



**The City of New York  
BUSINESS INTEGRITY COMMISSION**

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**DECISION OF THE BUSINESS INTEGRITY COMMISSION  
DENYING THE REGISTRATION APPLICATION OF  
VERRAZANO TREE SERVICE, INC. (BIC #485380) TO  
OPERATE AS A TRADE WASTE BUSINESS**

**I. INTRODUCTION**

On or about November 10, 2014, Verrazano Tree Service, Inc. (“Verrazano” or the “Applicant”) (BIC #485380) applied to the New York City Business Integrity Commission (the “Commission”) for a class 1 registration “to remove, collect or dispose of trade waste that is generated in the course of operation of such person’s business.”<sup>1</sup> Local Law 42 of 1996 (“Local Law 42”) authorizes the Commission to review and make determinations on such applications. See Title 16-A, New York City Administrative Code (the “Administrative Code” or “Admin. Code”) § 16-505(b).

If, after a full review, the Commission grants such an application, the applicant will be issued a registration. See id. at § 16-505(a)-(b). The Commission’s review of a registration application focuses on a determination of whether the applicant possesses business integrity, *i.e.*, good character, honesty and integrity. See 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 to applicants lacking “good character, honesty and integrity”); 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).

On April 14, 2016, the Commission’s staff issued and served the Applicant with a Notice to the Applicant of the Grounds to Recommend the Denial of the Class 1 Registration Application of Verrazano Tree Service, Inc. (BIC #485380) to Operate as a Trade Waste Business (the “Recommendation”). The Applicant had 10 business days to respond, which period ended on April 29, 2016. See Title 17 RCNY § 2-08(a). The Applicant did not submit a response. The Commission has completed its review of the Applicant’s application, having carefully considered both the Recommendation and the Applicant’s lack of response. Based on the record as to the Applicant, the Commission denies the Applicant’s registration application because the Applicant lacks good character, honesty and integrity based on the following three independently sufficient grounds:

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<sup>1</sup> “Trade waste” or “waste” is defined at Admin. Code § 16-501(f)(1).

- 1. The Applicant Failed to Pay Taxes and Other Government Obligations for Which Judgments Have Been Entered;**
- 2. An Affiliate of the Applicant Illegally Operated an Unpermitted Transfer Station in Violation of Federal, State and Local Laws; and**
- 3. The Applicant Has Unlawfully Transported Trade Waste Without a License or Registration.**

## **II. BACKGROUND AND STATUTORY 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. 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. International Brotherhood of Teamsters (Adelstein), 998 F.2d 120 (2d Cir. 1993); People v. Ass'n of Trade Waste Removers of Greater New York Inc. et al., Indictment No. 5614/95 (Sup. Ct. N.Y. Cty.); United States v. Mario Gigante et al., No. 96 Cr. 466 (S.D.N.Y.); People v. GNYTW, 701 N.Y.S.2d 12 (1<sup>st</sup> Dep't 1999).

The Commission is charged with, *inter alia*, combating the pervasive 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. Admin. Code §16-505(a). It is this licensing scheme that continues to be the primary means of ensuring that an industry historically plagued with corruption remains free from organized crime and other criminality, and that commercial businesses that use private carters can be ensured of a fair, competitive market.

Local Law 42 provides that “[i]t shall be unlawful for any person to operate a business for the purpose of the collection of trade waste . . . without having first obtained a license therefor from the [C]ommission.” Admin. Code § 16-505(a). Before issuing such license, the Commission must evaluate the “good character, honesty and integrity of the applicant.” *Id.* at § 16-508(b). The New York City Administrative Code provides an illustrative list of relevant factors for the Commission to consider in making a licensing decision:

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.

Id. at § 509(a)(i)-(x). Additionally, the Commission 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 § 509(b). The Commission may refuse to issue a license or registration to an applicant when such applicant was previously issued a license which was revoked or not renewed, or where the applicant “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 § 509(c). 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 § 509(d).

An applicant for a trade waste license or registration 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. v. City of New York, 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).

### III. DISCUSSION

#### A. Statement of Facts

The Applicant’s class 1 registration application, submitted to the Commission on November 10, 2014 (the “Instant Application”), disclosed Dominic Tortorici (“Tortorici”) as the Applicant’s sole principal and 100% owner. See Instant Application at p. 11. It also stated that the Applicant uses two dump trucks and that Tortorici is the only vehicle operator for the Applicant. See id. at pp. 16, 17.

