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

**DECISION OF THE TRADE WASTE COMMISSION DENYING  
THE APPLICATIONS OF STATEN ISLAND CARTING, INC., FAST  
CONTAINER SERVICES, INC., AND QUICK INTERIOR  
CORPORATION FOR LICENSES TO OPERATE AS TRADE  
WASTE BUSINESSES**

Staten Island Carting, Inc. ("Staten Island"), Fast Container Services, Inc. ("Fast Container"), and Quick Interior Corporation ("Quick Interior") (collectively, the "Applicants") have applied to the New York City Trade Waste Commission for licenses to operate as trade waste businesses 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, and certain associations with organized crime figures. Based upon the record as to the Applicants, the Commission finds for the following independently sufficient reasons that the

Applicants lack good character, honesty, and integrity, and denies their license applications:

- (1) an undisclosed principal of the Applicants, Joseph Francolino Sr., has been convicted of enterprise corruption and criminal restraint of trade and competition in the trade waste removal industry, in violation of the New York state racketeering and antitrust statutes, in connection with his participation in the organized crime-dominated cartel that controlled the carting industry in New York City for four decades;
- (2) Joseph Francolino Sr. and Joseph Francolino Jr., a disclosed principal of the Applicants, have committed racketeering acts including enterprise corruption, extortion, grand larceny, criminal antitrust violations, and fraud;
- (3) the Applicants, through their principals – one of whom, Joseph Francolino Sr., is a member of the Gambino organized crime family – have knowingly associated with members and associates of organized crime;
- (4) one of the Applicants' principals, Joseph Francolino Sr., was also a principal of other trade waste businesses that were found ineligible for licenses; and
- (5) the Applicants have failed to provide truthful information in connection with their license applications.

## **I. BACKGROUND**

### **A. The New York City Carting Industry**

Virtually all of the more than 200,000 commercial business establishments in New York City contract with private carting companies to remove and dispose of their refuse. Historically, those services have been provided by several hundred companies. For the past forty years, and until only recently, the private carting industry in the City was operated as an organized crime-controlled cartel engaging in a pervasive pattern of racketeering and anticompetitive practices. The United States Court of

Appeals for the Second Circuit 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 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 – such as Joseph Francolino Sr. (“Francolino Sr.”), an undisclosed principal of these Applicants as demonstrated below – 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). Francolino Sr., a member of the Gambino organized crime family, became the head of the GNYTW beginning in late 1994 after the incarceration of its then current head, Gambino capo James “Jimmy Brown” Failla. See Affidavit of Detective Joseph Lentini in Support of Applications for Search Warrants, sworn to June 1995 (“Search Aff.”), at 19 n.17; ¶ 61 at 35; at 47 n.45; ¶ 82 at 46; ¶¶ 102-03 at 58. As the Second Circuit found, regardless of whatever limited legitimate purposes these trade associations might have served, they “operate in illegal ways” by

“enforc[ing] the cartel’s anticompetitive dominance of the waste collection industry.” SRI, 107 F.3d at 999.

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

Id. (emphasis added).

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

The [New York State Legislature’s] 1986 Assembly report stated that no carting firm in New York City “can operate without the approval of organized crime.” Hence, even th[o]se carters not accused of wrongdoing are aware of the “evergreen” contracts and the other associational rules regarding property rights in their customers’ locations. *The association members—comprising the vast majority of carters—recognize the trade associations as the fora to resolve disputes regarding customers. It is that complicity which evinces a carter’s intent to further the trade association’s illegal purposes.*

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

In June 1995, all four trade associations, together with seventeen individuals and twenty-three carting companies, were indicted as a result of a five-year investigation into the industry by the Manhattan District Attorney’s Office and the New York Police Department. See People v. Ass’n of Trade Waste Removers of Greater New York Inc. et al., Indictment

No. 5614/95 (Sup. Ct. N.Y. Cty.). Francolino Sr. and one of his companies, Duffy Waste & Recycling Corp. ("Duffy Waste"), were among those indicted. 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. As noted above, Francolino Sr., a Gambino soldier, was the GNYTW's "business agent."

More carting industry indictments followed. In June 1996, both the Manhattan District Attorney and the United States Attorney for the Southern District of New York obtained major indictments of New York metropolitan area carters. The state indictments, against thirteen individuals and eight companies, were (like their 1995 counterpart) based upon undercover operations, including electronic surveillance intercepts, which revealed a trade waste removal industry still rife with corruption and organized crime influence. The federal indictment, against seven individuals and fourteen corporations associated with the Genovese and Gambino organized crime families (including the brother and nephew of Genovese boss Vincent "Chin" Gigante), included charges of racketeering, extortion, arson, and bribery. See United States v. Mario Gigante et al., No. 96 Cr. 466 (S.D.N.Y.). In November 1996, the Manhattan District Attorney announced a third round of indictments in his continuing investigation of the industry, bringing the total number of defendants in the state prosecution to thirty-four individuals, thirty-four companies, and four trade waste associations.

The accuracy of the sweeping charges in the indictments has been repeatedly confirmed by a series of guilty pleas and 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 Sr., to obtain their assistance in preventing a competitor from bidding on a "Vibro-owned" building, 200 Madison Avenue in Manhattan.

On January 27, 1997, Angelo Ponte, a lead defendant in the state prosecution and the owner of what was once one of New York City's largest carting companies, pleaded guilty to attempted enterprise corruption and

agreed to a prison sentence of two to six years and to pay \$7.5 million in fines, restitution, and civil forfeitures. In his allocution, Ponte acknowledged the existence of a "property rights" system in the New York City carting industry, enforced by a cartel comprised of carters and their trade associations through customer allocation schemes, price fixing, bid rigging, and economic retaliation, for the purpose of restraining competition and driving up carting prices and carting company profits. His son, Vincent J. Ponte, pleaded guilty to paying a \$10,000 bribe to obtain a carting contract to service an office building. Both defendants agreed to be permanently barred from the New York City carting industry.

On January 28, 1997, Vincent Vigliotti became the fourth individual defendant to plead guilty to carting industry corruption charges. Two carting companies and a transfer station run by Vigliotti's family under his auspices pleaded guilty to criminal antitrust violations. In his allocution, Vigliotti confirmed Ponte's admissions as to the scope of the criminal antitrust conspiracy in the carting industry, illustrated by trade association-enforced compensation payments for lost customers and concerted efforts to deter competitors from entering the market through threats and economic retaliation. Vigliotti agreed to serve a prison term of one to three years, to pay \$2.1 million in fines, restitution, and civil forfeitures, and to be permanently barred from the New York City carting industry.

On February 13, 1997, the KCTW pleaded guilty to criminal restraint of trade and agreed to pay a \$1 million fine, and four individuals who were officers of or otherwise closely associated with the KCTW, as well as their affiliated carting companies, pleaded guilty to corruption charges. The Brooklyn carters who were the KCTW's principal representatives – president Frank Allocca and vice-president Daniel Todisco – pleaded guilty to attempted enterprise corruption, as did Brooklyn carter Dominick Vulpis; each of their defendant companies pleaded guilty to criminal restraint of trade. Brooklyn carter and KCTW secretary Raymond Polidori also pleaded guilty to criminal restraint of trade, as did two related companies controlled by Polidori. These individual defendants agreed to pay fines ranging from \$250,000 to \$750,000, to serve sentences ranging from probation to 4½ years in prison, and to be permanently barred from the New York City carting industry. The same day, Manhattan carters Henry Tamilly and Joseph Virzi pleaded guilty to attempted enterprise corruption and agreed to similar

sentences, fines, and prohibitions. All six defendants confirmed the existence of the criminal cartel and admitted to specific instances of their participation in it.

On February 24, 1997, defendants Michael D'Ambrosio, Robros Recycling Corp., and Vaparo, Inc. all pleaded guilty in allocutions before New York Supreme Court Justice Leslie Crocker Snyder. D'Ambrosio pleaded guilty to attempted enterprise corruption, and his companies pleaded to criminal antitrust violations.

