for which liability has been admitted by the person liable therefor, or for which judgment has been entered by a court or administrative tribunal of competent jurisdiction.

11. failure to comply with any city, state or federal law, rule or regulation relating to traffic safety or the collection, removal, transportation or disposal of trade waste in a safe manner.

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

The Commission also may refuse to issue a license or registration to any applicant who has “knowingly failed to provide information or documentation required by the Commission . . . or who has otherwise failed to demonstrate eligibility for a license.” *Id.* at § 16-509(b). *See also Elite Demolition Contracting Corp. v. The City of New York*, 125 A.D.3d 576 (1st Dep’t 2015); *Breeze Carting Corp. v. The City of New York*, 52 A.D.3d 424 (1st Dep’t 2008); *Attonito v. Maldonado*, 3 A.D.3d 415 (1st Dep’t) (Commission may deny an application for an exemption “where the applicant fails to provide the necessary information, or knowingly provides false information”); leave denied 2 N.Y.3d 705 (N.Y. 2004). *See also* Admin. Code § 16-509(a)(i) (failure to provide truthful information in connection with application as a consideration for denial). In addition, the Commission may refuse to issue a license or registration to an applicant that “has been determined to have committed any of the acts which would be a basis for the suspension or revocation of a license.” *Id.* at § 16-509(c). *See also id.* at § 16-504(a). Finally, the Commission may refuse to issue a license or registration to any applicant where the applicant or its principals have previously had their license or registration revoked. *Id.* at § 16-509(d); *see also id.* at § 16-504(a).

An applicant for a private carting license (including a registration for hauling construction and demolition debris) has no entitlement to and no property interest in a license or registration, and the Commission is vested with broad discretion to grant or deny a license or registration application. *Sanitation & Recycling Indus., Inc.*, 107 F.3d 985, 995 (2d Cir. 1997); *see also Daxor Corp. v. New York Dep’t of Health*, 90 N.Y.2d 89, 98-100, 681 N.E.2d 356, 659 N.Y.S.2d 189 (1997).

Statement of Facts

On September 28, 2015, the Applicant applied to the Commission for a registration to operate a trade waste business that solely removes construction and demolition debris. *See Salvatore Vicari D/B/A Sal General Contractor Application for Exemption from Licensing*

Requirements for Removal of Construction and Demolition Debris (the “Original Application”). The Original Application disclosed Salvatore Vicari as its only principal. *See* Original Application at 13. On February 1, 2016, the Commission granted the Applicant a registration to operate a trade waste business that removes construction and demolition debris, valid for the two-year period ending January 31, 2018. *See* Registration Order issued to Sal General Contractor, effective February 1, 2016. On February 8, 2018, the Applicant filed a registration renewal application with the Commission. *See* 2018 Renewal Application.

On or about September 9, 2019, the Commission notified the Applicant that it must resolve several New York City Environmental Control Board (“ECB”) violations, which carried fines that totaled approximately \$87,509.78. *See* September 9, 2019 letter from the Commission to the Applicant. The Applicant was warned that its failure to resolve the ECB violations may adversely affect its registration status. *See id.* The Applicant did not respond. Then, on or about September 24, 2019, the Commission again reminded the Applicant that it must resolve the abovementioned ECB violations. *See* September 24, 2019 letter from the Commission to the Applicant. Again, the Applicant was warned that its failure to address the ECB violations would adversely affect its registration status. *See id.* Again, the Applicant failed to respond.

On or about October 8, 2019, the Commission sent a letter marked “FINAL NOTICE” to the Applicant. *See* October 8, 2019 letter from the Commission to the Applicant. Again, the Applicant was warned that its failure to resolve the abovementioned ECB violations may adversely affect its registration status. *See id.* The Applicant did not respond. On December 23, 2019, Commission staff sent another letter by e-mail to remind the Applicant of its obligation to address the ECB violation fine balance which had grown to \$193,627.05.² *See* December 23, 2019 e-mail from the Commission to the Applicant. Again, the Applicant did not respond. Finally, Commission staff contacted the Applicant by telephone and asked to speak to the principal on November 13 and 19, 2019. Salvatore Vicari was unavailable to speak on both dates and did not return the telephone calls. *See* Memo to File- Telephone Log, dated February 14, 2020. As of the date of this Decision, the Applicant has not made any attempt to address any of the ECB violations or to contact the Commission.

A search of the ECB database on December 10, 2019, revealed the following outstanding fines, which totaled \$193,627.05:

<u>Violation Number</u>	<u>Amount Due</u>
0191015981	\$6,362.33
0191015990	\$6,362.33
0191016000	\$6,362.33
0196151928	\$4,229.36
0801160544	\$2,000.00
035341012K	\$13,560.27
035341011Z	\$6,780.14
035340181R	\$26,756.85
035152682R	\$703.92
035395167Z	\$6,359.42

² As of February 12, 2020, the balance has increased to \$202,632.37.

0801106617	\$1,200.00
035319822L	\$8,860.05
035319823N	\$13,843.84
035338084M	\$6,874.14
035338083K	\$13,748.84
035386633M	\$6,501.20
035386632K	\$13,464.73
035396440P	\$26,189.73
035392576X	\$6,547.43
035389936N	\$6,595.21
035391103L	\$10,325.48

Basis for Denial

1. The Applicant has failed to pay taxes, fines, penalties, or fees that are related to the applicant's business that are owed to the New York City Environmental Control Board.

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

As of February 12, 2020, the Applicant has failed to pay \$202,632.37 in fines to the New York City Environmental Control Board, which have accrued over the span of several years. On multiple occasions, the Commission’s staff informed the Applicant that it owed numerous unsatisfied debts to the ECB. Despite these warnings, the debts remain unsatisfied. Moreover, the Applicant has not even demonstrated an attempt to address these debts. The Applicant did not dispute this point, leaving this ground uncontested. Accordingly, the Commission denies the 2018 Renewal Application on this independently sufficient ground.

2. The Applicant knowingly failed to provide information and documentation required by the Commission.

“The Commission may refuse to issue a license or registration to an applicant for such license or an applicant for registration who has knowingly failed to provide the information and/or documentation required by the commission pursuant to this chapter or any rules promulgated pursuant hereto” *See Admin. Code § 16-509(b)*. Despite the Commission’s numerous communications to notify the Applicant of its outstanding debt and seek information and documentation about the same, the Applicant did not address the ECB violations and did not respond to any of the Commission’s letters or telephone calls. The Applicant did not dispute this point, leaving this ground uncontested. Based on this independently sufficient ground, the Commission denies the 2018 Renewal Application.

Conclusion

The Commission is vested with broad discretion to refuse to issue a license or registration to any applicant that it determines lacks good character, honesty, and integrity. Based upon the foregoing grounds, which the Commission is expressly authorized to consider under Local Law 42, the Commission denies Salvatore Vicari D/B/A Sal General Contractor's registration renewal application.

This registration denial is effective immediately. Salvatore Vicari D/B/A Sal General Contractor may not operate as a trade waste business in the City of New York.

Dated: February 25, 2020

THE NEW YORK CITY
BUSINESS INTEGRITY COMMISSION



Noah D. Genel
Commissioner and Chair



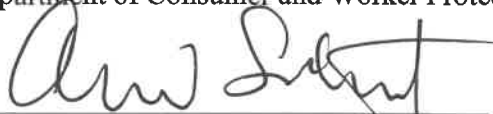
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Margaret Garnett, Commissioner
Department of Investigation



Lorelei Salas, Commissioner
Department of Consumer and Worker Protection



Andrew Schwartz, Deputy Commissioner (Designee)
Department of Small Business Services



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