According to the Instant Application, Tortorici is also the sole principal and 100% owner of two other trade waste businesses: Narrows Work Tree Service (“Narrows Work”) and American United Wood (“AUW”). See id. at p. 15. Both companies have been licensed or registered by the Commission in the past. In fact, Narrows Work (BIC #1739) submitted its first application to the Commission in 2003. See Application for Class 1 Self Hauler Registration for Narrows Work, dated July 18, 2003 (“Narrows Work Registration Application”). (AUW (BIC #4171) submitted its first application to the Commission in May 2011.) Narrows Work’s registration and AUW’s license have both expired. However, this history demonstrates that Tortorici’s experience with the Commission and its rules dates back at least 13 years, and continues through today.

#### Narrows Work Tree Service

The Narrows Work Registration Application described its business as tree removal and tree pruning services, as well as “waste: wood chips and mulch.” See Narrows Work Registration Application at p. 3. Narrows Work disclosed that it intended to dump the waste at 422 Chelsea Road in Staten Island, where it would be recycled. See id. As noted, the Narrows Work Registration Application disclosed Tortorici as the sole principal. See id. at p. 7. It also listed three drivers, in addition to Tortorici. See id. at Schedule D. Tortorici certified and swore to the truth of the contents of the Narrows Work Registration Application. See id.

On or about November 25, 2003, the Commission granted Narrows Work a class 1 registration, authorizing it to remove, collect or dispose of trade waste generated in the course of operation of his business as of December 1, 2003. See Registration Order In the Matter of the Application for a Registration to Remove Waste Generated Solely in the Course of Operation of Narrows Work Tree Service Inc., dated November 24, 2003. On November 14, 2005, Narrows Work timely submitted a Renewal Application for License or Registration as a Trade Waste Business, which was approved by the Commission, authorizing Narrows Work to continue to remove, collect or dispose of trade waste generated in the course of operating its business. On November 30, 2007, Narrows Work's registration expired and Narrows Work did not seek a registration renewal. The Commission notified Tortorici that Narrows Work's registration had expired and demanded the return of its Commission-issued license plates for its trade waste hauling vehicles (the "BIC plates"). However, Narrows Work did not return the BIC plates.

On November 2, 2009, almost two full years later, a Commission investigator stopped Tortorici for driving a vehicle with Narrows Work's BIC plates on it. The vehicle was registered to Verrazano and bore that name on the truck, but Verrazano was not licensed or registered by the Commission. The Commission investigator confiscated the BIC plates and issued an administrative violation. See TWC-4782; see also Notice of Hearing dated December 1, 2009. The Applicant did not appear for the scheduled hearing, and was subsequently found guilty by the Department of Consumer Affairs Adjudication Division, which ordered that the Applicant pay a fine of \$1,000. See Default Decision and Order in Business Integrity Commission v. Narrows Work Tree Service Inc. d/b/a Verrazano Tree Service (TW-4782), dated January 25, 2010. Tortorici did not pay this fine for more than five years.

#### American United Wood

On or about May 17, 2011, Tortorici submitted to the Commission an Application for a Trade Waste Removal License on behalf of AUW. See Application for Trade Waste Removal License dated May 17, 2011 (the "AUW License Application"). Among the disclosures made in the AUW License Application was that Tortorici was the sole principal, see id. at p. 20; its affiliate, Narrows Work, had a "license, permit, registration or authority to operate" denied by the New York State of Environmental Conservation in the past, see id. at p. 5; and AUW had other trade waste interests, including Narrows Work, see id. at p. 27. However, the AUW License Application did not disclose Verrazano as a related trade waste company. Tortorici certified and swore to the truth of the contents of the Application. See id. at Certification.

The Commission's background investigation in connection with the AUW License Application revealed that Tortorici had incorporated AUW in 2006, while Narrows Work still had an active Commission registration. The Commission's staff asked why Tortorici allowed Narrows Work's registration to expire. Tellingly, he stated that he had started Verrazano as a new landscaping company, but could not distinguish the work that Narrows Work did compared to the work that Verrazano would do. The Commission's staff informed Tortorici that, if the Commission approved AUW for a trade waste hauling license, that license would only apply to AUW. It would not be transferable to any other trade waste business. Tortorici stated that he intended to submit a registration application for Verrazano. Shortly thereafter, the Commission granted AUW a license for a period of two years, with an expiration date of September 30, 2013.

Because Tortorici represented to the Commission that AUW had no trucks at that early stage of its business, the Commission did not issue any BIC plates to AUW.