On July 21, 1997, Philip Barretti, Sr., another lead defendant in the state prosecution and the former owner of New York City's largest carting company, pleaded guilty to two counts of attempted enterprise corruption and agreed to a prison sentence of 4½ to 13½ years and to pay \$6 million in fines, restitution, and civil forfeitures. Frank Giovinco, former head of the WPA, pleaded guilty to attempted enterprise corruption and agreed to a prison sentence of 3½ to 10½ years. Carters Paul Mongelli and Louis Mongelli also pleaded guilty to attempted enterprise corruption, and agreed to prison sentences of four to twelve and 3⅓ to ten years, respectively. All four defendants agreed to be permanently barred from the New York City carting industry. On the same day, Philip Barretti, Jr. and Mark Barretti pleaded guilty to 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 Sr. and one of his carting companies, Duffy Waste, 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 Sr. was sentenced to a prison term of ten to thirty years and fined \$900,000, and the GNYTW was fined \$9 million.

On January 21, 1998, Patrick Pecoraro pleaded guilty to attempted enterprise corruption and agreed to serve a prison sentence of one to three years, to pay a \$1 million fine, and to be barred permanently from the New York City carting industry. On the same day, the QCTW pleaded guilty to a criminal antitrust violation and agreed to forfeit all of its assets.

In sum, it is far too late in the day for anyone to question the existence of a powerful criminal cartel in the New York City carting industry. Its existence has been proven beyond a reasonable doubt. The proof at trial also established conclusively that the cartel which controlled the carting industry 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. The jury verdict confirms 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 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); 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 "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." 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). Although Local Law 42 became effective immediately, trade waste removal licenses previously issued by the DCA remain valid pending decision by the Commission on timely filed license applications. See Local Law 42, §14(iii)(1). The Applicants hold DCA licenses and timely filed applications for licenses from the Commission.

As the United States Court of Appeals has definitively ruled, an applicant for a trade waste removal license under Local Law 42 has no entitlement to and no property interest in a license, and the Commission is vested with broad discretion to grant or deny a license application. SRI, 107 F.3d at 995; see also Daxor Corp. v. New York Dep't of Health, 90 N.Y.2d 89, 98-100, 681 N.E.2d 356, 659 N.Y.S.2d 189 (1997). In determining whether to issue a license to an applicant, the Commission may consider, among other things, the following matters, if applicable:

- (i) failure by such applicant to provide truthful information in connection with the application;

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- (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;

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- (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.

Admin. Code §16-509 (a).

## II. DISCUSSION

As noted above, in June 1995, Joseph Francolino Sr. and Duffy Waste were indicted for their criminal roles in the mob-run cartel in New York City's commercial carting industry. Duffy Waste was thereafter placed in a form of receivership to prevent the dissipation of forfeitable assets. See Morgenthau v. Allocca et al., No. 403825/95 (Sup. Ct. N.Y. Cty.). In August 1996, Duffy Waste and another carting company owned by

Francolino Sr., Duffy Disposal Co. Inc. ("Duffy Disposal"), filed license applications with the Commission, as did Staten Island, Fast Container, and Quick Interior.

In July 1997, Duffy Waste and Duffy Disposal commenced reorganization proceedings under the federal bankruptcy laws. In October 1997, the Chapter 11 reorganization proceeding was converted to a Chapter 7 liquidation proceeding, and a trustee, John S. Pereira, Esq., was appointed. In December 1997, the Commission denied the license applications of Duffy Waste and Duffy Disposal.

In July 1997, Staten Island, Fast Container, and Quick Interior, together with a transfer station owned by Joseph Francolino Jr., JDF Transfer, Inc. ("JDF Transfer"), commenced Chapter 11 reorganization proceedings in federal bankruptcy court. In re Quick Interiors, Inc. et al., Nos. 97-B-45020-45023 (Bankr. S.D.N.Y.). In November 1997, Mr. Pereira was appointed as the trustee for these companies as well.

On September 11, 1998, the Commission staff issued a 30-page recommendation that the license applications of Staten Island, Fast Container, and Quick Interior be denied. The staff recommendation was duly served on the Applicants. Under the Commission's rules, the Applicants had until September 25, 1998 to submit a written response to the staff recommendation. See 17 RCNY § 2-08(a). On September 25, the Applicants sought and obtained an extension of time to submit their response to October 2, 1998. On October 1, the Commission granted an additional extension, to October 9, 1998. On October 9, the Commission granted yet another extension, to October 14, 1998.

On September 23, 1998, counsel for Mr. Pereira, the bankruptcy trustee, requested additional time to respond to the staff's license denial recommendation. On September 24, the Commission informed the trustee's counsel that the trustee appears to lack standing to respond to the recommendation inasmuch as it involves the exercise of authority emanating from the local police power and thus does not implicate the jurisdiction of the bankruptcy court from which Mr. Pereira's authority derives. Nonetheless, out of respect for the bankruptcy court, the Commission permitted the trustee to file an amicus response to the recommendation by October 9, 1998.

The Commission has received the following materials in response to the staff's license denial recommendation: (i) on October 9, a four-page letter from Joseph Francolino Jr. and a 24-page affidavit from him (with nine exhibits); (ii) on October 9, a one-page letter from counsel to the bankruptcy trustee and a two-page affidavit from Mr. Pereira (with one exhibit); and (iii) on October 14, a two-page letter from Joseph Francolino Jr. (with seven exhibits).<sup>1</sup> The Commission has considered all of these materials, as well as the staff recommendation, in deciding these license applications.<sup>2</sup>

#### **A. The Applicants' License Applications Should Be Considered Together**

On August 30, 1996, the Applicants submitted applications to the Commission for licenses to operate as trade waste businesses. The close relationships among the three companies and their principals warrant joint consideration of their applications.

Joseph Francolino Jr. ("Francolino Jr.") is the sole listed owner, president, and disclosed principal of each of the Applicants, as of May 5, 1997. See Fast Container ("FC") Lic. App., Amended Schedule A, at 85; Quick Interior ("QI") Lic. App., Amended Schedule A, at 31; Staten Island ("SI") Lic. App. at 27, 84. In addition, as demonstrated below, Francolino Sr. is an undisclosed principal of all three companies. Staten Island and Fast Container also have overlapping employees: Enzo Arpaia is a salesman, and Frank Lino is the office manager. See FC and SI, Arpaia and Lino Emp. Discl. Salvatore Spinelli is the registered agent for both companies as well. See FC Lic. App. at 4; SI Lic. App. at 2.

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<sup>1</sup> The Commission had required that the October 14 response be hand-delivered to the Commission's offices by 1:00 p.m. that day. The response was not delivered until several hours later. The Commission will nonetheless accept the response for inclusion in the record.

<sup>2</sup> Despite having received repeated extensions of time to respond to the staff's recommendation, the Applicants complain that their ability to frame a response has been hindered by the fact that certain of their books and records are at the Commission's offices in connection with an audit. See October 14 Joseph Francolino Jr. letter at 1. However, the Commission advised the Applicants' counsel long ago that if they wished to expedite the return of specific categories of documents, they need only identify them. See Letter from the Commission to Davidoff & Malito, dated October 6, 1997. The Applicants never did so. In a similar vein, the Applicants complain that they were not deposed by the Commission staff in connection with their license applications. See October 14 Joseph Francolino Jr. letter at 1. The staff thereupon invited Joseph Francolino Jr. to appear at the Commission's offices for a deposition on October 19, 20, 21, or 22. See Letter from the Commission to Joseph Francolino Jr., dated October 16, 1998. He elected not to appear. See Letter from Joseph Francolino Jr. to the Commission, dated October 22, 1998.

The Applicants had overlapping owners, principals, and officers prior to May 5, 1997 as well. Francolino Jr. and his brother Daniel Francolino were the co-owners and disclosed principals of Fast Container and Quick Interior. See, e.g., FC Lic. App., Schedule A, at 85; QI Lic. App., Schedule A, at 31. Daniel Francolino was the president of both of those companies, and Francolino Jr. was the companies' vice president. Id. Francolino Jr. has always owned 100% of Staten Island, while Daniel Francolino is an employee of that company. See SI Lic. App., Schedule A, at 84.<sup>3</sup>

The Applicants share assets as well as personnel. All three Applicants, along with their related company JDF Transfer, share an office at 548 Varick Avenue in Brooklyn. See FC Lic. App. at 1, 4; QI Lic. App., letter from Francolino Jr. to the Commission, dated July 28, 1997; SI Lic. App. at 1, 4. In addition, all three companies share, or have shared, telephone numbers: Staten Island and Fast Container both use 718-384-6620, FC Lic. App. at 1; SI Lic. App. at 1, and Fast Container and Quick Interior share 212-243-7883. See FC Lic. App. at 1; QI Lic. App. at 1. Quick Interior shares equipment and garage space on an emergency basis with Fast Container. See FC Lic. App. at 4; QI Lic. App. at 13.