On September 30, 2013, AUW timely submitted a Renewal Application for a License or Registration as a Trade Waste Business (the "AUW Renewal Application"). The AUW Renewal Application indicated that there had been no change in AUW's main business location, garage location, or mailing address. See AUW Renewal Application at p. 2. Like the AUW License Application, the AUW Renewal Application did not disclose any trucks or employees. Tortorici certified and swore to the truth of the contents of the AUW Renewal Application. See id. at Certification. The Commission's background investigation in connection with the renewal application revealed that Tortorici and his related businesses had accumulated almost \$75,000 in debts and judgments to governmental agencies and tax authorities, in addition to the \$1,000 fine he still owed the Commission.<sup>2</sup> By letters dated December 6, 2013 and January 8, 2014, the Commission's staff requested that Tortorici show proof that these outstanding governmental debts had been paid or otherwise resolved. See Commission letters to Tortorici dated December 6, 2013 and January 8, 2014. By email dated February 7, 2014, Tortorici responded that he would follow up with documentation once he was able to resolve the particular issues and enter into payment agreements.

On October 8, 2014, having not heard further from Tortorici or AUW on this issue for eight months, the Commission sent Tortorici another demand letter for documentation regarding his companies' debts. See third request for information from the Commission to Tortorici, dated October 8, 2014. The Commission set a response deadline of October 30, 2014, and reiterated that Tortorici must obtain a Commission registration for Verrazano before Verrazano could haul trade waste. See id.<sup>3</sup>

The October 30, 2014 deadline for documentation passed with no response from Tortorici or AUW. Therefore, on December 10, 2014, the Commission's staff sent a demand letter marked "Fourth and Final Request for Information." See fourth request for information from the Commission to Tortorici, dated December 10, 2014. The December 10th letter additionally requested proof of satisfaction of certain recently-discovered governmental debt accrued in Verrazano's name, and further demanded payment of the fine that Narrows Work had owed the Commission since January 2010. See id. The letter set a response deadline of December 26, 2014. Id.

On December 15, 2014, Tortorici and his office assistant, Donna Riccardi, requested an extension of the response deadline. See email from Americanunitedwoodinc@gmail.com to Commission's staff dated December 15, 2014 and attachments.<sup>4</sup> The email attached proof of

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<sup>2</sup> All of the debts and judgments were owed by either Narrows Work, Verrazano, or Tortorici. Thus, on paper, AUW appeared to be a "clean" company.

<sup>3</sup> Verrazano ultimately submitted the Instant Application on November 10, 2014, approximately one month after the Commission's October 8th document request.

<sup>4</sup> Riccardi had not been disclosed as an employee of AUW in the License Application or in the Renewal Application, in violation of 17 RCNY § 1-09. Despite Tortorici's initial claim that Riccardi was not employed by AUW, the Commission's staff permitted AUW to submit a notarized written statement indicating that Riccardi was authorized to act as an agent of AUW with the Commission and disclosing her as an employee. See notarized letter from Tortorici to the Commission, dated October 17, 2014.

satisfaction of three Environmental Control Board (“ECB”) violations. However, even after those violations were resolved, Tortorici and his companies continued to owe more than \$87,000 in tax liens and warrants, as well as various Workers Compensation Board judgments. In addition, Narrows Work continued to owe the \$1,000 fine to the Commission from January 2010. In response to Tortorici’s email, the Commission’s staff directed that Tortorici produce as many responsive documents as he could by the deadline, and that any outstanding documents could be addressed item by item. The December 26, 2014 deadline passed without Tortorici and A UW producing any additional information to the Commission.<sup>5</sup> On September 30, 2015, American United Wood’s License expired when it failed to submit a renewal application to the Commission.

### The Instant Application

At the same time that the Commission was seeking documentation from A UW as described above, and while A UW’s Renewal Application was still pending, Verrazano submitted the Instant Application to the Commission. The Instant Application lists the Applicant’s address as “2945 Richmond Terrace, SI NY 10303,” and states that the Applicant shares “office space and phone lines with American United Wood, Inc. (both single-shareholder companies owned by Dominic Tortorici).” See Instant Application at pp. 1, 2. Based on that information, it appeared that A UW had moved from the address it had previously disclosed without notifying the Commission of this material change, in violation of 17 RCNY § 2-05(a)(2).<sup>6</sup> Thus, the Commission’s staff updated its background investigation in connection with the Instant Application and found that a significant amount of debt remained outstanding in the names of the Applicant, Narrows Work, and Tortorici personally.

In connection with the Instant Application, the Commission directed Tortorici to appear for a sworn interview, and again (for the fifth time) directed him and A UW (whose renewal application was still pending at the time) to provide the previously-requested documentation and pay his outstanding fine to the Commission. See Commission letter to Tortorici dated March 27, 2015.<sup>7</sup> The Commission set April 9, 2015, as the date for the sworn interview and requested the outstanding documents by April 17, 2015. At that point, the outstanding debt owed by Tortorici and his companies totaled nearly \$90,000.

### Sworn Interview of Dominic Tortorici

On April 9, 2015, Tortorici appeared at the Commission’s offices for his sworn interview (the “Interview”). Tortorici testified that he had started Narrows Work with his father. See Transcript of Sworn Interview of Dominic Tortorici on April 9, 2015 (“Interview Transcript”) at p. 22. Tortorici said Narrows Work began as a small company and “gradually it grew, grew and grew.” *Id.* at p. 24. However, despite Narrows Work’s success, Tortorici said the company has been “dissolved for over 15 years.” See *id.* at p. 15. According to Tortorici, his father had been

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<sup>5</sup> In January and February 2015, Riccardi emailed the Commission’s staff a number of tax-related documents, but none evidenced the satisfaction or other resolution of the debts that Tortorici and his companies owed.

<sup>6</sup> In the License Application, A UW disclosed its office and mailing address as “392 Flag Place, Staten Island, NY 10304.” See License Application at p. 1. As previously noted, in the Renewal Application, submitted on October 1, 2013, Tortorici indicated that A UW’s business address had not changed.

<sup>7</sup> Tortorici finally paid this Violation on April 16, 2015.

driving one of Narrows Work's trucks when he got into an accident. Id. at p. 29. This incident resulted in litigation and an increase in Narrows Work's insurance premiums, which caused Tortorici to determine that he could no longer operate Narrows Work. Id. at p. 30. Therefore, he wound down Narrows Work and formed Verrazano.<sup>8</sup> See id. at pp. 31-32.

The Commission' staff asked Tortorici how it was possible that Narrows Work was legally dissolved if it still owed money to governmental entities, and why Tortorici had allowed these debts to remain unpaid:

Commission: So if Narrows Work's stock was dissolved in 2007, how did it still incur tax liability through 2009?

Tortorici: It never got properly dissolved. I don't know why it happened that way . . . . I can't answer that. I don't know how to answer that, to be honest.

Commission: Okay. . . . You know, based on our previous communication with the attorney handling American [United Wood] and Narrows [Work], you know that Narrows Work still owes \$11,303.60 to the State of New York in tax warrants, \$882 to the New York State Labor Board, and as I mentioned before, \$1,000 to the Business Integrity Commission. Why have these debts remained unpaid since 2009?

Tortorici: Hard times. . . .

Commission: Do you understand that failure to pay fees, penalties or fines owed to governmental agencies is an adequate grounds on which to deny one of both of your applications?

Tortorici: Yes.

Interview Transcript at pp. 38-39. Despite testifying that Narrows Work had been legally dissolved, Tortorici ultimately acknowledged that he had not formally dissolved the business. Similarly, Tortorici acknowledged that he had failed to pay Narrows Work's debts.

With respect to the purpose of forming Verrazano when Narrows Work already existed and performed the same services, Tortorici expressly admitted that he started Verrazano so that he could leave behind the burdens of the debts of Narrows Work:

Commission: What services did you intend for Verrazano to offer when you started?

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<sup>8</sup> Tortorici said, he went to Italy for a year between winding down Narrows Work and starting Verrazano's operations, though he stated that he filed paperwork to formally dissolve Narrows Work before he started Verrazano. Id. at pp. 34-35.



Tortorici: A better service than Narrows.

Commission: What do you mean by ‘better’?

Tortorici: I wanted a fresh start.

Commission: But it was going to offer the same types of services as Narrows?

Tortorici: Yes.

Commission: So it was not really different in the services it offered as opposed to Narrows. It did not offer more?

Tortorici: No, it was more the same.

Interview Transcript at pp. 40-41. When asked directly why both Narrows Work and Verrazano have so much governmental debt, but AUW has no debt, Tortorici answered that it was because AUW “just started.” See id. at p. 131. As noted above, AUW first obtained a trade waste license four years prior to the sworn interview.

Tortorici was also asked why he did not seek a trade waste license or registration for Verrazano when it first began operating in 2007 or 2008, but rather waited to apply for a license for AUW years later. Tortorici admitted that Verrazano had been actively hauling waste even prior to AUW seeking a license from the Commission. See id. at pp. 46-47. He maintained that his goal was to eventually put all of his business under the AUW name, so he preferred to obtain the Commission license for AUW. See id. at pp. 48-50. Tortorici had no answer as to why he never sought a registration for Verrazano, although he had been told as early as 2011 that he must do so. See id. at pp. 47-49, 77-78. After admitting that Verrazano was hauling its own waste without a registration, Tortorici said that he had recently hired a container company (Richmond Containers) to haul Verrazano’s waste until it obtains a registration from the Commission. See id. at pp. 81-82.<sup>9</sup>