The Applicants' financial records further reveal the Applicants' and their related companies' close connections.<sup>4</sup> For instance, checks written to JDF Transfer were regularly deposited in Fast Container's account during the 1993-1996 period. Checks written to Staten Island and the Quick entities (related and predecessor companies to Quick Interior) also at times were deposited in Fast Container's account. Likewise, checks written to Fast Container were deposited into Quick Interior's account in 1996 and JDF Transfer's account during the 1993-1995 period. In 1995, Staten Island wrote checks worth \$25,000 to Quick Demolition (a related company) and \$1,000 to Quick Interior, both purportedly in repayment of loans from those companies. In 1996, Fast Container wrote checks worth \$26,000 to Quick Interior. And as of December 1996, Staten Island owed Fast Container \$84,400, and various of the related entities owed Fast Container \$25,830. See FC Lic. App., Amended Schedule O.

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<sup>3</sup> Francolino Jr. is also the sole owner and president of JDF Transfer, another related company. See Daniel Francolino SI Emp. Discl., Schedule A, at 11. Daniel Francolino previously was a co-owner of JDF Transfer, as well as its vice president and secretary. See, e.g., Francolino Jr. SI Discl., Schedule A, at 8; Daniel Francolino FC Discl., Schedule A, at 8.

<sup>4</sup> The Commission staff obtained and examined the Applicant companies' financial records for the years 1993-1996.

As Staten Island, Fast Container, and Quick Interior currently are being, and historically have been, run by the same people using the same resources, the Commission will consider their license applications jointly. While the Applicants assert that their “individual corporate form . . . cannot be ignored,” Francolino Jr. Aff. ¶ 21, they have largely ignored it in practice. And although the Applicants broadly protest that considering their applications together would be “highly prejudicial,” *id.* ¶ 20, they fail to show how. Indeed, the grounds for license denial asserted by the staff are equally applicable to all of the Applicants because they pertain to their common principals.

**B. Joseph Francolino Sr., a Mobster and Convicted Felon, Is an Undisclosed Principal of the Applicants**

The evidence is compelling that Joseph Francolino Sr. is an unidentified principal of the Applicants. Accordingly, Francolino Sr.’s racketeering convictions and organized crime associations, discussed below, are highly material to these license applications.

**1. Francolino Sr.’s Connections to and Participation in the Control of the Applicants**

The evidence amply supports the conclusion that Francolino Sr. is an undisclosed principal of the Applicants because he has participated in the control of the Applicants’ business. See Admin. Code § 16-501(d). The Applicants effectively have admitted as much, and the relationship has been confirmed by the New York Supreme Court and is further supported by additional information revealed by the Commission’s investigation.

Fast Container’s license application asserts that Francolino Jr. is its sole principal. See FC Lic. App., Amended Schedule A, at 85. The application, however, contains a document stating that Francolino Sr. is a principal of the company. In October 1992, Fast Container purchased Louis Venosa Inc.; about half of the \$200,000 purchase price was to be paid in monthly installments, represented by a series of promissory notes. Pursuant to the purchase agreement, Francolino Sr. “personally guaranteed” these

notes as “a principal of the Purchaser Corporation [Fast Container].” FC Lic. App. at 80 (emphasis added). The Applicants assert that this statement is simply an error which Fast Container failed to catch, and that the seller merely “assumed” that Francolino Sr. was a principal of the buyer. See Francolino Jr. Aff. ¶¶ 28-30 & Exh. A. We believe, however, that the agreement and the seller’s underlying assumption reflected the practical reality of the situation – that Francolino Sr., although nominally not an officer, director, or stockholder of Fast Container, was a de facto principal of the company. Indeed, his willingness to guarantee personally the company’s financial obligations is independent evidence of his close business connection to these Applicants.

Francolino Sr.’s participation in the control of all of the Applicant companies, not merely Fast Container, has been confirmed by the New York Supreme Court. In 1996, the court-appointed receiver in place for Duffy Waste, a defendant in the carting industry prosecution, moved the Court “to expand the receivership to the related Francolino family businesses since they function as a single enterprise.” Morgenthau v. Allocca, et al., Index No. 403825/95 (Sup. Ct. N.Y. Cty.), Decision dated July 14, 1997, at 3. Justice Lewis R. Friedman granted that request, explaining:

The court’s review of the documents and affidavits make it clear beyond a doubt that a receivership over [Duffy Waste] alone will be ineffective unless the related companies are included. The court concludes that the related companies share capital assets and other property belonging to Francolino [Sr.] and [Duffy Waste] and therefore is property in which the District Attorney has an “apparent interest” (CPLR 1338[1]). The business of [Duffy Waste] is leasing solid waste containers to customers and picking up recyclable materials. The related companies are [a] [Duffy Disposal, Inc.], a putrescible materials carting company wholly owned by Francolino [Sr.]; [b] Quick Demolition Corporation, Quick Interior Corporation and Quick Removal Corporation, a series of companies that does demolition and waste removal of interiors, owned by Joseph Francolino, Jr. and Daniel Francolino, Francolino [Sr.]’s sons; [c] Fast Container Services, Inc., a company that leases waste disposal containers to [Duffy Waste] and the other Francolino companies, owned by Joseph Francolino, Jr. and Daniel Francolino; [d] Staten Island Carting Corporation, a putrescible materials carting company,



owned by Joseph Francolino, Jr.; [e] JDF Transfer Inc., a company that operates a non-putrescible wastage transfer station in Brooklyn, owned by Joseph Francolino Jr. and Daniel Francolino; [f] Alco Maintenance Corporation, a company that maintains carting equipment for the other Francolino companies, owned by Francolino [Sr.]. The interrelationship of these companies is substantial and conceded, in part, by Francolino [Sr.].

Id. at 3-4 (emphasis added).

In so finding, the Court relied on the following facts, among others: Duffy Waste and Quick Interior share office space; Duffy Waste, Quick Interior, and Fast Container share telephone lines; Duffy Waste, Quick Interior, and Fast Container share garage space under oral “leases” with Francolino Sr.; customers apparently were shifted from Duffy Waste to the other related companies; and there were a number of intercompany loans among these entities. The Court concluded: “It is clear that Francolino [Sr.] did not intend [Duffy Waste] to operate independently of the other companies.” Id. at 4 (emphasis added). In addition, the fact that Francolino Sr. sought approval from the Court for the consolidation of Duffy Waste, Duffy Disposal, Staten Island, and Fast Container further supported the conclusion that the businesses were “totally interrelated.” Id.

The Applicants dispute virtually none of the facts cited by Justice Friedman, see Francolino Jr. Aff. ¶ 41, contending instead that the Commission may not rely upon those facts because they did not participate in the proceedings before the Court and were precluded under the bankruptcy laws from appealing its ruling. See id. ¶¶ 33-39. The Applicants, however, do not deny that they were aware of the proceedings, and it is highly likely that Francolino Sr. would have alerted his sons to an attempt to impose a receivership on their companies, as well as his own proposal to consolidate his and his sons’ companies. In any event, the Applicants are not estopped from trying to demonstrate here that Justice Friedman’s findings were erroneous. The illuminating fact is that they have devoted little effort to doing so.

Information in the Applicants’ license applications also indicates that Francolino Sr., individually and through his companies Duffy Waste and Duffy Disposal, has participated in the control of these Applicants.

Francolino Sr. owns the property at 548 Varick Avenue where all of the Applicants and JDF Transfer are located. According to DCA license application files, moreover, Duffy Disposal, one of Francolino Sr.'s companies, held from October 1992 until October 1993 an umbrella automobile insurance policy for itself, Francolino Sr., Duffy Waste, Fast Container, JDF Transfer, and other related entities. See FC DCA records. The Applicants assert that they were not aware of this arrangement, which was fashioned by their insurance broker. See Francolino Jr. Aff. ¶¶ 47-50 & Exh. C. That misses the point. Much like the seller who insisted that Francolino Sr. personally guarantee the obligations of Fast Container, the insurance broker apparently assumed that Francolino Sr.'s companies and his sons' companies were closely connected enough to belong on the same insurance policy.