With respect to AUW, Tortorici stated that the company was not operational before it moved to its current address, at 2945 Richmond Terrace, in or around October 2013. Id. at pp. 50-52.<sup>10</sup> Once AUW moved, the general plan was for Verrazano (and possibly other companies)

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<sup>9</sup> Despite Tortorici’s testimony that he had contracted Richmond Containers to haul Verrazano’s waste, one week before his Interview, Tortorici was observed by a Commission investigator in a Verrazano truck hauling trade waste without a registration, and was issued a violation for this unregistered operation. See Violation number TWC-211586. Furthermore, the Commission requested documents to substantiate that Verrazano had hired Richmond Containers to haul its waste (such as invoices, receipts, or canceled checks), but Verrazano never provided the Commission with any documents. Moreover, four months after Tortorici’s sworn testimony, a Commission investigator again observed Verrazano hauling trade waste without a registration, and the Applicant thus received another administrative violation. See Violation number TWC-212261.

<sup>10</sup> This address, where AUW and the Applicant both operate, is owned by Storage Bin, Inc., a company owned by Paul Castellano, the grandson of the deceased Gambino crime family boss of the same name. Paul’s father, Philip Castellano, has been identified by law enforcement as an associate of the Gambino organized crime family. Tortorici testified that he regularly sees and speaks to both Paul and Philip Castellano on the property. See Interview Transcript at pp. 138-40. When the Commission’s staff asked Tortorici if he had informed the

to bring its wood debris to AUW, which would chip and recycle it. See id. at pp. 71-73. According to Tortorici, this is why AUW did not disclose any vehicles (or drivers) on its license or renewal applications and why AUW has no employees. Id. at pp. 64, 66.<sup>11</sup>

Tortorici testified that companies were bringing materials from various jobs to AUW's yard. See id. at p. 71 ("whatever material is left over, when they cut down a tree, they'll bring it to my yard"). When asked directly if he was paid a tipping fee for accepting the waste or debris, Tortorici responded, "No, they're working for me; it's all included in the agreement." Id. However, moments later, Tortorici changed his testimony: "I want to cut what I've said. It's illegal to get a tipping fee . . . , and I'm really actually doing that. . . ." Id. at p. 74. Later, Tortorici attempted to recant that testimony, stating that he was only charging "some kind of fee for diesel and tolls and stuff," rather than a tipping fee. Id. at p. 116. Tortorici ultimately named at least six companies that had dumped their landscaping debris at AUW. See id. at pp. 102-04. He also testified that the New York City Department of Sanitation ("DSNY") had informed him that he must obtain permits to operate AUW's yard as a full solid waste transfer station. Id. at pp. 116-18. Since the Interview, Tortorici has not filed a permit application with DSNY.

During the Interview, it also became clear that the Instant Application did not truthfully disclose the identity of the Applicant's drivers. Tortorici admitted that he is the only driver "on the books," but that he employs "dailies" as drivers and helpers, paying them in cash off the books.<sup>12</sup> See id. at pp. 89-92. Tortorici further stated that he does not always verify that his drivers have valid driver's licenses. Id.

The Interview concluded with the Commission's staff informing Tortorici that he was still required to produce the outstanding documentation related to his debts. See id. at p. 149. The Commission's staff also told Tortorici that they would be requesting additional follow-up documentation from him related to some of the topics discussed in the Interview. Id.

#### Post-Interview Communications

Following the Interview, the Commission's staff sent Tortorici a letter requesting numerous documents, including tax returns for AUW and Verrazano, documents showing that Verrazano had contracted with Richmond Container Services (as Tortorici claimed), copies of the employment advertisements Tortorici testified he had placed in the Staten Island Advance, and copies of receipts Tortorici had given the companies who disposed of their wood at AUW. See letter from Commission's staff to Tortorici dated April 13, 2015. The Commission's staff set April 27, 2015 as the deadline to provide the other documents and reiterated that the deadline for Tortorici to prove satisfaction or other resolution of his judgments and debts was April 17, 2015. See id.

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Commission of AUW's change of address within 10 days of the move, as required by Commission rules, he responded, "I do not recall. I'm a mess, I'm sorry." Interview Transcript at p. 52.

<sup>11</sup> However, once reminded that he had belatedly disclosed Donna Riccardi to the Commission as an employee, Tortorici acknowledged she provides office and reception services for AUW. Tortorici further testified that she had been referred to him for a job by an employee from Laquila, a company denied by the Commission in 2004. Transcript Interview at p. 67. (The Commission has denied the class 2 registration applications of each of Laquila Construction, Inc., Laquila Contracting, Inc., and Laquila Industries, Inc.)

<sup>12</sup> Tortorici testified that he has put multiple advertisements in the Staten Island Advance for permanent workers, but that he ends up finding the dailies he pays off the books more useful. Id.

On April 14, 2015, Tortorici provided a partial response to the document request, producing a fraction of what the Commission had requested. See email from Tortorici to Commission's staff dated April 14, 2015 and attachments. On April 16, 2015, the Applicant's attorney sent the Commission's staff an email requesting an extension of time in which to provide the remaining documents. The Commission's staff agreed to extend the deadline to May 7, 2015, but reminded the Applicant's counsel that the proof of satisfaction of the debts were still due on April 17, 2015.

On April 17, 2015, the Commission's staff received a letter from Tortorici explaining that he was unable to produce all the proof of satisfaction or other resolution of the debts because it was tax season, and thus, his accountant was too busy to focus on his needs. See April 17, 2015 letter from Dominic Tortorici to Commission staff at p. 3. Nevertheless, Tortorici did attach a set of documents to the letter, but they still failed to adequately respond to the Commission's demands. The attached documents included those regarding his outstanding Workers Compensation judgment (which showed that he still owes \$26,000), as well as a copy of a check made out to his accountant so that the accountant would negotiate Installment Payment Agreements ("IPAs") with the Internal Revenue Service ("IRS") and the New York State Department of Taxation ("NYS Tax") to settle the outstanding tax debt.

On the same date, the Commission's staff contacted Tortorici, indicating that he had failed to provide the required documentation and that an updated search revealed that a new tax warrant had been issued to the Applicant. As a result, Tortorici and his companies owed \$83,109.15 in taxes and other governmental debt. Given the compliance issues that the Applicant and Tortorici were having, the Commission offered Tortorici the opportunity to withdraw both the AUW Renewal Application and the Instant Application. On April 24, 2015, Tortorici appeared at the Commission's offices with proof that an IPA had been entered into for Verrazano's tax warrants with NYS Tax, as well as copies of his applications for IPAs with the IRS, the Workers Compensation Board, and with NYS Tax for Narrows Work's debts. Later that day, Tortorici provided additional proof of payments made to NYS Tax toward some of the Applicant's tax warrants. Five days later, he provided proof of payment made to the IRS toward the Applicant's federal tax liens. See emails from Tortorici to Commission and attachments dated April 24 and April 29, 2015. Despite these payments, Tortorici and his related companies still owed more than \$60,000 in taxes and other governmental debts at that time. On October 28, 2015, NYS Tax filed another warrant against Verrazano in the amount of \$11,583.83.

Tortorici and his companies owe a total of \$101,806.18 in taxes and governmental debts.<sup>13</sup> The current debt is set forth in the following chart:

<b>Filing Date</b>	<b>Debtor Name</b>	<b>Type</b>	<b>Filing #</b>	<b>Amount</b>
10/23/2007	Narrows Work Tree Service Inc.	NYS Tax Warrant	268389	\$5,078.06
1/23/2008	Narrows Work Tree Service Inc.	NYS Tax Warrant	275523	\$2,474.04
4/8/2008	Narrows Work Tree Service Inc.	NYS Commissioner of Labor Judgment	281122	\$882.82
7/15/2008	Narrows Work Tree Service Inc.	NYS Tax Warrant	286718	\$921.83
10/15/2008	Narrows Work Tree Service Inc.	NYS Tax Warrant	292182	\$921.82

<sup>13</sup> This total was re-confirmed on June 8, 2016.

<b>Filing Date</b>	<b>Debtor Name</b>	<b>Type</b>	<b>Filing #</b>	<b>Amount</b>
1/21/2009	Narrows Work Tree Service Inc.	NYS Tax Warrant	298870	\$924.55
11/10/2009	Narrows Work Tree Service Inc.	NYS Tax Warrant	319724	\$1,039.70
2/25/2010	Verrazano Tree Service Inc.	NYS Workers Compensation Board	325455	\$26,000.00
7/9/2013	Verrazano Tree Service Inc.	NYS Tax Warrant	402012	\$6,130.63
10/8/2013	Verrazano Tree Service Inc.	NYS Tax Warrant	407414	\$3,575.84
12/31/2013	Verrazano Tree Service Inc.	NYS Tax Warrant	412393	\$7,972.51
2/19/2014	Verrazano Tree Service Inc.	NYS Tax Warrant	415041	\$5,920.95
4/7/2015	Verrazano Tree Service Inc.	NYS Tax Warrant	436160	\$3,683.01
4/14/2015	Dominic Tortorici	NYS Tax Warrant	436421	\$21,336.92
9/29/2015	Verrazano Tree Service Inc.	NYS Tax Warrant	445500	\$3,199.86
10/13/2015	Verrazano Tree Service Inc.	NYC Tax Warrant	446221	\$159.81
10/28/2015	Verrazano Tree Service Inc.	NYS Tax Warrant	446981	\$11,583.83
<b>Total Due</b>				<b>\$101,806.18</b>