Furthermore, as already found by the New York Supreme Court, the Francolino companies share assets. Fast Container, Quick Interior, Duffy Disposal, and Duffy Waste share or have shared garage space. See FC Lic. App. at 4; QI Lic. App. at 13. Quick Interior and Staten Island formerly shared office space and a telephone number with Duffy Waste and Duffy Disposal. See Duffy Disposal Lic. App. at 1; Duffy Waste Lic. App. at 1; QI Lic. App. at 13; SI DCA App. Fast Container and Duffy Disposal previously shared a telephone number. See FC Lic. App. at 1, 4. Furthermore, as to personnel, Frank Lino is or has been the office manager of Duffy Waste, Duffy Disposal, Staten Island, and Fast Container. See Lino Duffy Waste Emp. Discl. at 21; Duffy Disposal Lic. App., Amended Schedule F, at 158. The Applicants contend that these are merely cost-saving measures. See Francolino Jr. Aff. ¶¶ 46, 51. That, too, misses the point. These facts all illustrate a commonality of identity and interest between Francolino Sr.'s directly owned companies and the Applicant companies nominally controlled by his sons.

Events occurring last fall – during the period of the criminal convictions of Francolino Sr. and Duffy Waste, the conversion of the bankruptcy proceedings involving Duffy Waste and Duffy Disposal into a Chapter 7 liquidation, and the denial of the license applications of Duffy Waste and Duffy Disposal – further indicate Francolino Sr.'s participation in the control of the Applicants. According to counsel for Staten Island and Fast Container, those two companies obtained 85 of Duffy Waste's 87

customer accounts and 578 of Duffy Disposal's 602 customer accounts. See Letter from Davidoff & Malito LLP to the Commission, dated December 5, 1997, at 2. An investigation by the Commission's inspection staff earlier this year revealed the use of deceptive practices in obtaining these accounts. One third of the Duffy customers interviewed by the inspectors said that in October 1997, they were told by a salesman (likely Enzo Arpaia) in essence that Staten Island was the same as Duffy. See Report of Inspector, dated March 26, 1998. Customers were told that Staten Island would be servicing their area now; that Staten Island was taking over for Duffy; that only the name on the bills would change; that Duffy would now be operating under a different name; and that signing a new contract with Staten Island was merely a formality. See id.; Report of Inspectors, dated January 21, 1998; Report of Inspector, dated February 1, 1998.<sup>5</sup> Under such circumstances, these customers did not believe that they had any choice about their "new" carter, see id., when in fact under Local Law 42 they had the absolute right to make other carting arrangements. In this connection, it is noteworthy that, although Staten Island was incorporated in December 1991, SI Lic. App. at 25, it did not apply for a garbage-hauling license until March 1995 and did not commence operating in that business until June 1995, SI Lic. App. at 22, after it purchased Duffy Disposal's assets (and immediately after Francolino Sr. and Duffy Waste were indicted). These facts strongly suggest that Staten Island is merely a Duffy company by another name, under the control of Francolino Sr.<sup>6</sup>

The Applicants' financial records further indicate Francolino Sr.'s participation in the control of and involvement in the Applicants' business. For example, between 1993 and 1996, numerous checks made out to the Duffy companies were deposited into the accounts of Fast Container, Staten Island, Quick Demolition (a company related to Quick Interior), Quick Interior, and JDF Transfer.<sup>7</sup> In addition, in February 1993, Duffy Waste

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<sup>5</sup> Enzo Arpaia denies making such statements to Duffy customers. See Francolino Jr. Aff. ¶¶ 53-56 & Exh. D (Affidavit of Enzo Arpaia, sworn to October 9, 1998, ¶¶ 4, 6). We credit the customers' recollections of their conversations with Staten Island's salesman, particularly in light of the absence of any motive for them to misstate the facts and the Applicants' remarkable success rate in soliciting the Duffy customers.

<sup>6</sup> The Applicants tout the fact that they were not members of any of the trade associations that were convicted in the carting industry prosecution, and go so far as to call themselves "outlaws" from the cartel that Francolino Sr. ran for the mob. See October 14 Francolino Jr. letter at 1. It is, however, not surprising that the Applicants did not consider it necessary to be dues-paying members of trade associations controlled by organized crime. Francolino Sr.'s stature in the mob provided sufficient protection from the winds of competition.

<sup>7</sup> In fact, one customer check was made out to "Duffy or S.I. Carting Co Inc" and deposited into Staten Island's account. In addition, Fast Container's records show that checks made out to Shamrock Container

wrote a \$5,000 check to JDF Transfer, which was deposited in Fast Container's account. A letter submitted to the Commission in support of Fast Container's license application attempted to explain some of the intercompany deposits<sup>8</sup>:

[T]hese balances are comprised essentially of "exchange" items – namely, funds paid by customers incorrectly deposited or credited to the wrong company. The balances are settled between the companies as the customer accounts are reconciled and as cash is available. However, in the case of the balance owed to JDF Transfer Inc., we were informed that a portion also represents cash transfers between the companies.

Although these balances were known to exist at the time the Applicant Financial Information was prepared, we did not consider these balances as "loans or notes" or "indebtedness" as these terms are defined in the Applicant Financial Information instructions. Instead, we considered these balances as ongoing trade items occurring in the normal course of business.

Letter from Morton Pechman to Daniel Francolino, dated December 19, 1996 (emphasis added).

Monies are directly exchanged between the Applicants and Francolino Sr. and his companies as well. For example, both Duffy Disposal and Duffy Waste deposited thousands of dollars into Fast Container's account in 1993 and 1994. Duffy Disposal also issued Quick Interior a check for \$3,718 in 1996 for an "exchange." In 1995, Staten Island paid Duffy Disposal \$7,500, which included a \$5,000 loan and a \$2,000 refund on equipment. Staten Island also wrote checks totaling close to \$21,000 to Duffy Disposal in 1996 for an undisclosed purpose. Duffy Waste paid Quick Demolition over \$9,000 in 1995, supposedly to offset a loan from Quick Demolition to Duffy Waste in an amount of close to \$13,000. And as of December 1996, Fast Container owed \$10,000 to Duffy Waste, \$9,825 to Duffy Disposal, and

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are regularly deposited into Fast Container's account. Shamrock Container was purchased in 1988 by Duffy Disposal. See Duffy Disposal Lic. App. at 59, 61-76. Likewise, in 1996, a check written to Alco Maintenance, a company solely owned by Francolino Sr., see Francolino Sr. Duffy Disposal Discl. at 11, was deposited into Fast Container's account. Apparently then, monies owed Duffy were deposited in Fast Container's account.

<sup>8</sup> Specifically, the letter addressed particular amounts "owed" by Fast Container as of December 19, 1996: \$10,000 to Duffy Waste, \$9,825 to Duffy Disposal, and \$185,073 to JDF Transfer.

\$185,073 to JDF Transfer. See FC Lic. App., Amended Schedule P. In addition, Quick Interior's 1996 records show that it paid Francolino Sr. \$2,500 that year. Similarly, Fast Container paid Francolino Sr. \$9,000 in 1995, \$22,000 in 1994, and \$12,000 in 1993.

The Applicants go to considerable lengths to explain their financial interconnections and transactions with the Duffy companies and to demonstrate that they were above-board. See Francolino Jr. Aff. ¶¶ 60-72 & Exhs. F-I.<sup>9</sup> The issue, however, is not whether these transactions were illegal, nor whether certain payments were made in honest error. Rather, the free flow of funds among the companies, as well as the customer and employee perceptions revealed by these transactions and payments, reflect that in many respects the differences between the Applicants and the Duffy companies were mere matters of form.

Taken as a whole, the evidence of Francolino Sr.'s and his Duffy companies' significant role in the Applicant companies is overwhelming.<sup>10</sup> In essence, all of the Francolino-related companies are properly viewed as one large company, subdivided into smaller operating units that are nominally headed or managed by different family members, but ultimately remain under the control of Francolino Sr. Consequently, for all of the foregoing reasons, the Commission concludes that Joseph Francolino Sr. is a principal of the Applicants in that he has "participat[ed] directly or indirectly in the control" of their business. Admin. Code § 16-501(d).<sup>11</sup>

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<sup>9</sup> For example, the Applicants submitted a number of purported billing records to show that customer checks made payable to Duffy companies but deposited in Fast Container's account were in fact for work performed by Fast Container. See id. ¶ 61 & Exh. F. One such check, dated December 30, 1993, was from BellSouth Communication Systems and payable to Duffy Waste in the amount of \$346.40. The billing record ostensibly establishing that BellSouth should have paid Fast Container indicates that the BellSouth check deposited in its account was in the amount of \$265.21. This happens to be the same amount that appears on an unrelated, non-BellSouth check (made payable to Fast Container) which is immediately above the BellSouth check on a photocopy page submitted by the Applicants. The purported billing record was computer-printed on October 7, 1998. See id. Exh. F at 6-7. Although this "coincidence" strongly suggests that the Applicants may have manufactured billing records rather than simply retrieved them, we need not resolve that issue here.

<sup>10</sup> The bankruptcy trustee asserts that, since November 5, 1997, Francolino Sr. has not "exerted any dominion or control" over the Applicants' business operations or assets. Pereira Aff. ¶ 6. Mr. Pereira does not run the Applicants' businesses on a day-to-day basis. In any event, however, Francolino Sr. was sentenced to a lengthy prison term on November 18, 1997.

<sup>11</sup> Francolino Sr.'s own testimony corroborates the fact that he exercises control over the Applicants. On February 6, 1997, the Commission deposed Francolino Sr., seeking information regarding, inter alia, his role in the Applicant companies, La Cosa Nostra, and the garbage hauling industry. See In re: Duffy Waste & Recycling Corp., Francolino Sr. Dep. Tr. (Feb. 6, 1997). In response to all substantive questions,

## 2. Francolino Sr.'s Position in the Gambino Organized Crime Family

Francolino Sr., the undisclosed principal of the Applicants, is a member of the Gambino crime family. The Applicants do not dispute that Francolino Sr. is a mobster. John Gotti, the Gambino family boss, himself confirmed Francolino Sr.'s status as a "made" organized crime member in an intercepted conversation with Gambino consigliere Frank Locascio on December 12, 1989. This recorded conversation was admitted into evidence in the Government's racketeering case against Gotti. See United States v. Gotti, No. 90 Cr. 1051 (E.D.N.Y.); see also United States v. Conte, No. 93 Cr. 0085 (E.D.N.Y.), Tr. at 779. In this conversation, Gotti refers to the "garbage club" and alludes to the fact that Gambino capo James "Jimmy Brown" Failla and Francolino Sr. control the City's garbage carting industry. Conte, Tr. at 775-79. The benefit of this control, Gotti notes, includes payoffs of \$100,000 for carting stops. Id.

Moreover, local law enforcement authorities, in connection with the District Attorney's carting industry investigation, observed Francolino Sr. associating on numerous occasions with members and associates of organized crime. See, e.g., Search Aff. at 35 n. 34; ¶ 76 at 43; ¶ 104 at 58. Additional evidence confirming Francolino Sr.'s organized crime status was also introduced during his criminal trial. This evidence included electronic surveillance, physical surveillances (of Francolino Sr. with numerous organized crime figures such as Gotti at the Ravenite social club in Manhattan), and the expert testimony of FBI Supervisory Special Agent Brian F. Taylor, who identified Francolino Sr. as a member of the Gambino organized crime family.

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Francolino Sr. asserted his Fifth Amendment privilege against compelled self-incrimination. Id. at 5-6. However, in a non-criminal proceeding adverse inferences may be drawn from invocations of the Fifth Amendment privilege. See, e.g., Baxter v. Palmigiano, 425 U.S. 308, 318-19 (1976); LiButti v. United States, 107 F.3d 110, 121 (2d Cir. 1997); Brinks, Inc. v. City of New York, 717 F.2d 700, 708-10 (2d Cir. 1983). Thus, the Commission will infer from Francolino Sr.'s invocation of the privilege that truthful answers to the Commission's questions concerning his relationship to the Applicants would support the conclusion that he controls them as one of their principals. That Francolino Sr. invoked the privilege on advice of counsel (see Francolino Jr. Aff. ¶ 40) is irrelevant.

### 3. Francolino Sr.'s Criminal History in the Carting Industry

In 1994, Francolino Sr. succeeded Gambino capo James Failla (after Failla's incarceration) as head of the GNYTW, one of the indicted (and now convicted) trade associations used to enforce the cartel's anticompetitive criminal schemes. See Search Aff. at 19 n.17; ¶ 61 at 35; see also id. ¶ 82 at 46 (discussion of payoffs to organized crime figures, including Genovese boss Vincent "Chin" Gigante); at 47 n.45 (statement of former high-ranking Mafia member that Francolino Sr. continued the Gambino family's control of Manhattan carting); ¶¶ 102-03 at 58.

In June 1995, Joseph Francolino Sr., along with his company, Duffy Waste, was indicted in New York County for a number of crimes, including enterprise corruption, grand larceny, coercion, and Donnelly Act (criminal antitrust) violations. 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 indictment arose out of Francolino Sr.'s leading role in enforcing the organized crime-controlled cartel in the New York City carting industry. In October 1997, Francolino Sr. was found guilty by the jury of all thirty-five counts against him. In November 1997, Francolino Sr. was sentenced to a prison term of ten to thirty years, and he and Duffy Waste were fined \$900,000.

The criminal cartel participation of Francolino Sr. and his companies and his central role in the cartel were well established both before and during the criminal trial, and the Applicants do not dispute these matters here. For example, Francolino Sr. stated to an undercover detective, "I'm the fucking boss," and insisted that he take control of revising the list of citywide cartel payoffs that the undercover detective was coerced to make on behalf of a cooperating carter. Search Aff. ¶¶ 102-03 at 58; see also id. ¶ 91 at 52-53 (directing the undercover officer to provide Francolino Sr. with a complete listing of cartel members' extortion demands, so that he could "tell [the undercover] whom to pay and whom to defer"); ¶¶ 110-11 at 61-62 (arranging extortion payoff schedule with Genovese capo Alphonse "Ally Shades" Malangone). During the course of the criminal trial, the prosecution adduced substantial evidence regarding Francolino Sr.'s central involvement in the organized crime-run cartel in the New York City garbage

industry. This extensive evidence need not be recited here as Francolino Sr. was convicted on all counts by the jury.

### **C. The Applicants Lack Good Character, Honesty, and Integrity**

For the reasons that follow, the Commission finds that these three Applicants lack good character, honesty, and integrity and, therefore, concludes that their license applications must be denied.

#### **1. Criminal Convictions**

In making licensing determinations, the Commission is expressly authorized to consider prior convictions of the Applicants (or any of their 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 Francolino Sr., an undisclosed principal of all three Applicants, are so recent, so serious, and so closely related to both the purposes for which the Applicants seek licenses, and the duties and responsibilities associated with such licensure, as to compel the conclusion that Francolino Sr. and, therefore, the Applicants lack good character, honesty, and integrity. Francolino Sr. was convicted of engaging in enterprise corruption, criminal antitrust violations, and other criminal activity in the New York City carting industry, and the evidence is clear that he did so as part of the criminal cartel that corrupted the industry for decades. He is, quite simply, unworthy of licensure in that same industry again, as is any company in which Francolino Sr. is a principal, including Staten Island, Fast Container, and Quick Interior. Accordingly, in the exercise of its discretion, and in the legitimate interest of protecting the property, safety, and welfare of the general public, the Commission denies these license applications.

## **2. Racketeering Activity**

Local Law 42 expressly authorizes the Commission to consider a license applicant's (or any of its principals') commission of 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). These Applicants have engaged in racketeering activity on a number of occasions, all of which independently compel the conclusion that they are unfit for licensure.

**a. Francolino Sr.**

As discussed above, one of the Applicants' principals, Francolino Sr., was recently found guilty of enterprise corruption, criminal antitrust violations, and numerous other crimes including grand larceny and coercion. All of these crimes constitute racketeering activity as defined in Local Law 42. See Admin. Code § 16-509(a)(v); 18 U.S.C. § 1961(1)(A); N.Y. Penal Law §§ 460.10(1)(a)-(b). This extensive racketeering activity provides ample support for the conclusion that the Applicants lack good character, honesty, and integrity.