#### Operation of Illegal Transfer Station

In light of the fact that Tortorici admitted in the Interview that he had been operating a transfer station without a permit, the Commission's staff contacted Family Tree Service (BIC #4012), one of the companies Tortorici identified as having brought its landscaping waste to AUW. The Commission directed Family Tree Service to provide documents relating to any waste dumping it had done at AUW. In response, Family Tree Service provided invoices from September 2014 through April 2015 (a seven month period) demonstrating that Family Tree Service had dumped at AUW at least 90 times, and had been doing so since 2014. See Family Tree Service invoices and canceled checks dated September 2014 through April 2015. This was in direct conflict with Tortorici's testimony that the companies had just started to bring their waste to AUW in the spring of 2015, and that no company had dumped at AUW on numerous occasions. See Interview Transcript at pp. 99, 111. The Family Tree Service documents also demonstrated that Tortorici had received at least \$29,193.14 in tipping fees from Family Tree Service over the span of seven months, which contradicts Tortorici's claim in the Interview that he only received a nominal fee. See *id.*

On April 3, 2015, Steven N. Brautigam, Assistant Commissioner of DSNY, sent Tortorici and his consultant a letter informing them that AUW's operations "constitute a solid waste transfer station for the receipt of non-putrescible solid waste for which a DSNY permit [is] required." See letter from DSNY to Richard Galli re: American United Wood dated April 3, 2015. That same week, a Commission investigator observed several landscaping company trucks arriving at AUW's yard with debris in their trucks and exiting the yard empty. See Commission memo dated April 2, 2015 regarding Surveillance of American United Wood.<sup>14</sup> Thus, it appears that Tortorici and AUW are knowingly operating an illegal transfer station.

<sup>14</sup> According to the Commission investigator's report, a truck marked Out On The Limb Tree Care fully loaded with tree trunks entered AUW's property at 8:12 a.m. on April 1, 2015, and exited 20 minutes later entirely empty. See *id.* The investigator also observed Family Tree Service enter AUW's property with a vehicle fully loaded with wood chips at 8:25 a.m.; the entirely empty vehicle left ten minutes later. See *id.*

## Violations for Transporting Trade Waste Without a License or Registration

The Applicant has been found on two separate occasions to be transporting trade waste without a license or registration. On April 1, 2015, a Commission investigator observed two Verrazano vehicles service a location in Staten Island, removing wood and feeding it into a chipper. The resulting wood chips are trade waste. When the vehicles began to haul away the waste, the Commission investigator pulled them over. Tortorici was driving one of the vehicles. The investigator issued him an administrative violation for operating without a registration or license in violation of Administrative Code § 16-505(b). See Notice of Violation Number TWC-211586. The Commission investigator again informed Tortorici that he could not transport trade waste until the Instant Application was approved.<sup>15</sup> Violation Number TWC-211586 was subsequently settled via stipulation in lieu of a hearing. The Applicant admitted its guilt and timely paid a \$500 penalty.

On August 4, 2015, the Applicant was again found operating without a license or registration. On that day, a Commission investigator observed Verrazano Tree Service workers removing a tree stump at a location on Staten Island, and then transporting the waste back to 2945 Richmond Terrace. The Commission investigator stopped the supervisor, Michael J. Cacioppo — who had not been disclosed as an employee to the Commission by the Applicant — and issued the Applicant an administrative violation. See Notice of Violation Number TWC-212261. The Applicant again settled the Violation, admitting its guilt and paying a \$750 penalty.

### **B. Basis for Denial**

#### **1. The Applicant Failed to Pay Taxes and Other Government Obligations for Which Judgments Have Been Entered.**

The Commission may refuse to issue a registration to an applicant “upon the failure of the applicant to pay any tax, fine, penalty, 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 §§ 16-509(c)(ii), 16-513(a)(iv). As demonstrated above, the Commission provided the Applicant with numerous letters and other notices requiring proof of satisfaction of the outstanding debts and judgments owed by the Applicant’s principal and his related companies. The Commission provided the Applicant with numerous extensions of the deadlines to produce the required documents over a period of more than one-and-a-half years. However, the Applicant failed to comply because the debts remain outstanding. While some have been paid, others have taken their place. As of the date this notice, the debts and judgments that Tortorici and his companies owe to various government entities totals \$101,806.18.