**b. Francolino Jr., Fast Container, and JDF Transfer**

Francolino Jr., another principal of these Applicants, and certain of his companies, including one of the Applicants, Fast Container, also engaged in racketeering activity in connection with their participation in an illegal waste dumping scheme in the late 1980's and early 1990's involving the Fresh Kills Landfill on Staten Island. The scheme involved certain "cover" programs instituted by the City of New York at Fresh Kills, under which the City obtained material needed to cover the garbage and other waste dumped at the landfill. Under the "free cover" program, transfer stations and carting companies could dispose of "clean fill" (i.e., soil uncontaminated by debris) at Fresh Kills free of charge. Under the "paid cover" program, the City contracted with and paid carting companies to bring clean fill to Fresh Kills. Numerous transfer stations and carters, however, in a scheme with corrupt City sanitation workers, dumped non-qualifying materials (including garbage) at Fresh Kills under the guise of clean fill. This was done by "cocktailing" the garbage: Garbage was placed beneath, and hidden by, a layer of dirt on top of a truckload. When the trucks arrived at Fresh Kills, they appeared to contain nothing but clean fill, which could be dumped free of charge.

In June and August of 1994, a total of twenty-eight defendants, including nine current or former sanitation workers and numerous owners of transfer stations and carting and trucking companies, were indicted in connection with this scheme, which deprived the City of approximately \$10

million in disposal fees. The indictments charged that from January 1988 through April 1992, the defendants participated in a racketeering conspiracy and engaged in bribery and mail fraud in connection with the operation of the City's "cover" programs. The various hauling companies, from Brooklyn, Queens, and Staten Island, were charged with paying hundreds of thousands of dollars in bribes to Department of Sanitation employees to allow them to dump non-qualifying material at Fresh Kills without paying the City's tipping fees. See United States v. Cafra, et al., No. 94 Cr. 380 (S.D.N.Y.); United States v. Barbieri, et al., No. 94 Cr. 518 (S.D.N.Y.); see also United States v. Caccio, et al., Nos. 94 Cr. 356, 358, 359, 367 (four felony informations). The evidence against these defendants included electronic surveillance intercepts obtained during the course of the investigation. Twenty-seven defendants pleaded guilty in 1994 and 1995, and one defendant was found guilty in 1996 after trial.

Francolino Jr. was not indicted in connection with the Fresh Kills investigation, which was closed after two rounds of indictments in 1994. However, evidence gathered during the course of that investigation demonstrated that Francolino Jr. and at least two of his companies, Fast Container and JDF Transfer, were actively and directly involved in these illegal activities. Specifically, Francolino Jr. was personally involved in defrauding the City by arranging for and participating in the "cocktailing" of truckloads of waste brought to Fresh Kills for the City's "cover" programs. In the early 1990's, carting companies involved in this fraudulent scheme took truckloads of non-qualifying waste to Francolino Jr.'s transfer station, JDF Transfer, where the loads were "cocktailed" with dirt before going on to Fresh Kills. Francolino Jr., as well as a number of others, escaped indictment due to issues unrelated to the fact of their participation in the scheme – namely, prosecutorial resource-allocation priorities and statute-of-limitations concerns.

The Applicants' response to the staff's contentions concerning Francolino Jr.'s participation in this fraudulent scheme was carefully drafted. See Francolino Jr. Aff. ¶¶ 75-79. First, Francolino Jr.'s sworn denial of participation in the scheme appears limited to the period of "the late 1980's" (id. ¶ 75), despite the fact that the staff's recommendation addressed the period of the early 1990's as well. Second, the Applicants note that they were not participants in the City's "cover" programs during the relevant period (id. ¶ 76); that, however, differs from a denial of participation in a

fraudulent scheme involving those programs. Third, the Applicants admit that other carting companies participating in the “cover” programs hauled to Fresh Kills clean fill processed at JDF Transfer, and assert that the materials so provided by JDF Transfer fully qualified as clean fill. *Id.* ¶¶ 77-78. The Applicants are silent, however, concerning the details of JDF Transfer’s provision of clean fill to those other carting companies. In sum, the Applicants’ assertions and denials, as far as they go, do not contradict the foregoing account of Francolino Jr.’s and JDF Transfer’s knowing participation in the scheme by providing the clean fill used to “cocktail” the truckloads.

The participation by Francolino Jr., JDF Transfer, and Fast Container in the fraudulent scheme against the City of New York constitutes racketeering activity under Local Law 42 and fully warrants denial of these license applications. *See* N.Y. Penal Law § 460.10(1)(a); *id.* § 190.65.

### **3. Knowing Association with Organized Crime Members or Associates**

In determining an applicant’s fitness for a trade waste removal license, the Commission is further authorized 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 carting company’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. Francolino Sr. and Salvatore Spinelli are such figures.

**a. Francolino Sr.**

The Applicants, in associating with Francolino Sr., have knowingly associated with an organized crime figure. Moreover, the Applicants, through Francolino Sr., have knowingly associated with other organized crime figures.

**(1) The Applicants' and Their Principals' Associations with Francolino Sr.**

The Applicants' and their principals' association with Francolino Sr. cannot be disputed. Both Francolino Jr. and his brother Daniel Francolino, the Applicants' only disclosed principals, associated with their father, Francolino Sr., in connection with the carting industry. As an initial matter, they were officers and/or beneficial owners of Duffy Waste. In documents filed by Duffy Waste with the DCA in 1991 and 1992, Francolino Jr. was identified as the company's corporate secretary. In documents filed with the DCA by Fast Container in 1989 and by Duffy Waste in 1990, Francolino Jr. and the Applicants' other disclosed principal, Daniel Francolino, were identified as the beneficial owners of the company (50% each) through a grantor trust.<sup>12</sup> See also Search Aff. ¶ 184 at 94-95.

As demonstrated by the numerous and regular payments made to Francolino Sr. and his companies, Francolino Jr. and Daniel Francolino also associated with their father in connection with the carting business transacted between the sons, as principals of the Applicants and related companies, and their father and his companies. The Applicants' business associations with Francolino Sr. and his companies, Duffy Waste and Duffy Disposal, likewise are reflected in the Applicants' financial records. As described above, numerous checks made out to Duffy Disposal, Duffy Waste, and Francolino Sr. were consistently and over extended periods of time deposited into the Applicants' accounts. In addition, monies were regularly exchanged between the Applicants and Francolino Sr. and his companies. These facts demonstrate the Applicants' and their disclosed principals' close business associations with Francolino Sr.

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<sup>12</sup> The Applicants' assertion that these documents are somehow in error (see Francolino Jr. Aff. ¶¶ 87-88) is rejected. The documents were signed by, among others, Francolino Jr. and Francolino Sr.

Nor can there be any doubt that Francolino Sr.'s status as an organized crime figure was well known in the carting industry. His status as the heir-apparent to Gambino capo James Failla was common industry knowledge. See Search Aff. ¶ 61 at 35 & n.34; ¶ 82 at 46-47 & n.45. As Francolino Sr. himself put it, "I'm the fucking boss." Id. ¶ 102 at 58. As the principal representative of the Gambino organized crime family in the City's carting industry, Francolino Sr. demanded, orchestrated, and collected cartel payoffs involving many carters. At least one of the Applicants' disclosed principals, Daniel Francolino, accompanied his father as he plied his trade. See id. ¶ 80 at 45-46 (July 14, 1994 meeting at which Francolino Sr. extracts agreement from carter cooperating in criminal investigation to pay him \$4,800 per month for customer stops lost to competition).<sup>13</sup>

Francolino Sr. has been publicly identified as a mobster on numerous occasions. See United States v. Local 1804-1, Int'l Longshoremen's Ass'n, No. 90 Civ. 0963 (S.D.N.Y.), Tr. at 754 (1991 testimony of Kenneth McCabe); see also United States v. Gotti, No. 90 Cr. 1051 (E.D.N.Y.); United States v. Conte, No. 93 Cr. 0085 (E.D.N.Y.). Indeed, Francolino Sr.'s status as a mobster has been reported in the general media. See, e.g., James C. McKinley, Big Private Garbage Haulers, Linked to Mafia, Are Indicted, N.Y. Times, June 23, 1995, at A1; Kevin Flynn and Tom Robbins, Undercover Cop's Big Haul Gets The Dirt on Mob-Controlled Carters, Daily News, June 30, 1996, at 6; Selwyn Raab, Two Convicted Leaders of New York Trash Cartel, N.Y. Times, Oct. 22, 1997, at B3.