The evidence set forth above demonstrates that Tortorici and his companies have owed a substantial amount of money to numerous government entities over a period of several years. He has shown no ability to reduce the debt even to a manageable amount. In fact, he and his

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<sup>15</sup> A mere eight days later, Tortorici appeared at the Commission’s offices for his Interview, and was yet again reminded by the Commission’s staff that Verrazano could not transport waste until its pending application was approved.

companies continue to accrue new debts even as he pays off others. This pattern clearly indicates that Tortorici and the Applicant (of which Tortorici is the sole principal and a 100% owner) lack good character, honesty and integrity. The Applicant has not responded to this point. For this independently sufficient reason, the Commission denies the Instant Application.

**2. An Affiliate of the Applicant Illegally Operated an Unpermitted Transfer Station in Violation of Federal, State and Local Laws.**

Applicants for registrations or licenses are prohibited from operating a transfer station in violation of any federal, state or local law or regulation. See Admin. Code § 16-509(b) (authorizing Commission to refuse to issue a registration to an applicant who has failed to provide required information or documentation or “who has otherwise failed to demonstrate eligibility for such license”); 17 RCNY § 1-09. The record in this matter clearly demonstrates that the Applicant’s affiliate (AUW) has operated an illegal transfer station over at least the last two years. Tortorici acknowledged under oath that AUW has been accepting trade waste from several landscapers and collecting tipping fees for doing so. See Interview Transcript at pp. 74-75. Commission investigators have confirmed this fact through surveillance.

The Applicant has not refuted the evidence demonstrating that its affiliate has been operating a transfer station without a permit. Such conduct, knowing that it was illegal, demonstrates that the Applicant, its principal and AUW lack good character, honesty and integrity. For this independently sufficient reason, the Commission denies the Instant Application.

**3. The Applicant Has Unlawfully Transported Trade Waste Without a License or Registration.**

During the pendency of the Instant Application, the Applicant violated the Commission’s rules and regulations by operating a trade waste removal business without a registration, in violation of § 16-505(a). On two occasions, the Commission charged the Applicant with operating an unlicensed or unregistered trade waste removal business. See Notices of Violation Numbers TWC-211586 and TWC-212261. The Applicant admitted guilt with respect to both violations and paid penalties totaling \$1,250.

During the Interview, Tortorici admitted that Verrazano had been operating without a registration for years, in spite of the Commission’s staff’s numerous instructions to him to submit a class 1 application. See Interview Transcript at pp. 46-47. Moreover, it is clear from Tortorici’s testimony that Verrazano is nothing more than the successor company, or alter ego, of Narrows Work, which had accumulated too much debt to be viable. See, e.g., id. at pp. 40-41 (admitting that Verrazano does the same work as Narrows Work). The persistent unregistered operation of a trade waste company, particularly where used to conceal the non-payment of large amounts of debt in a closely-related company, reflects a blatant disregard for the Commission’s rules and regulations by the Applicant and its principal and demonstrates their lack of good character, honesty and integrity. See Admin. Code § 16-509(a). The Applicant has offered no evidence to refute the Commission’s staff’s allegations on this point or to explain the conduct.

In fact, the Applicant has admitted to engaging in unregistered activity, as alleged. Therefore, the Commission denies the Instant Application based on this independently sufficient ground.

#### IV. CONCLUSION

The Commission is vested with broad discretion to refuse to issue a license or a registration to any applicant who it determines to be lacking in good character, honesty and integrity. The record as detailed above demonstrates that the Applicant lacks those qualities. Accordingly, based on the three independently sufficient grounds set forth herein, the Commission denies the Applicant's registration application.

The denial is effective immediately. Verrazano Tree Service, Inc. may not operate as a trade waste business in the City of New York.

Dated: June 22, 2016

THE NEW YORK CITY  
BUSINESS INTEGRITY COMMISSION



Daniel D. Brownell  
Commissioner and Chair



Kathryn Garcia, Commissioner  
Department of Sanitation



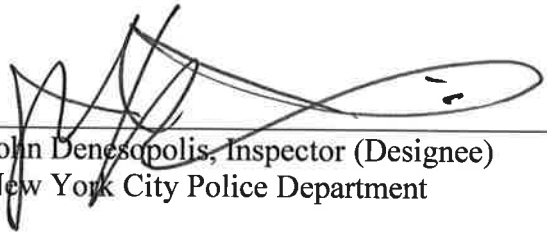
Chantal Senatus, Deputy General Counsel  
(Designee)  
Department of Investigation



Sandra Abeles, Assistant Commissioner  
(Designee)  
Department of Consumer Affairs



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



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John Denesopolis, Inspector (Designee)  
New York City Police Department