Francolino Jr. asserts that he has "no reliable basis to conclude with certainty" that Francolino Sr. is a member of organized crime. Francolino Jr. Aff. ¶ 82. Even if this narrow, carefully worded disclaimer could somehow be believed, it would be beside the point. Knowledge, not scientific proof, is the legal standard. Nor will turning a blind eye to reality

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<sup>13</sup> The Applicants, referring without citation to the testimony of a prosecution witness in the trial of Francolino Sr. (and without submitting an affidavit from Daniel Francolino on the point) assert that Daniel Francolino was not involved in his father's shakedown of a rival carter and, indeed, was not even in the room at the time. See Francolino Jr. Aff. ¶ 85. The testimony is otherwise. The rival carter, Salvatore Benedetto, testified that Francolino Sr. and Daniel Francolino arrived uninvited and unannounced at his office; that Francolino Sr. told Benedetto "we have a problem" because "Century 21 is one of my stops"; that Daniel Francolino opened a ledger book and showed Benedetto an entry indicating that Century 21 was paying Francolino Sr. \$4,800 per month; and that only then did Daniel Francolino leave the room. See Tr. at 9724-33, 9778-79, 11137-43. (Sept. 4 and 25, 1997).

avoid the consequences of dealing with organized crime. Under Local Law 42, a license application may be denied if any of the applicant's principals associated with an organized crime figure when the principal "knew or should have known" of that person's organized crime ties. Admin. Code § 16-509(a)(vi). Nor, as the Applicants seem to suggest, is there any exemption under the law for business dealings in the carting industry with organized crime members who also happen to be relatives. See Francolino Jr. Aff. ¶¶ 81, 94.

## **(2) Francolino Sr.'s Associations with Organized Crime Members**

The evidence of Francolino Sr.'s connections to organized crime is overwhelming. As noted above, evidence disclosed both before and during his criminal trial unequivocally confirms Francolino Sr.'s organized crime membership and his role as the Gambino family's enforcer of the carting cartel. The Manhattan District Attorney introduced extensive testimony demonstrating that Francolino Sr. associated with notorious organized crime members, such as Gambino boss John Gotti, Gambino capo James Failla, and Genovese capo Alphonse Malangone, in connection with his role as the Gambino family's head of the GNYTW. See also Search Aff. ¶ 61 at 35 & n. 34; ¶ 76 at 43; ¶ 104 at 58-59; ¶¶ 110-11 at 61-62.

In short, Francolino Sr. is a notorious carting industry mobster who played a central role in the mob-run criminal cartel. It is simply inconceivable that the Applicants and their disclosed principals were not well aware of this. Accordingly, the Commission concludes both that the Applicants knowingly associated with Francolino Sr., himself an organized crime figure, and knowingly associated, through Francolino Sr., with other organized crime figures, and denies the license applications on these grounds as well.<sup>14</sup>

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<sup>14</sup> The Applicants suggest that their business dealings with a mobster are irrelevant to their fitness for licensure unless those dealings are themselves illegal. See Francolino Jr. Aff. ¶ 84. There is no support in Local Law 42 for this remarkable proposition.

## b. Salvatore Spinelli

Salvatore Spinelli, an attorney, is the registered agent for service of process on Fast Container and Staten Island. FC Lic. App. at 2; SI Lic. App. at 2. This fact provides an additional ground upon which to refuse to issue the Applicants licenses. Spinelli worked with the cartel for many years to secure mob domination of carting in New York. He has been convicted of a felony, which he committed at the behest of an organized crime figure. Moreover, the Federal Bureau of Investigation has formally identified Spinelli as “an associate of the Gambino La Cosa Nostra Family.” Declaration of Supervisory Special Agent Brian F. Taylor, dated March 27, 1997, at 2. That conclusion is supported by overwhelming evidence.

Spinelli served as general counsel to the Association of Trade Waste Removers of Greater New York (and several other of the indicted and now convicted trade associations) for approximately two decades during the heyday of the mob’s domination of the carting industry.<sup>15</sup> In that capacity, Spinelli worked closely with James “Jimmy Brown” Failla, the Gambino capo who controlled the GNYTW. In 1994, Failla and Louis “Louie Fats” Astuto, a soldier in the Gambino family, pleaded guilty to conspiring to murder Spinelli’s father, Gambino soldier Thomas “Tommy Sparrow” Spinelli, who disappeared in 1989. Failla and Astuto had Thomas Spinelli murdered for fear that he would tell the truth when he was recalled before a federal grand jury investigating organized crime control of the carting industry in New York. See United States v. Gotti, No. 90 Cr. 1051 (E.D.N.Y.), 4 March 1992 Tr. at 4362-69 (testimony of Salvatore Gravano). Failla sought and obtained John Gotti’s approval for this murder, which was quickly carried out with assistance from Salvatore Gravano. Id. During Failla’s and Spinelli’s tenure at the GNYTW, Gambino capo Frank DeCicco regularly visited the GNYTW offices until 1986, when he was killed by a car bomb. Deposition of Salvatore Spinelli, October 17, 1996, Tr. at 18-22 (DeCicco visited GNYTW offices at least twenty times); Gotti, 3 March 1992 Tr. at 4117-21 (testimony of Salvatore Gravano – DeCicco murder).

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<sup>15</sup> In describing efforts by organized crime to thwart the orderly disposition of the assets of Rosedale Carting, a mob-controlled company seized by the federal government after its principal, Gambino associate Angelo Paccione, was convicted of running a massive illegal garbage dump on Staten Island, Judge Constance Baker Motley noted the central role Spinelli played in the carting industry during decades of organized crime domination. United States v. Paccione, 751 F. Supp. 368, 379-80 (S.D.N.Y. 1990), *aff’d*, 949 F.2d 1183 (2d Cir. 1991), *cert. denied*, 505 U.S. 1220 (1992) (“One attorney [Spinelli] provided legal work for the overwhelming majority of transactions in the carting industry.”).



Various other organized crime figures also paid visits to Failla and Spinelli at the GNYTW.

In July 1993, Spinelli pleaded guilty to charges that he laundered \$754,000 for his client, Ron Miceli, a Genovese associate who had pleaded guilty earlier in 1993 to charges of racketeering involving the embezzlement of millions of dollars from the benefit funds of the Mason Tenders District Council of New York. See United States v. Salvatore Spinelli, No. 92 Cr. 1080 (S.D.N.Y.); United States v. James Messera, et al., No. 92 Cr. 749 (S.D.N.Y.).

The fact that Spinelli worked hand-in-glove with mobsters like Failla is well known in the City's carting industry. Accordingly, the Commission finds that the Applicants associated with Spinelli knowing of his organized crime associations. Indeed, in its October 21, 1997 and June 9, 1998 letters to the industry, including the Applicant companies, the Commission specifically alerted the industry to Spinelli's status as an organized crime associate and informed the industry that association with Spinelli could have serious licensing consequences. Nonetheless, the Applicants have continued to retain Spinelli as their registered agent for official business. While Francolino Jr. asserts that he was unaware of this fact until recently, see Francolino Jr. Aff. ¶ 89, the Applicants still appear to have done nothing about it. The Applicants' decision to choose Spinelli as their registered agent and to continue their relationship with him demonstrates indifference to his long-standing alignment with the mob and constitutes an additional reason to deny the Applicants' license applications.

#### **4. Common Principal with License-Denied Carting Companies**

These license applications also are denied because the Applicants have a common principal, Francolino Sr., with Duffy Waste and Duffy Disposal, two companies previously denied licenses by the Commission. Local Law 42 authorizes the Commission to deny a license to an applicant one of whose principals has also been a principal in a "predecessor trade waste business" which has been or lawfully could be denied a license by the Commission. Admin. Code § 16-509(vii). The law defines "predecessor trade waste business" to include any carting company sharing a principal

with the applicant at any time during the five-year period preceding the application. Id. § 16-508(b).

As shown above, during the five-year period preceding these applications, Francolino Sr. has been a principal both of the Applicant businesses and of Duffy Waste and Duffy Disposal. On December 5, 1997, the Commission denied the license applications of Duffy Waste and Duffy Disposal. Those license denials were based in large part on the criminal activities and organized crime status of Francolino Sr. and were not challenged. Accordingly, the Commission may – and, in light of the close relationships between the Applicants and the license-denied Duffy companies, will – deny these license applications on this ground as well.

#### **5. Failure to Provide Truthful Information in Connection with License Applications**

Failure by a license applicant to provide truthful information in connection with its license application is an adequate independent basis for license denial. Admin. Code § 16-509(a)(i). Part III, Question 6(j) of the Commission’s license application form asks: “Has the applicant business or any of its past principals ever . . . associated with any person that you knew, or should have known was a member or associate of an organized crime group?” Similarly, Question 11(j) of the Commission’s principal disclosure form asks: “Have you ever engaged in any of the following practices: . . . associated with any person that you knew, or should have known was a member or associate of an organized crime group?”

The Applicants and their disclosed principals each answered “no” to these questions. Based upon the record in this matter, these responses were clearly false. As shown above, the Applicants have directly associated with Francolino Sr. and Salvatore Spinelli, both known organized crime figures. In addition, Francolino Sr., as a principal of the Applicants, has associated with numerous organized crime figures and played a leading role in the organized crime-dominated carting industry. Therefore, the Applicants failed to provide truthful information in connection with their license applications. In addition, the Applicants failed to disclose Francolino Sr. as a principal. The Applicants’ assertion that they did not “perceive” him to be

either a principal or a mobster, see Francolino Jr. Aff. ¶¶ 94-98, is unpersuasive. The Applicants' failure to provide truthful information to the Commission constitutes an additional basis for the conclusion that they lack good character, honesty, and integrity and thus for denial of their license applications. See Admin. Code § 16-509(a)(i).

\* \* \*

The Applicants contend that denial of their license applications would constitute unequal treatment when compared to the Commission's grant of licenses to other companies. First, the Applicants point to the grant of a license to Jem Sanitation Recycling Corp., some of whose principals' fathers pleaded guilty in the carting industry prosecution. See October 9 Francolino Jr. letter at 2-3. However, the Commission's investigation showed that Jem Sanitation was not controlled by those individuals, who in any event were not members of organized crime. Second, the Applicants point to the grant of licenses to affiliates of the national carting firms Browning Ferris Industries and Waste Management, Inc., noting that those firms have committed antitrust and environmental violations. See October 14 Francolino Jr. letter at 2. However, the Commission, in licensing the New York affiliates of these national firms, ensured that the individuals responsible for their operations in New York City did not have such histories.<sup>16</sup>

### III. CONCLUSION

The Commission is vested with broad discretion to refuse to issue a license to any applicant that it determines lacks good character, honesty, and integrity. Based upon the Applicants' and/or their principals' criminal convictions, racketeering activity, knowing association with organized crime figures, provision of false information to the Commission, and connection to businesses which have been denied carting licenses, all of which the Commission is expressly authorized to consider under Local Law 42, the Commission denies these license applications.<sup>17</sup>

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<sup>16</sup> The Applicants also complain about the Commission's handling of carting company sale applications. See id. However, there are no sale applications involving the Applicants pending before the Commission.

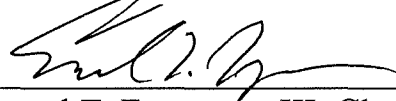
<sup>17</sup> In light of the multiple bases for license denial here and the absence of dispute concerning the bulk of the pertinent facts, the Applicants' request for an evidentiary hearing (see Francolino Jr. Aff. ¶ 103), to which they have no entitlement, see SRI, 107 F.3d at 995; Daxor, 90 N.Y.2d at 99; Litod Paper Stock Corp. v. City of New York, No. 110504/97 (Sup. Ct. N.Y. Cty. June 19, 1997), slip op. at 3, is denied as unnecessary.

In addition, in light of the evidence recounted above of the surreptitious diversion of customers from Francolino Sr.'s carting companies to those nominally controlled by Francolino Jr., the Applicants are hereby prohibited from taking any action to transfer any of their customer accounts to any other carting company without prior approval of the Commission.

This license denial decision is effective fourteen days from the date hereof. In order that the Applicants' customers may make other carting arrangements without an interruption in service, the Applicants are directed (i) to continue servicing their customers for the next fourteen days in accordance with their existing contractual arrangements, and (ii) to send a copy of the attached notice to each of their customers by first-class U.S. mail by no later than October 26, 1998. The Applicants shall not service any customers, or otherwise operate as trade waste removal businesses in New York City, after the expiration of the fourteen-day period.

Dated: October 23, 1998

THE TRADE WASTE COMMISSION



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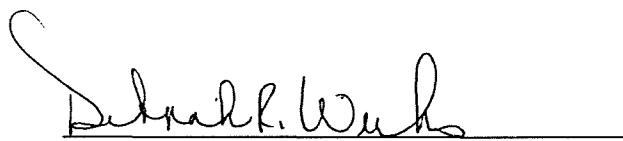
Edward T. Ferguson, III, Chair

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Edward J. Kuriansky  
Investigation Commissioner

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Jules Polonetsky  
Consumer Affairs Commissioner



Deborah R. Weeks  
Acting Business Services Commissioner



Michael T. Carpinello  
Acting Sanitation Commissioner



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

October 23, 1998

**NOTICE TO CUSTOMERS OF STATEN ISLAND CARTING CO.  
INC. REGARDING TERMINATION OF CARTING SERVICE**

Dear Carting Customer:

The New York City Trade Waste Commission, which regulates private carting companies in the City, has denied the application of Staten Island Carting Co. Inc. ("Staten Island Carting") for a license to collect trade waste. **As of November 6, 1998, Staten Island Carting will no longer be legally permitted to collect waste from businesses in New York City. If Staten Island Carting is collecting your waste, you will have to select another carting company to provide you with that service by November 7, 1998.**

The Commission has directed Staten Island Carting to continue providing service to its customers through November 6, 1998. **If your service is interrupted before November 7, call the Commission at 212-676-6275.**

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

- **Find out which company is servicing your neighbor.** A carting company cannot, without a business justification satisfactory to the Commission, refuse to service you if it already has another customer that is located within 10 blocks of your business. You can find out which carting companies service your area by looking at the **carting stickers** that many businesses display on their store-fronts.
- **Consult public directories, such as the Yellow Pages.**
- **Call the Commission at 212-676-6275.**

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

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

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

- The right to be offered a contract by your carting company. A **form carting contract** that has been approved by the Commission may be obtained by calling the Commission at (212) 676-6208.
- The right to be charged a reasonable rate for waste removal services. The City sets the maximum rates that carting companies can charge. The City last year reduced the maximum rates for the removal of trade waste to **\$12.20 per loose cubic yard** and \$30.19 per pre-compacted cubic yard. Most businesses dispose of loose waste; only businesses that have trash-compactors dispose of pre-compacted waste. Under the new rule, businesses that dispose of loose trash in bags filled to 80% of capacity (as many businesses do) may not be legally charged more than:

\$2.66 for each **55** gallon bag of trash

\$2.42 for each **50** gallon bag of trash

\$2.17 for each **45** gallon bag of trash

\$1.93 for each **40** gallon bag of trash

\$1.59 for each **33** gallon bag of trash

\$1.45 for each **30** gallon bag of trash

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

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

Edward T. Ferguson, III  
*Chair and Executive Director*



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

October 23, 1998

**NOTICE TO CUSTOMERS OF FAST CONTAINER SERVICE  
INC. REGARDING TERMINATION OF CARTING SERVICE**

Dear Carting Customer:

The New York City Trade Waste Commission, which regulates private carting companies in the City, has denied the application of Fast Container Service Inc. ("Fast Container") for a license to collect trade waste. **As of November 6, 1998, Fast Container will no longer be legally permitted to collect waste from businesses in New York City. If Fast Container is collecting your waste, you will have to select another carting company to provide you with that service by November 7, 1998.**

The Commission has directed Fast Container to continue providing service to its customers through November 6, 1998. **If your service is interrupted before November 7, call the Commission at 212-676-6275.**

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

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